



**COUNTY OF SAN LUIS OBISPO  
BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Human Resources	(2) MEETING DATE 12/15/2020	(3) CONTACT/PHONE Tami Douglas-Schatz, Human Resources Director 805-781-5959	
(4) SUBJECT Submittal of a resolution continuing employee benefits related to the current declared emergency for COVID-19, by 4/5 vote. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board approve a resolution continuing employee benefits related to the current declared emergency for COVID-19, by 4/5 vote.			
(6) FUNDING SOURCE(S) Federal or State reimbursements; General Fund	(7) CURRENT YEAR FINANCIAL IMPACT \$516,000.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? no
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input checked="" type="checkbox"/> 4/5th's Vote Required <input type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A    Date <u>April 21, 2020</u>	
(17) ADMINISTRATIVE OFFICE REVIEW  Zachary A. Lute			
(18) SUPERVISOR DISTRICT(S) All Districts			



## COUNTY OF SAN LUIS OBISPO

TO: Board of Supervisors

FROM: Tami Douglas-Schatz, Human Resources Director  
805-781-5959

DATE: 12/15/2020

SUBJECT: Submittal of a resolution continuing employee benefits related to the current declared emergency for COVID-19, by 4/5 vote. All Districts.

### **RECOMMENDATION**

It is recommended that the Board approve a resolution continuing employee benefits related to the current declared emergency for COVID-19, by 4/5 vote.

### **DISCUSSION**

On April 21, 2020, the Board of Supervisors approved resolutions ratifying necessary additional leave benefits related to the current COVID-19 pandemic, as well as allowing FLSA-exempt employees to cash-out up to eighty hours of vacation time. These benefits are scheduled to expire after December 31, 2020, however due to the ongoing COVID-19 pandemic, staff is recommending continuation of these benefits through the duration of the proclaimed local emergency for COVID-19. The details of the benefits are as follows:

#### **Continuation of Emergency Paid Sick Leave Pursuant to the Families First Coronavirus Response Act and Suspending the Sick Leave Accrual Cap**

On March 18, 2020, the federal government enacted the Families First Coronavirus Response Act (FFCRA), requiring employers to grant up to eighty hours of Emergency Paid Sick Leave (EPSL) to all employees for use between April 1, 2020 and December 31, 2020. On April 1, 2020, all full-time employees were granted eighty hours of additional sick leave, and additional prorated sick leave hours were granted to part-time and temporary employees. Pursuant to the FFCRA, these additional sick leave hours are available to all employees for use between April 1, 2020 through the pay period including December 31, 2020.

Due to the continuation of the COVID-19 pandemic, it is recommended that these additional sick leave hours continue to be available to employees through the duration of the proclaimed local emergency for COVID-19. As soon as administratively feasible after the end of the proclaimed local emergency, or if an employee terminates employment prior to that point, any unused portion of this additional sick leave will be removed from the employee's sick leave

balances, and any new employees hired through the duration of the proclaimed local emergency will receive the additional hours. As this is a continuation of the existing benefit, no additional hours will be granted beyond those already added to current employees' balances.

To accommodate the additional sick leave for employees, it is also recommended that the current sick leave accrual caps remain suspended through the duration of the proclaimed local emergency. This allows for employees who are currently at or near the accrual cap to maintain the additional sick leave hours. As soon as administratively feasible after the end of the proclaimed local emergency the current sick leave caps will be reinstated and employees sick leave balances above the cap will be reduced to the cap.

### **Suspending the Current Vacation Accrual Cap**

During the COVID-19 emergency, many employees have been unable to take vacations or other time off. In order to accommodate employees who have been unable to take time off and who are at or near the current vacation accrual cap of 320 hours, the vacation cap has been temporarily suspended through the pay period including December 31, 2020. Due to the continuation of the COVID-19 pandemic, it is recommended that the vacation cap continue to be suspended through the pay period including July 1, 2021, or through the duration of the proclaimed local emergency, whichever occurs sooner. After the pay period including July 1, 2021, or as soon as administratively feasible after the end of the proclaimed local emergency, whichever occurs sooner, the 320-hour cap will be reinstated and employees who have a vacation leave balance in excess of 320 hours will be paid out for their vacation balance above 320 hours. This payment for hours above the cap is non-pensionable.

Depending on the financial impacts to departmental budgets, staff may return to the Board to reinstate the 320-hour vacation cap prior to the end of Fiscal Year 2020-21 or the end of the proclaimed local emergency.

### **Allowing Fair Labor Standards Act Exempt employees to cash-out up to 80 hours of vacation time**

Exempt employees are typically not eligible for additional compensation above forty hours in a work week, which continues to present a challenge during this emergency situation. These employees may be required to put in significantly more hours than they normally would during the normal course of their job for the proclaimed emergency, and are not eligible for additional compensation due to their exempt status from overtime compensation under the Fair Labor Standards Act (FLSA). On the other hand, non-exempt employees continue to receive their normal pay and any applicable overtime pay for extra hours worked. To help address this issue for exempt employees responding to a locally proclaimed County emergency the Board of Supervisors granted exempt employees in Bargaining Units 04, 07, 08, 09, 12, 15 and 16 the ability to cash-out up to eighty hours of their accrued vacation balances without the requirement for these employees to have a balance of at least 200 hours or use a minimum of forty hours of vacation as per the current vacation cash-out provisions through the pay period including December 31, 2020.

Due to the continuation of the COVID-19 pandemic, it is recommended that the ability for exempt employees to cash-out up to eighty hours of accrued vacation leave be continued through the pay period including July 1, 2021, or through the duration of the proclaimed local emergency, whichever occurs sooner. After that point, the current vacation cash-out provisions for employees to have a minimum 200-hour balance and use a minimum of forty hours of vacation will apply. This payment for cashing out vacation balances is non-pensionable.

Depending on the financial impacts to departmental budgets, staff may return to the Board to end the ability of

exempt employees to cash out up to eighty hours of accrued vacation leave prior to the end of Fiscal Year 2020-21 or the end of the proclaimed local emergency.

**OTHER AGENCY INVOLVEMENT/IMPACT**

Representatives from the Administrative Office, Library, County Counsel, Auditor-Controller-Treasurer-Tax Collector's Office, and Human Resources participated in the development of this recommendation. The Auditor-Controller-Treasurer-Tax Collector's Office and Human Resources will process the system changes needed to implement these changes.

**FINANCIAL CONSIDERATIONS**

Any actual increased costs associated with these provisions are primarily related to cashing out any leave balances above the 320 hour vacation accrual cap and the ability for exempt employees to cash out up to eighty hours of vacation time under relaxed restrictions. It is estimated that these additional costs may be up to \$516,000 for the remainder Fiscal Year 2020-21. These are conservative estimates, and it is expected that the actual costs will be less. As these provisions are only extended through the remainder of Fiscal Year 2020-21, there are no additional ongoing annual costs associated with approval of these resolutions.

It is also anticipated that the County will be reimbursed with Federal or State dollars for some of the costs associated with the proclaimed emergency. To the extent that County departments cannot absorb the additional costs associated with the provisions of this item given their current appropriations, staff will recommend the Board authorize budget adjustments providing sufficient appropriations to departments using either reimbursement funds or, if such funds are not available, General Fund contingencies, as needed. Budget adjustments are typically provided to your Board as part of the third quarter report. However, given the dynamic nature of the COVID-19 response, adjustments may be brought to your Board as a separate agenda item.

**RESULTS**

This resolution extends additional leave benefits for employees impacted by COVID-19 and provides additional flexibility to employees to cash out and accrue their earned leave and vacation hours.

**ATTACHMENTS**

- 1 Resolution