

# The County Connection



To: Board of Directors

Date: August 8, 2011

From: Kathy Casenave *KC*  
Director of Finance

Reviewed By:

**SUBJECT: PERS PRETAX RESOLUTION**

## **SUMMARY OF ISSUES:**

In 1986 the Board of Directors adopted a resolution implementing section 414 (h) (2) of the Internal Revenue Code providing tax benefits to employee contributions for PERS. The code section allows for a reduction of the employee's taxable income in the amount of the employee contribution. The 1986 resolution applied only to regular contributions for the current salary.

There are occasions when an employee can pay or buy back additional service credit. Currently we have three employees who are buying service credit- two for part time work for the Authority not covered by PERS and one for an employee who left the area, withdrew the contributions and subsequently was rehired. The 1986 resolution does not apply to these situations so the buyback has been with the employee's after tax wages.

The IRS code does allow for pretax treatment in these situations provided that the Board of Directors adopts a separate resolution. (See attached).

## **FINANCIAL IMPLICATIONS:**

None to the Authority. A reduction in taxable income for the employee.

**ACTION REQUESTED:** The A&F Committee recommends that the Board of Directors adopts the resolution implementing section 414 (h) (2) of the Internal Revenue Service to allow pretax treatment for employees paying or buying service credit.

**ATTACHMENTS:** 1986 resolution and the proposed resolution.

Resolution No. 86-032  
CENTRAL CONTRA COSTA TRANSIT AUTHORITY  
BOARD OF DIRECTORS

Whereas, the Central Contra Costa Transit Authority (CCCTA) Board of Directors has the authority to implement the provisions of section 414(h)(2) of the Internal Revenue Code (IRC); and,

Whereas, the Board of Administration of the Public Employees' Retirement System (PERS) adopted its resolution regarding section 414(h)(2) IRC on September 18, 1985; and

Whereas, the Internal Revenue Service has stated on December 6, 1985, that the implementation of the provisions of section 414(h)(2) IRC pursuant to the Resolution of the Board of Administration would satisfy the legal requirements of section 414(h)(2) IRC; and

Whereas, CCCTA Board of Directors has determined that even though the implementation of the provisions of section 414(h)(2) IRC is not required by law, the tax benefits offered by section 414(h)(2) IRC should be provided to CCCTA's employees who are members of PERS;

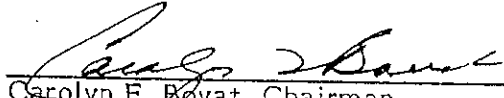
NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Central Contra Costa Transit Authority:

1. That CCCTA will implement the provisions of Section 414(h)(2) of the Internal Revenue Code by making employee contributions pursuant to California Government Code section 20615 to PERS on behalf of its employees who are members of PERS. "Employee contributions" shall mean those contributions to PERS which are deducted from the salary of employees and are credited to individual employee's accounts pursuant to California Government Code section 20615.
2. That the contributions made by CCCTA to PERS although designated as employee contributions are being paid by CCCTA in lieu of contributions by the employees who are members of PERS.
3. That employees will not have the option of choosing to receive the contributed amounts directly instead of having them paid by CCCTA to PERS.
4. That CCCTA shall pay to PERS the contributions designated as employee contributions from the same source of funds as used in paying salary.
5. That the amount of the contributions designated as employee contributions and paid by the CCCTA to PERS on behalf of an employee shall be the entire contribution required of the employee by the Public Employees' Retirement Law (California Government Code sections 20000, et seq.).

6. That the contributions designated as employee contributions made by CCCTA to PERS shall be treated for all purposes, other than taxation, in the same way that member contributions are treated by PERS.

This resolution was entered into by the Board of Directors of the Central Contra Costa Transit Authority this 20th day of November 1986.

CENTRAL CONTRA COSTA TRANSIT AUTHORITY

  
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Carolyn F. Bovat, Chairman

AYES: Bovat, Bulman, Dabel, Dessayer, Feyh, Lane,  
Mulhall, Schinnerer, Schroder, and Uilkema

NOES: None

ABSTENTIONS: None

ABSENT: Murray

ATTEST:

  
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Janet Madrigal, Clerk