



Agenda Date: 12/20/2005
Agenda Placement: 6J

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Patricia Tyrrell for Robert Westmeyer - County Counsel
County Counsel
REPORT BY: Brandi Periera, Paralegal , 251-1090
SUBJECT: Adoption of a Resolution Amending the County 401(a) Plan to Revise When Eligible Employees May Make an Irrevocable Election and to Eliminate the Annual Irrevocable Election Period

RECOMMENDATION

County Counsel and the Deferred Compensation Board of Control request adoption of a resolution amending the County of Napa 401(a) Retirement Savings Plan to revise when eligible employees may make an irrevocable election and to eliminate the annual irrevocation election period, effective January 1, 2006.

EXECUTIVE SUMMARY

Napa County adopted the County of Napa 401(a) Retirement Savings Plan for the benefit of Eligible Employees on August 6, 2002.

Subsection D of section 4.01 originally provided for an initial election period upon the startup of the plan, an election period for newly eligible employees, an election period for newly eligible employees and an annual election period during which an eligible employee may irrevocably elect to defer a portion of his/her income while employed by Napa County.

Due to recent changes in the law governing the 401(a) plans, our 401(a) Retirement Savings plan needs to be amended to revise when eligible employees make an irrevocable election and to eliminate the annual irrevocable election period.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Napa County adopted the County of Napa 401(a) Retirement Savings Plan for the benefit of Eligible Employees on August 6, 2002.

Due to recent changes in the law governing 401(a) plans, the County's 401(a) Retirement Savings Plan needs to be amended to revise when eligible employees make an irrevocable election and to eliminate the December annual irrevocable election period.

The resolution amends section 4.01(D) of the Plan by adding the following language:

"Effective January 1, 2006, only newly hired Eligible Employees may complete an irrevocable election within thirty (30) days of being hired and the annual election period each December will no longer be available after December 31, 2005. For this purpose, a "newly hired Eligible Employee" is an individual who has never previously been an Employee eligible for retirement benefits under a contract between the California Public Employees' Retirement System ("Cal-PERS") and an Employer."

The Napa County Deferred Compensation Board of Control on December 7, 2005, approved the amendment in concept, and provided authorization to further clarify, if needed, the preclusive effect of prior Cal-PERS employment. Clarifications were obtained from outside tax counsel, resulting in the above language. Such language is within the scope of the Board of Control's authorization.

This amendment will eliminate the annual election period and will also prevent the following employees from making an irrevocable election:

1. An employee who is promoted to an eligible employee position; or
2. An employee who previously worked for Napa County and is re-hired.

Because the change is required to conform with recent changes in the law, County Counsel and the Board of Control recommend Board approval of the resolution.

SUPPORTING DOCUMENTS

- A . Resolution (tracking format)
- B . Resolution

CEO Recommendation: Approve

Reviewed By: Lynn Perez