



## Legislation Text

File #: 23-152, Version: 1

### Memorandum

**Date:** February 14, 2023

**To:** The Honorable Lake County Board of Supervisors

**From:** Anita L. Grant, County Counsel

**Subject:** Consideration of the Following Resolutions to Correct Benefit Language as Required by CalPERS:

- a) Resolution Amending Resolution 2020-149 and Resolution 2021-122 Establishing Salary and Benefits for Confidential Unit, Section A, for the Periods of October 21, 2020 to October 20, 2021 and October 21, 2021 to June 30, 2025
- b) Resolution Amending Resolution 2020-150 and Resolution 2021-123 Establishing Salary and Benefits for Confidential Unit, Section B, for the Periods of October 21, 2020 to October 20, 2021 and October 21, 2021 to June 30, 2025
- c) Resolution Amending Resolution 2020-151 and Resolution 2021-124 Establishing Salary and Benefits for Management Employees for the Periods of November 1, 2020 to October 31, 2021 and November 1, 2021 to June 30, 2025
- d) Resolution Amending the Memorandum of Understanding By and Between the Lake County Sheriff's Management Association and the County of Lake for the Periods of November 1, 2020 to October 31, 2021 and November 1, 2021 to June 30, 2025

### Executive Summary:

In July of 2020, CalPERS issued a Circular Letter regarding special compensation, noting that items of special compensation for public agencies and schools were "commonly misreported". This Circular Letter explained that special compensation items are one of the factors in calculating a CalPERS' member's retirement and that misreporting special compensation could create financial hardships for members. The information provided in this letter by CalPERS was intended to assist CalPERS public agency and school district employees in ensuring that the reporting of special compensation was in compliance with the Public Employees' Retirement Law, the Public Employees' Pension Reform Act of 2003, and Title 2 of the California Code of Regulations.

Subsequent to the above-referenced letter, the language in the non-represented employee resolutions and most of the Memoranda of Understanding with the employee bargaining units was changed to provide for five steps with longevity pay after the fifth step, replacing the County's prior twelve step process.

CalPers recently issued an informal determination that if longevity pay is now and has been available, to employees promoted to a position at an advanced step that simply allows them to receive a longevity increase after serving five years in that position, rather than based upon years of service, such a top-step requirement renders the longevity pay provision non-compliant with the Public Employees' Retirement Law, the Public Employees' Pension Reform Act of 2013, and Title 2 of the California Code of Regulations. CalPers has determined that a top-step requirement creates a group or class disparity because it is not available to all members in a group or class. As a result, CalPers determined that longevity pay which is dependent upon achieving a top step was not reportable to CalPers and would not be considered in determining the retirements of County employees.

CalPers' determination puts the retirement benefits of all County employees at risk of reduction. County of Lake employees who are retiring would receive less money in retirement than those employees had calculated. Employees who have already retired could be required by CalPers to repay any such non-reportable income already received.

The recently retired Auditor-Controller worked tirelessly with CalPers to correct this situation in a manner least disruptive to all County employees.

Presented to your Board are four resolutions to implement corrective action as to confidential employees, management employees, and Sheriff's management employees. As each resolution makes clear, longevity pay for permanent employees hired into an allocated position prior to October 21, 2020 shall be provided credit for continuous service in an allocated position at the longevity pay at that time and future longevity pay shall be based on no less than five years of continuous service from the date of the last longevity pay received. This language is intended to effect no change in the retirement benefits County retirees already receive or which employees anticipate receiving upon retirement. As to the employees hired after October 21, 2020, longevity shall be based strictly on cumulative years of service and total hours worked. That formula will eliminate the concerns of CalPers that by hiring employees at advance steps and thereby allowing those employees to become eligible for longevity pay before other employees are eligible for that benefit strictly through years of service, the County has created separate classes of employees.

CalPers has provided written confirmation that these resolutions satisfy its concerns, comply with the law, and will ensure that longevity pay is and will continue to be reportable.

Human Resources is meeting with the bargaining units for represented employees now and we anticipate bring the same corrective resolutions to your Board for approval later this month.

If your Board will approve the resolutions presently before you, each resolution may be separately offered for passage.

Thank you.

**If not budgeted, fill in the blanks below only:**

Estimated Cost: \_\_\_\_\_ Amount Budgeted: \_\_\_\_\_ Additional Requested: \_\_\_\_\_ Future Annual Cost: \_\_\_\_\_

**Purchasing Considerations** (check all that apply):

☐ Not applicable

☐ Fully Article X. <[https://library.municode.com/ca/lake\\_county/codes/code\\_of\\_ordinances?nodeId=COOR\\_CH2AD\\_ARTXPU\\_S2-38EXCOBI](https://library.municode.com/ca/lake_county/codes/code_of_ordinances?nodeId=COOR_CH2AD_ARTXPU_S2-38EXCOBI)>- and/or Consultant Selection Policy <[http://lcnet.co.lake.ca.us/Assets/Intranet/Policy/Policies+\\$.](http://lcnet.co.lake.ca.us/Assets/Intranet/Policy/Policies+$.)

26+Procedures+Manual/Ch4\_2021v2.pdf>-Compliant (describe process undertaken in "Executive Summary")

☐ Section 2-38 <[https://library.municode.com/ca/lake\\_county/codes/code\\_of\\_ordinances?nodeId=COOR\\_CH2AD\\_ARTXPU\\_S2-38EXCOBI](https://library.municode.com/ca/lake_county/codes/code_of_ordinances?nodeId=COOR_CH2AD_ARTXPU_S2-38EXCOBI)> Exemption from Competitive Bidding (rationale in "Executive Summary," attach documentation, as needed)

☐ For Technology Purchases: Vetted and Supported by the [Technology Governance Committee](#)

<<http://lcnnet.co.lake.ca.us/Assets/Intranet/Intranet+Forms/Information+Technology/AdvPlan.pdf>> ("Yes," if checked)

☐ Other (Please describe in Executive Summary)

**Consistency with Vision 2028** <<http://www.lakecountycalifornia.gov/Government/Directory/Administration/Visioning/Vision2028.htm>>

(check all that apply):

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Well-being of Residents | <input type="checkbox"/> Not applicable              | <input type="checkbox"/> Disaster Prevention, Preparedness, Recovery |
| <input type="checkbox"/> Economic Development    | <input type="checkbox"/> Public Safety               | <input checked="" type="checkbox"/> County Workforce                 |
| <input type="checkbox"/> Community Collaboration | <input type="checkbox"/> Infrastructure              | <input type="checkbox"/> Clear Lake                                  |
|  | <input type="checkbox"/> Business Process Efficiency |  |

**Recommended Action: Offer each resolution.**