

MONTEREY COUNTY BOARD OF SUPERVISORS

MEETING:	June 15, 2010 – 10:30 a.m.	AGENDA NO.:	S-1
SUBJECT:	Introduce, waive reading, and set for adoption on June 22, 2010, an ordinance authorizing an amendment to the contract between the Board of Supervisors of the County of Monterey and the Board of Administration of the California Public Employees' Retirement System (PERS) relating to Partial Service Retirement		
DEPARTMENT:	County Administrative Office		

RECOMMENDATION:

It is recommended that the Board of Supervisors introduce, waive reading, and set for adoption on June 22, 2010, an ordinance authorizing an amendment to the contract between the Board of Supervisors of the County of Monterey and the Board of Administration of the California Public Employees' Retirement System (PERS) relating to Partial Service Retirement.

SUMMARY/DISCUSSION:

On May 25, 2010, a Resolution of Intent to amend the PERS contract was approved by the Board of Supervisors. This amendment will apply to Miscellaneous and Safety retirement groups. The final action necessary is the adoption of the Ordinance (Attachment A) on June 22, 2010 authorizing an amendment to the contract. A copy of the amended contract (Attachment B) is attached. Once the Ordinance is approved, the contract amendment will take effect on July 22, 2010.

The recommended action is an ordinance to amend the County's PERS contract to make available Partial Service Retirement (PSR). If amended, the County Board of Supervisors retains the discretion, by its own policies and procedures, to offer or not offer PSR to member employees. Many PERS agencies have amended their PERS contract to allow PSR and not made PSR available to member employees. Since PERS allows agencies to manage the PSR program as the agencies see fit, no actuarial study is required to amend the contract.

The PSR program has the potential to assist in transitions to retirement and reduce County wage expenditures. A "fact sheet" summarizing the PSR program is attached (Attachment C).

Approval of the ordinance ensures the County's compliance with the timelines necessary for this amendment to provide potential cost savings in FY 2010-11.

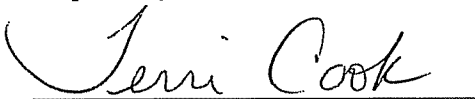
OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed the ordinance and contract.

FINANCING:

There are no costs associated with this action.

Prepared by:



Terri Cook
Management Analyst
796-3529

Approved by:



Keith Honda
Assistant County Administrative Officer

cc: Michael J. Miller, Auditor-Controller

Att: Ordinance
Copy of amended contract
PSR Fact Sheet

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTEREY AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTEREY AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS) RELATING TO PARTIAL SERVICE RETIREMENT

County Counsel Summary

This Ordinance authorizes and approves amendment of the contract between the County of Monterey and the California Public Employees' Retirement System (PERS) to permit the County to offer partial service retirements as authorized by Article 4 (commencing with Section 21110) of Chapter 12 of Part 3 of Division 5 of Title 2 of the Government Code.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. The amendment to the contract between the Board of Supervisors of the County of Monterey and the Board of Administration, California Public Employees' Retirement System, a copy of which amended contract is attached hereto as Exhibit 1 and by this reference is made a part of this ordinance as if fully set forth herein, is hereby authorized and approved.

SECTION 2. The Chair of the Board of Supervisors is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the County of Monterey.

SECTION 3. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED this 22nd day of June, 2010, by the following vote:

AYES: Supervisors

NOES:

ABSENT:

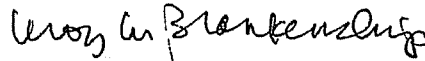
Chair, Monterey County Board of Supervisors

A T T E S T :

GAIL T. BORKOWSKI
Clerk of the Board

By _____
Deputy

APPROVED AS TO FORM:



LEROY W. BLANKENSHIP
Assistant County Counsel

REF: PERS-CON-11A (Rev.8/94) (Amendment)



EXHIBIT

California
Public Employees' Retirement System



AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
Board of Supervisors
County of Monterey



The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective June 1, 1948, and witnessed December 29, 1947, and as amended effective November 26, 1951, January 1, 1952, October 1, 1953, January 1, 1954, July 1, 1960, January 1, 1962, January 25, 1969, September 4, 1971, January 1, 1973, June 23, 1973, August 18, 1973, June 21, 1975, August 16, 1975, May 22, 1976, December 1, 1977, April 19, 1980, January 9, 1982, December 5, 1986, November 11, 1989, April 14, 1990, May 16, 1991, December 25, 1998, July 1, 2000, December 16, 2000, February 10, 2001, August 11, 2001, September 22, 2001, February 9, 2002, May 24, 2002, November 30, 2002 and September 1, 2007 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

Pursuant to Government Code sections 20460.1, 20469.1, subdivision (b), and 71624, this contract is hereby amended to add the Trial Court of Monterey County, hereinafter referred to as Trial Court, as a contracting party. Trial Court shall participate in the Public Employees' Retirement System from and after the implementation date of the Trial Court Employment Protection and Governance Act pursuant to the terms and conditions of this contract, making its employees members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for in this contract and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency."

PLEASE DO NOT SIGN "EXISTING"

- A. Paragraphs 1 through 14 are hereby stricken from said contract as executed effective September 1, 2007, and hereby replaced by the following paragraphs numbered 1 through 15 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 50 for local safety members.
 2. Public Agency shall participate in the Public Employees' Retirement System from and after June 1, 1948 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
 3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
 - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.

DO NOT SIGN EXHIBIT G.

- (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.
 - (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
 - (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
- a. Local Fire Fighters (herein referred to as local safety members);
 - b. County Peace Officers (included as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
- a. **RESIDENT PHYSICIAN I, II, AND III.**
6. Prior to January 1, 1975, those members who were hired by Public Agency on a temporary and/or seasonal basis not to exceed 6 months were excluded from PERS membership by contract. Government Code Section 20336 superseded this contract provision by providing that any such temporary and/or seasonal employees are excluded from PERS membership subsequent to January 1, 1975. Legislation repealed and replaced said Section with Government Code Section 20305 effective July 1, 1994.
7. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).

8. The percentage of final compensation to be provided for each year of credited prior and current service as a local fire member shall be determined in accordance with Section 21362 of said Retirement Law (2% at age 50 Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a county peace officer shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21571 (Basic Level of 1959 Survivor Benefits) for local miscellaneous members only.
 - b. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local fire members; those county peace officers entering membership on or prior to January 9, 1982 and those specified county peace officers, pursuant to Section 20480, Statutes of 1999, who entered membership after January 9, 1982.
 - c. Section 20839 (provides for prior service credit to employees who were under direction and supervision of the public agency, but whose compensation was received from some other sources). Legislation repealed said Section effective January 1, 1973.
 - d. Section 20840 (provides the retirement allowance of any person granted additional prior service credit pursuant to Section 20839, and who retired prior to June 21, 1954 shall be recalculated and paid for time beginning with said effective date in the recalculated amounts). Legislation repealed and added said Section effective January 1, 1973.
 - e. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
 - f. Section 20439 ("County Peace Officer" shall include county jail, detention or correctional facility employees as described in Government Code Section 20439).
 - g. Section 20042 (One-Year Final Compensation) for local miscellaneous members and county peace officers only.
 - h. Section 20440 ("County Peace Officer" shall include bailiffs as described in Government Code Section 20440).

PLEASE DO NOT SIGN "EMPLOYER"

- t. Section 20441 ("County Peace Officer" shall include persons employed by a county parks and recreation department as described in Government Code Section 20441).
 - u. Section 21118 (Partial Service Retirement).
11. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on June 21, 1975. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
 12. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
 13. Public Agency shall also contribute to said Retirement System as follows:
 - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.
 - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
 14. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

15. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BOARD OF SUPERVISORS
COUNTY OF MONTEREY

BY _____
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

Fact Sheet

California Public Employee Retirement System -- Partial Service Retirement (PSR) Program

Eligibility

An employee is eligible for the PSR program if they meet the criteria established by CalPERS. The employee must meet all of the following 4 requirements: (1) be characterized as a full-time employee; (2) have reached the normal retirement age of 55; (3) have vested with 5 years of continuous service; AND (4) the employee's age and years of service total at least 65. The PSRP appears to limit the program to non-safety State employees. No such restriction applies to local government safety employees.

Mitigating Impacts of Retiring Employees

The PSR Program might be most helpful in mitigating the impacts of retiring employees. The County may desire to have managers or other key personnel work part-time over a period of time to transition the department or division to new personnel. Offering PSR permits eligible employees to continue working part-time and at the same time begin to draw down their retirement.

Example

To the degree that an employee under PSR is partially retired, they are not being paid by the County and are not a County expense. An employee retired 40% can reduce the County's wage costs by 40%. Benefits costs may or may not be reduced, depending on the applicable County policy.

The following example is from the CalPERS Brochure on PSR Program (for an employee enrolled in Social Security):

	1		2		3		4		5		6		7
<ul style="list-style-type: none"> ▪ Age at partial service retirement = 55 ▪ Years of service credit = 25 ▪ Final compensation = \$3,000 ▪ Reduction of work time = 40% 	25	x	2.000%	=	50%	x	\$2,866.67	=	\$1,433.34	x	40%	=	\$573.34
	Years of Service		Benefit Factor		Benefit		Final Compensation (\$3,000 - 133.33 for Social Security)		Full Service Retirement Allowance		Work Time Reduction		Partial Retirement Allowance

In this example, if there are 20 working days in a month (160 hours), the employee is "retired" for 8 days (40% or 60 hours - column 6) per month and working 12 days (60%) per month. The employee receives \$573 (column 7) from PERS and is paid his or her regular rate for 96 hours worked (\$1,588), for a total of \$2,161. If the employee was not retired, he or she would be paid approximately \$2,645.

After the amendment is complete, the County will draft a new policy to determine how to treat employee benefits. Under PSR an employer might elect to pro-rate the benefits (health insurance, vacation, etc.) or not provide them at all. The wages earned continue to be treated as regular wages and are taxed at the same rate as other employees. The employee remains enrolled in CalPERS, albeit "partially," and retirement premiums are assessed against the 60% earned (column 7).

PERS Restrictions

CalPERS requires that the employee be "retired" for at least 20% of the time, but no more than 60%. So an employee must work at least 40% of the time, but not more than 80%. Decreases to the percentage of time worked are allowed only once per year. Increases are permitted only every 5 years. An employee with the approval of the employer may revert to full time (and end the partial service retirement) at any time and return to full time employment. The employee who reverts to full time cannot reapply for partial service retirement for 5 years. An employee may apply for *full* service retirement at any time. An employee may transfer from one agency to another and continue the partial service retirement as long as the employer approves.

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Introduces, waives reading, and sets for adoption on June 22,)
2010, an ordinance authorizing an amendment to the contract)
between the Board of Supervisors of the County of Monterey)
and the Board of Administration of the California Public)
Employees' Retirement System (PERS) relating to Partial)
Service Retirement)

Upon motion of Supervisor _____, seconded by Supervisor _____, and carried by those members present, the Board hereby introduced, waived reading, and set for adoption on June 22, 2010, an ordinance authorizing an amendment to the contract between the Board of Supervisors of the County of Monterey and the Board of Administration of the California Public Employees' Retirement System (PERS) relating to Partial Service Retirement

PASSED AND ADOPTED on this _____ day of _____, 2010 by the following vote, to-wit:

AYES:

NOES:

ABSENT:

I, GAIL T. BORKOWSKI, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book ___ for the meeting on _____.

Dated:

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By: _____
, Deputy