



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://cao.co.la.ca.us>

DAVID E. JANSSEN
Chief Administrative Officer

May 10, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**AUTOMATIC ACCOUNT DISTRIBUTIONS FROM THE DEFERRED INCOME PLANS
(3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

Approve the attached ordinance that amends provisions of the Pension Savings Plan, Deferred Earnings Plan, Deferred Compensation and Thrift Plan, and Savings Plan by reducing the maximum account balance that may be distributed without a participant's consent following separation from service.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Pension Savings Plan, Deferred Earnings Plan, Deferred Compensation and Thrift Plan, and Savings Plan (the "Plans", collectively) each contain a mandatory small account distribution provision. The attached ordinance will amend those provisions to be compliant with recently issued U.S. Department of Labor ("DOL") regulations. The amended Plans will provide that terminated employees with account balances between \$1,000 and \$5,000 will be permitted to remain in the Plan(s), and terminated employees with account balances of less than \$1,000 will have the balances automatically liquidated through a lump-sum distribution.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

Adoption of the accompanying ordinance will contribute to the achievement of Strategic Goal 2, Workforce Excellence, by improving employee morale through expanding the options available for retirement asset distribution.

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

FISCAL IMPACT/FINANCING

Adoption of the attached ordinance will result in no fiscal cost to the County since all Plan expenses are paid from participant assets.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The County Plans each provide for an automatic distribution of small account balances upon a participant's separation from County service. A "small" account balance for this purpose has previously been defined as a balance of less than \$5,000. These distributions are made in the form of taxable lump sum payments at the point of termination.

The DOL recently issued final regulations that implement a portability provision within the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") that requires terminated employee accounts between \$1,000 and \$5,000 to either remain in the Plans or be rolled over to an Individual Retirement Account ("IRA") in lieu of an automatic cash distribution. Deferred income plans may no longer automatically cash-out these small accounts without the participant's affirmative election to receive a lump sum distribution. Deferred income plans must now decide how to amend their existing automatic small account distribution provision to comply with these rules.

We are recommending that accounts between \$1,000 and \$5,000 be retained in the Plans. The IRA option is not practical for two reasons. First, the Plans would be required to satisfy DOL requirements which include the selection an IRA provider and investment option for the rolled over funds. In this connection, Mercer Investment Consulting, the independent investment consultant for the Plans, has reported that there is no existing market or substantial interest on the part of IRA providers and investment firms to manage accounts this small. Second, the Plans and the County would be exposed to potential fiduciary liability in the event the selected IRA and/or underlying investment options chosen by the Plans were to experience problems.

To comply with the federal regulations and avoid the aforementioned complications, the attached ordinance amends the Plans by removing the automatic distribution requirement for terminated employee accounts between \$1,000 and \$5,000. These accounts may remain in the Plan(s) if there is no affirmative distribution election by the terminated employee. However, terminated employees with account balances below \$1,000 are not subject to the EGTRRA rollover provision and the Plans will, therefore, continue to automatically liquidate these balances with a lump-sum check issued to the terminated employee.

Honorable Board of Supervisors
May 10, 2005
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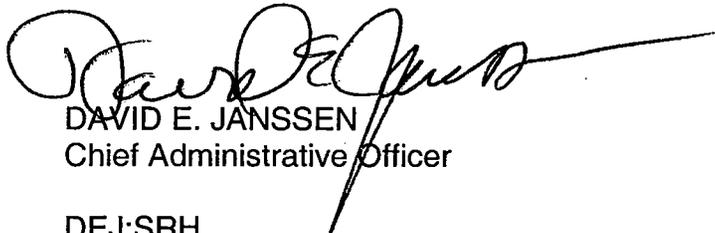
The Internal Revenue Service, which governs deferred income plan's compliance to federal laws, requires plan documents to be amended, as needed, by January 1, 2006 to reflect compliance with the new distribution rules. Your Board's adoption of the attached ordinance will satisfy that requirement. The Plan's Administrative Committee's took action in December 2004 to stop automatic distributions for the accounts in question to provide practical administrative compliance with the new DOL rules which was required by March 28, 2005.

SEIU Local 660 and the Coalition of County Unions have reviewed and concur with the language within the attached ordinance. It has also been approved as to form by the County Counsel.

IMPACT ON CURRENT SERVICES

None.

Respectfully submitted,



DAVID E. JANSSEN
Chief Administrative Officer

DEJ:SRH
WGL:DT:df

c: County Counsel
Executive Officer, Board of Supervisors
Auditor-Controller

ANALYSIS

This ordinance amends Title 5 – Personnel, of the Los Angeles County Code by amending provisions to Chapter 5.19, Pension Savings Plan; Chapter 5.23, Deferred Earnings Plan; Chapter 5.25, Deferred Compensation and Thrift Plan; and Chapter 5.26, Savings Plan; to reduce the maximum account balance that may be distributed after a plan participant's separation from service without the participant's consent.

RAYMOND G. FORTNER, JR.
County Counsel

By 

HALVOR S. MELOM
Principal Deputy County Counsel
Special Services Division

HSM:mv

03/23/05 (requested)

ORDINANCE NO. _____

An ordinance amending Title 5 - Personnel, of the Los Angeles County Code, relating to the maximum account balance that may be distributed after the participant separation from service without the participant's consent.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Subsection A of section 5.19.100 is hereby amended to read as follows:

~~A. Distributions in General. The Trustee shall distribute benefits under the Plan to a Participant or his Beneficiary only upon the Participant's Separation from Employment, Retirement, or death. In the event that a Participant Separates from Employment or retires and neither elects to defer the distribution of his benefits as provided under subsections B or C, nor directs the Plan to transfer the distribution to another plan pursuant to Section 5.19.140, the Participant's benefits shall be distributed in a single cash payment pursuant to either subsection B or C of this section, as appropriate. Notwithstanding any provisions of this section to the contrary, the commencement and duration of any form of benefit payment shall be in accordance with Code section 401(a)(9), regulations thereunder and Section 5.19.100E of this Plan.~~

A. Distributions in General. The Trustee shall distribute benefits under the Plan to a Participant or his Beneficiary only upon the Participant's Separation from Employment, Retirement, or death. In the event that a Participant Separates from

Employment or retires he may elect to take a distribution or defer the distribution of his benefits as provided under subsections B or C, or direct the Plan to transfer or roll over the distribution to another plan pursuant to Section 5.19.140. If a Participant does not make an affirmative election regarding the distribution of his benefits after receiving the notice required under Code section 402(f), then, provided that the distribution is \$1,000.00 or less, the Participant's benefits shall be distributed in a single cash payment pursuant to either subsection B or C of this section, as appropriate. Notwithstanding any provisions of this section to the contrary, the commencement and duration of any form of benefit payment shall be in accordance with Code section 401(a)(9), regulations thereunder and Section 5.19.100E of this Plan.

...
SECTION 2. Subsection B of section 5.19.100 is hereby amended to read as follows:

...
~~B. Separation from Employment. If a Participant incurs a Separation from Employment prior to his attainment of age 50, the vested amount credited to his Investment Account shall become payable to the Participant or his Beneficiary on the date 60 days after the Participant incurs such Separation from Employment and shall be distributed in a single cash payment as soon as administratively feasible on or after such date; provided, however, that a Participant may instead elect, on a form provided by the Administrative Committee or its Agent: (1) to defer the distribution of such amount for up to 24 months pending rehire, or (2) if such amounts exceeds \$5,000.00, to defer distribution of such amount until his attainment of age 50, or a higher age not to~~

~~exceed age 70½. The election form shall be filed with the Administrative Committee or its Agent on or before the earlier of the 30th day after the Participant incurs a Separation from Employment. The electing Participant or Beneficiary shall also furnish such other information as the County or its Agent may require.~~

B. Separation from Employment. If a Participant incurs a Separation from Employment prior to his attainment of age 50, the vested amount credited to his Investment Account shall become payable to the Participant or his Beneficiary on the date 60 days after the Participant incurs such Separation from Employment and shall be distributed in a single cash payment as soon as administratively feasible after the Participant elects, on a form provided by the Administrative Committee or its Agent, to receive his distribution. In lieu of taking a distribution currently, a Participant may: (1) defer the distribution of his benefits for up to 24 months pending rehire, or (2) if his Investment Account balance exceeds \$1,000.00, defer distribution of his benefits until a later date, but not beyond age 70 1/2. If a Participant does not make a timely election regarding the distribution of his benefits after receiving the notice required under Code section 402(f), the Participant will be deemed to have elected to defer distribution of his benefits, with the exception that the Participant's benefits will be distributed in a single cash payment as soon as administratively feasible, without the Participant's consent, if the Participant's Investment Account balance is \$1,000.00 or less on the date of distribution. The electing Participant or Beneficiary shall furnish such information as the County or its Agent may require.

...

SECTION 3. Subsection C of section 5.19.100 is hereby amended to read as follows:

...

C. Retirement.

~~1. If a Participant Separates from Employment with the County due to Retirement, the amount credited to his Investment Account shall become payable to the Participant or his Beneficiary on the date 60 days after the Participant incurs such Separation from Employment and shall be distributed in a single cash payment as soon as administratively feasible on or after such date; provided, however, that the Participant or his Beneficiary may instead irrevocably elect, on a form provided by the County or its Agent, to delay the distribution of such amount to a later date and/or to receive such amount in the form of (1) substantially equal monthly, quarterly, semi-annual or annual installment payments over a period not to exceed twenty years, or (2) consecutive, nonincreasing monthly payments for the life of the Participant or for the lives of the Participant and his or her designated Beneficiary and the last survivor of them. The election form shall be filed with the County or its Agent on or before the 30th day after the Participant incurs a Separation from Employment. The electing Participant or Beneficiary also shall furnish such other information as the County or its Agent may require.~~

~~2. The Participant or the Beneficiary, as the case may be, may only elect a form of benefit payment prior to the commencement of any distribution under the Plan. Finally, upon the death of a Beneficiary, any amount to which such Beneficiary~~

~~would be entitled but for the Beneficiary's death shall be paid to the Beneficiary's estate. Notwithstanding any of the foregoing, in the event that the distributable balance of a Participant's Investment Account does not exceed \$5,000.00, and no further amounts may be deferred by such Participant under the Plan, the Trustee shall distribute such Participant's vested balance in a single cash payment.~~

1. Upon Retirement, the amount credited to a Participant's Investment Account shall become payable to the Participant or his Beneficiary on the date 60 days after the Participant incurs such Retirement and shall be distributed in a single cash payment as soon as administratively feasible after the Participant or his Beneficiary elects, on a form provided by the Administrative Committee or its Agent, to receive his distribution. If the balance in the Participant's Investment Account exceeds \$1,000.00, the Participant or his Beneficiary may instead elect, on a form provided by the County or its Agent, to delay the distribution of such amount to a later date. If a Participant does not make a timely election regarding the distribution of his benefits after receiving the notice required under Code section 402(f), the Participant will be deemed to have elected to defer distribution of his benefits, with the exception that the Participant's benefits will be distributed in a single cash payment as soon as administratively feasible, without the Participant's consent, if the Participant's Investment Account balance is \$1,000.00 or less on the date of distribution. The electing Participant or Beneficiary shall furnish such information as the County or its Agent may require.

2. Form of Benefit Payment. A Participant who Separates from Employment with the County due to Retirement, or Participant who Separates from

Employment earlier but delays distribution of his benefits until at least age 50, may, if his or her Investment Account balance exceeds \$5,000.00, in lieu of receiving a single lump sum, irrevocably elect to receive his or her benefits in the form of (1) substantially equal monthly, quarterly, semi-annual or annual installment payments over a period not to exceed twenty years, or (2) consecutive, nonincreasing monthly payments for the life of the Participant or for the lives of the Participant and his or her designated Beneficiary and the last survivor of them. The Participant or the Beneficiary, as the case may be, may only elect a form of benefit payment prior to the commencement of any distribution under the Plan. Notwithstanding any of the foregoing, in the event that the balance of a Participant's Investment Account does not exceed \$5,000.00 at the time a distribution is elected, the Participant or the Beneficiary, as the case may be, may not elect a form of benefit payment other than a single cash payment.

...

SECTION 4. Subsection D of section 5.19.100 is hereby amended to read as follows:

...

D. Death.

...

3. Notwithstanding any of the foregoing, if a Beneficiary does not file an election regarding distribution of the Participant's Investment Account balance within 30 days after the Plan Administrator or its Agent provides the Beneficiary with the election materials (including the notice required under Code section 402(f), if

applicable), the Investment Account balance shall be distributed in a single cash payment as soon as administratively feasible. Upon the death of a Beneficiary, any amount to which such Beneficiary would be entitled but for the Beneficiary's death shall be paid to the Beneficiary's estate.

...

SECTION 5. Subsection J of section 5.23.070 is hereby amended to read as follows:

...

~~J. Small Accounts. Notwithstanding the foregoing provisions of this section, if a Participant's vested Account balance does not exceed \$5,000.00 at the time of his termination of employment with the County, it shall be paid in a lump sum as soon as practicable following such termination of employment.~~

J. Small Accounts. Notwithstanding the foregoing provisions of this section, if a Participant's vested Account balance does not exceed \$5,000.00 at the time the Participant or Beneficiary requests a distribution, such Account shall be payable to the Participant or Beneficiary only in the form of a lump sum. Additionally, if a Participant does not make a timely election regarding the distribution of his benefits after receiving the notice required under Code section 402(f), then, provided that the distribution is \$1,000.00 or less, the Participant's benefits shall be distributed in a single cash payment as soon as practicable notwithstanding his failure to file an application for distribution.

...

SECTION 6. Subsection B of section 5.25.080 is hereby amended to read as

follows:

. . .

B. Distributions Upon Separation from Employment Generally.

~~1. Distributions under the Plan to a Participant or his or her~~

~~Beneficiary following Separation from Employment shall be made in cash in accordance with one of the following methods:~~

~~a. A lump sum payment; or~~

~~b. Substantially equal monthly, quarterly, semi-annual or annual installments not extending over more than twenty years; or~~

~~c. Consecutive periodic payments for the life of the Participant or for the lives of the Participant and his or her designated Beneficiary, and the last survivor of them; or~~

~~d. A combination of the methods of payment described in subdivisions a, b, and c of this subsection.~~

~~In the event that the vested balance of any Participant's Investment Account (determined without regard to the Participant's Rollover Account) is less than \$5,000.00 (or the dollar limit under Code section 411(a)(11), if greater) Trustee shall distribute such Participant's interest under the Plan in a lump sum.~~

1. If the vested balance of a Participant's Investment Account

(determined without regard to the Participant's Rollover Account) is at least \$5,000.00

(or the dollar limit under Code section 411(a)(11), if greater), it may be distributed to a

Participant or his or her Beneficiary following Separation from Employment in cash in accordance with one of the following methods:

a. A lump sum payment; or

b. Substantially equal monthly, quarterly, semi-annual or annual installments not extending over more than twenty years; or

c. Consecutive periodic payments for the life of the Participant or for the lives of the Participant and his or her designated Beneficiary, and the last survivor of them; or

d. A combination of the methods of payment described in subdivisions a, b, and c of this subsection.

In the event that the vested balance of any Participant's Investment Account (determined without regard to the Participant's Rollover Account) does not exceed \$5,000.00 (or the dollar limit under Code section 411(a)(11), if greater), the Participant's interest under the Plan shall be payable only in a lump sum at such time as elected by the Participant or Beneficiary in accordance with Section 5.25.080A. If a Participant does not make a timely election regarding the distribution of his benefits after receiving the notice required under Code section 402(f), the Participant will be deemed to have elected to defer distribution of his benefits, provided, however, that the Participant's benefits will be distributed in a single cash payment as soon as administratively

feasible, without the Participant's consent, if the Participant's Investment Account balance is \$1,000.00 or less on the date of distribution.

...

SECTION 7. Section 5.26.330 is hereby amended in its entirety to read as follows:

5.26.330 Small Accounts.

~~Notwithstanding the foregoing provisions of this Part 7, if a Participant's vested Account balance does not exceed \$5,000.00 (determined, on or after January 1, 2002, without regard to a Participant's Rollover Contributions Account) at the time of his termination of employment with the County, it may be paid in a lump sum as soon as practicable following such termination of employment.~~

Notwithstanding the foregoing provisions of this Part 7, if a Participant's vested Account balance (determined without regard to a Participant's Rollover Contributions Account) does not exceed \$5,000.00 at the time the Participant or Beneficiary requests a distribution, such Account shall be paid to the Participant or Beneficiary only in the form of a lump sum. Additionally, if a Participant does not make a timely election regarding the distribution of his benefits after receiving the notice required under Code section 402(f), then, provided that the distribution is \$1,000.00 or less, the Participant's benefits shall be distributed in a single cash payment as soon as practicable notwithstanding his failure to file an application for distribution.