



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: March 15, 2016

Subject: Resolution No. 2016/124 to Approve an Agreement to Settle Retiree Support Group of Contra Costa County et al v. Contra Costa County

RECOMMENDATION(S):

ADOPT Resolution No. 2016/124 to approve an agreement to settle *Retiree Support Group of Contra Costa County et al v. Contra Costa County*, No. C12-00944, litigation concerning retiree health care benefits, and AUTHORIZE County Administrator to execute the settlement agreement.

FISCAL IMPACT:

If the settlement is implemented, this will create a \$676,000 increase in the Annual Required Contribution and a \$8,593,000 increase in the total Actuarial Accrued Liability. The settlement group is entirely made up of retirees, there is no Normal Cost.

BACKGROUND:

Beginning in 2006, the Board approved a series of health care changes that significantly reduced the County's liability for Other Post Employment Benefits (OPEB.) In 2009, the Board approved Resolution 2009/344, which implemented certain health care changes for eligible retirees participating in the County's health plans, other than those formerly represented by CNA or PDOCC or those participating in CalPERS health plans. These changes included, among other things, freezing the County monthly premium subsidies for

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **03/15/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II
Supervisor
Mary N. Piepho, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: March 15, 2016

David Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Lisa Driscoll, County
Finance Director (925) 335-1023

By: June McHuen, Deputy

retirees for all of the County medical and dental plans, not including CalPERS plans, effective June 29, 2011, at the May 2011 dollar amount. On February 24, 2012, the Retiree Support Group of Contra Costa County (“RSG”) filed a lawsuit in federal court challenging the County’s ability to make changes to health care for retirees.

BACKGROUND: (CONT'D)

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Following mediation before retired Alameda County Superior Court Judge Ron Sabraw, RSG and the County have now reached a proposed settlement of the case. The RSG Board of Directors and the RSG membership have approved the Settlement Agreement. (Certification of Election Results, attached.)

If the Board of Supervisors adopts Resolution 2016/124, approving the proposed settlement agreement, RSG and individually named plaintiffs will file a third amended complaint on behalf of a class of over 4,000 retirees to seek the Federal court's approval of the settlement agreement. It is anticipated that the settlement would be finally approved in September 2016, and the lawsuit would be dismissed with prejudice in advance of the County's open enrollment for health and dental plans for 2017.

The proposed settlement agreement is attached to Resolution 2016/124. Some key aspects of the settlement agreement are summarized below, with numeric reference to the provision of the proposed agreement.

Affected retirees: the class of eligible retirees receiving County retiree health benefits who retired on or before December 31, 2015. These retirees do not include retirees participating in CalPERS health plans or retirees who were represented by either the California Nurses Association or the Physicians and Dentists Organization of Contra Costa at the time of retirement. (§ 3.3, 3.14)

Health Care Benefits: The County will provide the health care benefits described below to the affected retirees in the class. Pursuant to the agreement, benefits for retirees and dependents eligible to participate in Medicare differ from benefits for those retirees and dependents who are not yet eligible to participate, to acknowledge the separate health plans and lower premiums available to Medicare eligible retirees. The settlement also addresses benefits for a retiree's survivors, that is, the retiree's eligible dependents enrolled in County health plans at the time of the retiree's death. (§ 3.37)

Retirees Not Yet Eligible to Participate in Medicare (§ 6.1)

- Until they become Medicare- eligible, retirees and non-Medicare eligible dependents will continue to have access to the same County medical plan providers and plans as County employees at any point in time, with the same co-pays, premiums, and deductibles.
- These retirees and dependents will remain blended with County employees for purposes of medical and dental rate setting.
- These retirees and dependents will be placed in a three tier medical plan premium system with County employees. If the settlement agreement is finally approved by the court prior to Open Enrollment for 2017, this change would occur effective 1/1/2017.

- The 2011 fixed medical plan premium subsidy caps will continue to apply. Once the three tier system is implemented, the retiree only cap will apply for single coverage; the retiree plus one or more dependent cap will apply to the new Retiree Plus One Dependent tier; for the new Retiree Plus Two or More Dependents Tier, the monthly fixed medical plan premium subsidy will be increased by \$ 150.
- The 2011 fixed dental plan premium subsidy caps will continue to apply to this group.
- When these retirees are eligible to participate in Medicare, they will be covered under the provisions applicable to Medicare-eligible retirees.

Retirees Eligible to Participate in Medicare (§ 6.2)

- Retirees, for their lifetimes, and Medicare-eligible dependents will continue to have access to the same health providers as County employees at any point in time, but through the providers' Medicare related plans.
- The 2011 fixed medical plan premium subsidy caps will continue to apply for the lifetimes of the retirees; effective 1/1/21, the amount of the County monthly medical plan premium subsidy cap will increase by \$25 for the Medicare Retiree Only tier and for the Medicare Retiree Plus all Dependents on Medicare tier.
- These retirees and dependents will remain blended with County employees for purposes of dental rate setting.
- The 2011 dental plan premium subsidies will continue to apply.

Survivors (§6.3)

- Those survivors not eligible to participate in Medicare will continue to have access to the same County health plan providers and plans, with the same premiums, co-pays, and deductibles as County employees at any point in time. They will remain blended with County employees for purposes of rate setting.
- Once eligible to enroll in Medicare, survivors will have access for their lifetimes to the same health plan providers as County employees at any point in time, but through the providers' Medicare related plans.
- Such access will continue to be at the sole cost of the survivor, and the County will not pay any premium subsidies for survivors.

Other Provisions

- All members of the class will receive notice and an opportunity to opt out of the class. (§ 7)
- The Retiree Support Group and Class Members will release the County from all claims alleged in the complaint and the lawsuit, and from any and all other claims that could have been brought based on the facts alleged in the third amended complaint. (§ 12)
- RSG will dismiss the lawsuit with prejudice. The court will retain jurisdiction until June 24, 2024, to enforce the express terms of the agreement. (§ 10)
- Each party will bear its own costs and attorney fees. (§ 26)

CONSEQUENCE OF NEGATIVE ACTION:

If the Board does not adopt Resolution No. 2016/124 approving the settlement agreement, the parties will continue to incur litigation costs.

ATTACHMENTS

Certification of Election Results

Resolution No. 2016/124

Settlement Agreement