

County of Santa Clara

Employee Services Agency

Employee Benefits



ESA01 102009

Prepared by: Peter Ng
Employee Benefits Director

DATE: October 20, 2009

TO: Board of Supervisors

FROM: 

Luke Leung
Deputy County Executive

SUBJECT: Resolution Delegating Authority to Deputy County Executive to Amend and Restate County of Santa Clara IRC Section 125 Flexible Benefits Plan

RECOMMENDED ACTION

Adopt Resolution Delegating Authority to Deputy County Executive (responsible for Employee Services Agency) to execute all documents and agreements as may be necessary to amend and restate the County of Santa Clara IRC Section 125 Flexible Benefits Plan, which is comprised of the Dependent Care Assistance Plan, the Health Flexible Spending Account Plan, and the Premium Only Plan documents, to reflect updates and changes as required by federal regulations for plan compliance, and to increase the maximum annual limit to \$5,000 for the Health Flexible Spending Account Plan, to become effective January 1, 2010, following approval by County Counsel as to form and legality. The delegation of authority shall expire on December 31, 2009. (Roll Call Vote)

FISCAL IMPLICATIONS

There is no fiscal implications to the General Fund FY10 Approved Budget as a result of the recommended action.

CONTRACT HISTORY

Not applicable.

REASONS FOR RECOMMENDATION

The Section 125 Flexible Benefits Plan and its component plans are subject to federal regulatory changes, updates, and clarifications which require periodic amendment and restatement of the plan documents as needed. While the POP was only recently implemented effective January 1, 2009, the DCAP and the FSA were last amended effective January 1, 2005.

Since then, there have been several regulatory updates and changes affecting all three component plans. Where applicable, these updates and changes have been incorporated into the day to day administration of the plans by our third party administrator to ensure operational compliance. However, the plan documents have not been updated accordingly to reflect these changes.

In addition, the maximum annual limit for participant contributions to the Health Flexible Spending Account Plan has not been increased since January 1, 2005. Increasing the contribution limit from the current \$2,000 limit to \$5,000, will make our plan limit comparable to many other public agencies, and will address our participants' requests for increased voluntary contribution opportunities.

The recommended action to delegate authority to the Deputy County Executive to execute this amendment and restatement of the Section 125 Flexible Benefit Plan will allow staff to complete the changes in a timely manner. This will ensure that the proper noticing for these changes, as part of the November open enrollment window for this Plan, can proceed without delay.

BACKGROUND

Section 125 of the Internal Revenue Code of 1986 allows for the creation of a qualified "cafeteria plan" for the purpose of providing opportunity for participants to receive certain benefits on a pre-tax basis. The County has previously adopted and implemented its Section 125 Flexible Benefits Plan as a qualified "cafeteria plan", implementing and amending different components plans over the past twenty years.

These component plans include a Dependent Care Assistance Plan (DCAP), a Health Flexible Spending Account Plan (FSA), and a Premium Only Plan (POP). These plans allow County employees to make voluntary contributions to these plans from their salary compensation on a pre-tax basis in order to reimburse themselves or to pay for: 1) qualified dependent care expenses under the DCAP; 2) qualified medical, dental, and vision out of pocket and other expenses not covered by County sponsored health benefit insurance plans under the FSA; and 3) the employees' share of health insurance premium costs not paid for by the County under the POP.

The pre-tax treatment of the employee contributions therefore becomes a valuable benefit to the participant, since the contributions are not considered wages for federal income tax purposes and generally not subject to federal payroll tax obligation.

CONSEQUENCES OF NEGATIVE ACTION

The County's Section 125 Flexible Benefits Plan will not be in compliance with the latest federal regulatory requirements. Participants will not have the opportunity to take advantage of an increase in the maximum annual limit for contributions under the Health Flexible Spending Account Plan.

STEPS FOLLOWING APPROVAL

The Clerk of the Board will forward two approved copies of the executed Resolution to the Employee Services Agency, Employee Benefits Division.

ATTACHMENTS

- IRC Resolution