

# *EXECUTIVE OFFICER'S REPORT*

To The

## *Local Agency Formation Commission*

**TO:**

Commissioner	<b>DON CAMPBELL</b> (Chair)	[City]	Commissioner	<b>MICHAEL KELLEY</b>	[Supervisor]
Commissioner	<b>JASON JACKSON</b> (Vice-Chair)	[City]	Commissioner	<b>RAY CASTILLO</b>	[Supervisor]
Commissioner	<b>DAVID WEST</b>	[Public]			
	Alt Commissioner	<b>JACK TERRAZAS</b>		[Supervisor]	
	Alt Commissioner	<b>MARIA NAVA-FROELICH</b>		[City]	
	Alt Commissioner	<b>VACANT</b>		[Public]	

**REPORT DATE:** March 7, 2014

**FROM:** Jurg Heuberger, AICP, CEP, Executive Officer

**PROJECT:** RETIREMENT HEALTH BENEFIT CHANGE AS PROPOSED BY COUNTY

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**HEARING DATE:** March 27, 2014 **TIME:** 8:30 AM

**AGENDA ITEM NO:** 8

**HEARING LOCATION:** IID Board Room, 1285 Broadway, El Centro, CA  
(for directions call 760-353-4115)

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**RECOMMENDATION(S) BY THE EXECUTIVE OFFICER** (In summary & order)

**OPTION #1:** At this time, this is for information, however any general direction the Commission desires to provide is most welcome.

**OPTION #2:** None

## REPORT:

### Retirement Health Benefit Change as presented by County CEO:

On March 5<sup>th</sup>, LAFCO was asked to meet with the County CEO and his staff. On arrival we were informed that the County was in the process of eliminating the Employee Health coverage post retirement for any ICERS member that was not currently a County employee, meaning specifically the two LAFCO employees and the ICTC employees. It appears that this change might, although not certain, also affect the Court system employees and again, unknown whom else if anyone.

## ANALYSIS

This is preliminary but surprising new information and the final determination by the County may not be known until June or July. The fact is this may or may not take place in the way or manner presented by the CEO. Nevertheless, we have to take it into consideration, particularly in terms of “promises made or perceived” to and by the employees; affects on the budget; potential litigation; etc.

As we understood the information (please also see the attached email sent to Mr. Cordova) the County has decided to terminate the Retiree Health Benefit to all non-county employees that are part of ICERS. Essentially as we understood the information, this affects two employees at LAFCO and one or two at ICTC. We and perhaps the County do not know whether or not this could be applied to the courts. Given the circumstances of how the courts were separated from the County, meaning statutory, it is quite likely that the same standards proposed for ICTC and LAFCO cannot be applied to the Courts?

It does however raise several concerns to the Executive Officer and please note for the record, the proposed change as presented by the County CEO has no effect on the Executive Officer.

The concerns I have were raised with Mr. Cordova and as noted since he and the County have not entirely vetted the final direction they may take, it nevertheless leaves us in a quandary. For instance, Mr. Cordova indicated that if a LAFCO employee had five years or more years of service with the County either before or after working for LAFCO, they may, operative word “MAY”, still be eligible; although they would have to potentially pay a significant amount depending on years of actual County service.

The second and perhaps more difficult concern is that this change is presumably made on the premise that it was never the intent of the Board of Supervisors to offer this to anyone other than full-time County employees. There are two issues I have with this. The Board we are talking about is the 1988-89 Board, so I am not sure I would accept the “intent” argument at face value. Second, this program was previously managed under ICERS and the ICERS policy stated in the handbook, at least as I understood them to be, was that this health coverage applied to employees based on years of enrollment in ICERS, not years of service to the County. The difference here is how it affects the current employees. For instance one employee has at least ten years while the other has two of county service but both have four of LAFCO. Hence if you go by Mr. Cordova’s example one employee would be eligible and one would not. However if you go by the original plan under ICERS both employees would qualify.

The third concern I have is that employees of LAFCO and presumably ICTC took these positions with certain understandings and expectations. Whether or not this benefit is one that a public agency should or should not provide is a separate issue, but the germane issue to me is that in some cases an employee may have made a different choice in employment based on these types of benefits, and to unilaterally change them is in my opinion both unfair and could become a legal issue as well.

I fully understand the County wanting to limit its costs, as do all agencies and responsible individuals; however it would seem that there should be more acceptable alternatives. For instance this change could be applied for all future employees. Given that this currently (absent the courts) only affect less than .02% of the total enrollment the risk is more than manageable.

Also if Mr. Cordova's comments regarding cost billed to LAFCO having been understated for the past four years, this can be corrected by the County billing us the correct amount. Note that LAFCO did not set the rate, the County did, however LAFCO paid each invoice. That brings up the issue of whether or not the County can in fact cancel this policy with LAFCO and presumably ICTC having acted in good faith by making all payments in expectation of the benefit. It also begs the question of whether the County would have to refund all payments made by LAFCO.

In conclusion, there are many unknowns, but given the potential ramifications we have brought this to your attention and would also advise that this may change our final budget to be considered in May.

## **EXECUTIVE OFFICERS RECOMMENDATION**

### **RECOMMENDATION:**

This is information only however the Commission can provide direction as this is listed under the "action" section of the agenda.

## Danielle Bruce

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**From:** Jurg Heuberger  
**Sent:** Friday, March 07, 2014 8:03 AM  
**To:** Ralph Cordova (ralphcordova@co.imperial.ca.us)  
**Cc:** Katherine Turner (katherineturner@co.imperial.ca.us); Julie Carter; Danielle Bruce; Ryan Childers (rdchilders@rdchilderslaw.com)  
**Subject:** Retirement health plan changes

Ralph et al, good morning:

After digesting your brief but as yet not fully developed plan to change the retirement health benefit for "current-non-county" employees such as LAFCO and ICTC, allow me to state my understanding and then feel free to guide me in a more clearer understanding if necessary.

The County, presumably the current Board of Supervisors has determined that the original "intent" of the Board of Supervisors back in the late 80's, none of whom are currently on the Board was NOT to have that benefit granted to the above identified group even though since that time this was offered and by most affected employees understood to be what that Board had intended. In fact when LAFCO transitioned from quasi county the two employees that moved from the County to LAFCO were so informed, that in fact as LAFCO employees they would have the same benefit plans as the County. This was in fact fully discussed with the LAFCO commission at the time the transition took place. It was also discussed in the context of patterning the LAFCO employee program after the County or perhaps the City programs. Ultimately the Commission felt that because of the historical operation as quasi county, the County model was most appropriate. Further, the LAFCO Personnel Policy as adopted and for which you had a great deal of input, is virtually a carbon copy of the County Policy.

Somewhat on tangent, even if I were to agree (and I strongly don't) that the 1980's Board did not "intend" as you stated for this to be the case, I don't see that the current Board could not be wiser and more compassionate? Just a thought?

Nevertheless, as I understand it, and again while LAFCO has paid all charges, premiums and costs to the county for this benefit as charged by the County, the County now wants to drop that benefit from said employees with some type but as yet undefined caveat. I believe the presentation you gave us indicated that any employee with a certain amount of county service, such as five years would have an option to have some possible coverage. They would for example have the opportunity to return to service in the county and not lose the five years, or they could perhaps "buy" in to some type of plan based on percentage of service. Again, as I understood this those options are still in the development stage by the County.

With respect to giving credit to employees that had a couple of years of county service, but not necessarily five, yet had four or five years additional service with the participating agency, in our case LAFCO, you did not feel that the County would, or at least thus far has not entertained that as an option. Although you did stress that the County wanted to be "fair", and when I questioned this option I did not hear a positive NO, so I ask again is that something that the County would be willing to entertain. Not saying that this will satisfy my personal objection to the approach the County is taken given it affects so few people. I should note at this time before anyone makes any erroneous assumptions or suggestions, none of these changes affect me personally, as you well know. It does however affect two LAFCO, formerly County employees.

Another option as I see it to your proposed plan would be to leave status quo for all employees currently on the payroll as full time employees and make the affected change applicable to new hires. We did not really discuss this, but as I see it we are talking about two people at LAFCO and not sure at ICTC but it can't be much more than two or three there either. Now of course your counter will be the Courts, but I am not convinced that given the nature of the Courts

statutory departure from the County there is significant similarity or conclusion. I just don't know enough to make a valid case, at least not yet.

When I asked the impetus for the is change, you indicated it was the long term liability, which I can understand, or at least I could if it were of significance. Again the Courts aside and on the assumption that this affects perhaps six people, the percent of impact to the County is less than .2 percent (.0028).

In the immortal words of former Supervisor James Bucher "if I have one life to give let it be yours", I would hope that the County current Board have more sensitivity than that and not throw a few employees out of what they truly felt and relied upon, as being a long term benefit and one that has near catastrophic impacts on them. Again, changing the program for new employees I think is a fair option.

In conclusion and although I doubt this is of surprise to you, I will be providing this information to the Commission at the next meeting as we discussed this has potential ramifications to our next year's budget. Also, if in fact we have not paid our fair share as you outlined, but we did pay what you asked, then perhaps the solution is to revisit what the fair cost should be, something I am sure we would be willing to accommodate.

I would also ask that before the County makes a unilateral decision there be more opportunity to have dialogue between the County, LAFCO, and ICTC, and perhaps the retirement board, as to alternatives.

Thank you in advance for your consideration.