

# REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
6	01/12/15	Open	Action	12/16/14

Subject: Authorizing RT to Pick Up all Mandatory Employee Pension Contributions for "New Members" in Accordance with Section 414(h)(2) of the Internal Revenue Code

## ISSUE

Whether to Authorize the Sacramento Regional Transit (RT) District to Pick Up all Mandatory Employee Pension Contributions for "New Members" in Accordance with Section 414(h)(2) of the Internal Revenue Code.

## RECOMMENDED ACTION

Adopt Resolution 15-01-\_\_\_\_\_, Authorizing the Sacramento Regional Transit District to Pick Up All Mandatory Employee Contributions to the Sacramento Regional Transit District Retirement Plan for AFSCME, AEA and Non-Represented Employees, the Retirement Plan for Regional Transit Employees Who are Members of ATU Local 256, and the Retirement Plan Between International Brotherhood of Electrical Workers Local Union 1245, AFL-CIO and Sacramento Regional Transit District in Accordance with Section 414(h)(2) of the Internal Revenue Code.

## FISCAL IMPACT

None as a result of this action.

## DISCUSSION

On January 1, 2013, the California Public Employee's Pension Reform Act of 2013 ("PEPRA") went into effect requiring all California public agencies to modify their Pension Plans to incorporate its provisions. As a covered public agency, RT complied with that law and modified its Plans to include employee contributions for new employees. However, with passage of subsequent legislation suspending the applicability of PEPRA for all transit agencies with 13(c) agreements in California, employee contributions were stopped in October 2013. Since the fate of PEPRA was unknown during contract negotiations throughout 2013, RT was able to negotiate employee contributions as a part of negotiations with four groups (ATU, IBEW, AFSCME Administrative/Technical and MCEG); negotiations are still ongoing with two groups (AFSCME Supervisors and AEA). Employee contributions are a key provision in those negotiations.

Hanson Bridgett, RT's Pension Plan Attorney, has opined that in order for these new member contributions to be withheld on a pre-tax basis, the Board must approve a Resolution authorizing RT to "pick up" all mandatory employee contributions in accordance with Section 414(h)(2) of the Internal Revenue Code. If RT does not "pick up" the mandatory contributions, all contributions will be treated as taxable income at the time the employee makes his/her contribution to the plan. New employee contributions will begin with the pay period beginning January 1, 2015.

Approved:

Presented:

Final 01/07/15

General Manager/CEO

Director, Human Resources

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Subject: Authorizing RT to Pick Up all Mandatory Employee Pension Contributions for "New Members" in Accordance with Section 414(h)(2) of the Internal Revenue Code

Staff recommends that the Board adopt the Resolution authorizing RT to pick up all employee pension contributions required under the Memorandum of Understanding and Collective Bargaining Agreements adopted by the Board as a result of contract negotiations, in accordance with Section 414(h)(2) of the Internal Revenue Code.

RESOLUTION NO. 15-01-\_\_\_\_\_

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

January 12, 2015

**AUTHORIZING THE SACRAMENTO REGIONAL TRANSIT DISTRICT TO PICK UP ALL MANDATORY EMPLOYEE CONTRIBUTIONS TO THE SACRAMENTO REGIONAL TRANSIT DISTRICT RETIREMENT PLAN FOR AFSCME, AEA AND NON-REPRESENTED EMPLOYEES, THE RETIREMENT PLAN FOR REGIONAL TRANSIT EMPLOYEES WHO ARE MEMBERS OF ATU LOCAL 256, AND THE RETIREMENT PLAN BETWEEN INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL UNION 1245, AFL-CIO AND SACRAMENTO REGIONAL TRANSIT DISTRICT IN ACCORDANCE WITH SECTION 414(h)(2) OF THE INTERNAL REVENUE CODE**

WHEREAS, this Board anticipates that it will approve the amendment of the Sacramento Regional Transit (RT) District Retirement Plan for AFSCME, AEA, and Non-Represented Employees, the Retirement Plan for Regional Transit Employees who are Members of ATU Local 256, and the Retirement Plan Between International Brotherhood of Electrical Workers Local Union 1245, AFL-CIO and Sacramento Regional Transit District (the "Plans"); and

WHEREAS, the Plans, as amended, will provide that members must make mandatory employee contributions to the Plan through payroll deduction in order to fund retirement benefits; and

WHEREAS, under Section 414(h)(2) of the Internal Revenue Code (the "Code") and related guidance from the Internal Revenue Service, such deductions from employees' compensation qualify for pre-tax treatment only if RT takes formal action to designate the deductions, for tax purposes, as contributions "picked-up" by RT; and

WHEREAS, this Board wishes to adopt this Resolution in order to, in accordance with section 414(h)(2) of the Code, designate amounts deducted from employees' compensation to fund benefits under the Plans as pick-up contributions; and

WHEREAS, RT will pick up all mandatory employee contributions to the Plans in accordance with Section 414(h)(2) of the Code and all guidance issued thereunder.

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, this Resolution applies to all contributions that are required to be made by any employees of RT as members of the Plans, on a regular payroll deduction basis and which are reported to such Plans and credited to employee accounts.

THAT, although designated as employee contributions and deducted from employees' compensation, the contributions shall, for tax purposes, be characterized as "picked up" by RT in accordance with Code Section 414(h)(2), and shall be treated as paid by RT in lieu of contributions by the employee.

THAT, employees shall not have the option of choosing, directly or indirectly, to receive the contributions instead of having them paid by RT to the Plans.

THAT, RT shall pay to the Plans the contributions designated as employee contributions from the same source of funds as used in paying salary.

THAT, employee contributions that are picked up in accordance with this Resolution shall result in the tax deferral of these contributions to the extent provided under the Code, Treasury Regulations and other guidance issued thereunder.

THAT, this Resolution establishes and adopts RT's pick-up practices in accordance with Revenue Ruling 2006-43.

THAT, RT shall comply with all reporting, contribution, and other administrative requirements established by the Plans with respect to all employees whose contributions are picked up in accordance with this Resolution.

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PHILLIP R. SERNA, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: \_\_\_\_\_  
Cindy Brooks, Assistant Secretary