



TAXPAYERS ASSOCIATION OF EL DORADO COUNTY
Post Office Box 13 *Placerville, California 95667*
Founded in 1958

TO: El Dorado County Board of Supervisors
FROM: Al Hamilton, President

DATE December 7, 2015

REGARDING: Agenda Item 5

Item 5 needs to be pulled from the calendar consent or otherwise for the following reasons. First there is no blue routing sheet. There is no 21-day notice requirement. Most importantly it is not clear as to what is the new resolution to correct the mistake created in resolution 180-2013 and continued in resolution 235-2014. Which is the new resolution to be considered by the BOS? To correct this error a new resolution needs to be prepared, this BOS cannot amend a resolution from two years ago through line-outs. A new entirely new resolution is required. What is being presented to the BOS will only create confusion and may not be legal.

Since the passage of resolution 204-2003 on July 15, 2003 longevity pay entitlements for elected and appointed department heads shall NOT include credit for prior related professional service out of the county or any city. That has remained the county policy even until today.

Resolution 180-2013 mistakenly included a provision to make out of county service included for calculating longevity pay. That mistake of counting out of county service in longevity pay was also included in resolution 235-2014 whose intent was to undo resolution 180-2013. That longevity pay for out of county service is still uncorrected from the 2003 resolution.

There appears to be a revised resolution in the packet entitled in the lower right hand corner 14-1649 A-Revised 1 of 3 which ONLY CONTINUES the error for giving credit for out of county service on page 2 of that document. The resolution necessary should be simple; a resolution correcting the error of both 180-2013 and 235-2014 and then reciting the correct county policy from resolution 204-2003. None of the paperwork reflects that change except for some line-outs on of prior resolutions 180-2013 and 235-2014. Those line-outs are neither effective nor legal and could be litigious. A new resolution is necessary. This matter needs to be pulled, continued and corrected.

CC: Robyn Drivon, County Counsel
Larry Combs



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BOA calendar for meeting on 12/8/15--Regarding items 5, item 7, item 31

1 message

Larry Weitzman <weitzman@directcon.net>

Mon, Dec 7, 2015 at 2:36 PM

To: bosone@edcgov.us, bostwo@edcgov.us, bosthree@edcgov.us, bosfour@edcgov.us, bosfive@edcgov.us, jim.mitrisin@edcgov.us, edc.cob@edcgov.us

Dear BOS members,

Item #5 to retroactively amend BOS resolution 180-2013 and 235-2014 should be pulled and continued. First such a salary and benefit resolution needs a 21-day notice and should be posted on the Legistar 21 days before the meeting. This is not a matter for the consent calendar as it has too many complications especially to retroactively change a resolution from two years ago using cross outs to two prior resolutions 180-2013 and 235-2014 and two unsigned resolutions, one being a revised version of the other marked 14-1649 (one with the designation "revised"). Where is the legal authority to amend a resolution via lineouts? It requires a whole new resolution? The "revised" resolution still has the wrong longevity paragraph and typos. Also where is the blue routing sheet? Who in the county has reviewed these documents? The whole item is confusing and will lead to more confusion. While it is laudable to attempt to correct a mistake, it should be done with a clean new resolution that has clear and unmistakable language that at least conforms to the explanation of the agenda item. What is on the calendar and on the Legistar is basically unintelligible.

It appears this mess was created through a series of mistakes. A resolution passed on Dec. 11, 2001 (and in 1999) allowed for longevity pay to include out of county service for elected and appointed department heads. That was changed on July 15, 2003 via resolution 204-2003 that said only "in county" service applies to longevity pay and remained so when resolution 180-2013 whose purpose was to cut electeds pay also included the language by mistake or intentionally that included cutting longevity pay, but adding it back for the department heads. Nobody evidently realized elected and department heads were already living by the 2003 resolution which only allowed in county service to be counted. The 204-2003 should have been used as a model for 180-2013. They must have used a 1999 resolution which used incorrect language.

The correcting resolution should simply recite the reason as to correcting the language of 180-2013 and 14-1649 and then recite the language from resolution 204-2003, with good notice. If the unsigned resolution 14-1649 revised is used, it will only exacerbate the problem already created as it too has incorrect language.

But this items needs to be pulled and an entirely new resolution presented to the BOS with 21 days' notice and the appropriate blue routing sheet.

Item 7: This should not be consent calendar item and it should be pulled and continued until the next BOS meeting at the regular meeting chambers. The public wants BOS meetings every week for several reasons the first of which is public access to the BOS, confusion as to when there are BOS meetings and the fact that a twice a month calendar will mean longer meetings thereby limiting time for the public to speak and less deliberation created by pressure to finish the calendar as they most likely will extend deep into the evening. Rushed and pushed calendar items means poor decision making especially after eight and ten hour meetings.

14-1649 Public Comment

Such policy will expand and make for more items on the consent calendar. That is bad government.

Item 31: This item needs to be pulled indefinitely for several reasons. First of which is the Walker case which says if there is a failure to make the five-year nexus study for mitigation fee act districts, the unexpended, committed or uncommitted funds held on account MUST be refunded to the property owners of record. The Walker case is now the law of California as on November 10, 2015, the California Supreme Court refused to accept the case for a hearing. Since a claim by a property owner within the Diamond Springs/EI Dorado Fire District on those unexpended funds has been filed with the county demanding a refund of the unexpended funds in the mitigation fee act account within the Diamond Springs Fire District has been made, those funds are unavailable for any other purpose other than a refund to said property owners of record.

Secondly, the law is clear that the funds currently in the account are unexpended as they are still in the account as the law explicitly says all unexpended funds, committed or uncommitted are to be refunded. That duty to refund as per the Walker case is a statutorily mandated duty of the fund holder, in this case the county.

To claim these funds were expended because the fire district expended their funds to acquire this piece of equipment has no bearing. As long as the money is in the county MFA account, they remain unexpended.

To authorize the commencement of litigation against the Auditor would be a negligent, gross misuse of county general fund monies. It may also create personal liability of certain county officials.

Larry Weitzman

Placerville, Ca