



Legislation Text

File #: 16-0867, **Version:** 1

County Counsel recommending consideration of Conflict of Interest Issues associated with the Board's anticipated action(s) in regards to the matter of Ronald V. Briggs and Norma Santiago v. County of El Dorado et al., Placer County Superior Court Case Number SCV-0036836 including possible random selection of two Board Members having a conflict of interest to make a quorum to take action in regards to this matter. (Est. Time: 30 Min.)

FUNDING: N/A

DEPARTMENT RECOMMENDATION

County Counsel recommends that the Board (1) Receive and file the report of County Counsel disclosing the conflict of interest issues arising from the court's decision in the matter of *Briggs/Santiago v. County of El Dorado* and (2) undertake the random selection of two supervisors to participate in the making of decisions or providing of direction to Counsel regarding the lawsuit.

DISCUSSION / BACKGROUND

This matter comes to the Board in a rather interesting posture. On or about September 15, 2015 former Board of Supervisors members, Ronald V. Briggs (hereinafter "Briggs") and Norma Santiago (hereinafter "Santiago") filed a Petition for Writ of Mandate seeking additional compensation to which they claim they were entitled while they served as County Supervisors. That additional compensation took the form of a 4.6% Management Leave In-Lieu Pay; a 3.5% cost of living increase; and a 5% Cost of Living/Equity Adjustment. (Petition for Writ of Mandate p.12/Lines 23-26.) The County opposed the Petition for Writ of Mandate.

As the litigation proceeded, the Petitioners added claims for additional compensation in the form additional base pay in the amount of \$27,812.67 for Briggs and \$32,353.83 for Santiago. Petitioners also claimed a right to an additional \$19,545.83 in salary increases based on the average 6.6% "average salary increase" given over the years 2011 through 2014 to three elected officials.

On July 28, 2016 the Honorable Charles D. Wachob, Judge of the Placer County Superior Court issued his ruling in the above captioned matter. Judge Wachob denied all of the Petitioners' claims for additional compensation except for the claim for the 4.6% Management Leave In Lieu Pay benefit. The value of that benefit is approximately \$3,535 per year for each of the Petitioners. Under the reasoning of the Court, the entitlement to the 4.6% Management In Lieu Pay benefit would apply to current Board members. As more fully set forth in the attached letter to the Board, the decision of Judge Wachob which would entitle the present Board members, other than Supervisor Veerkamp, to the 4.6% Management In Lieu Pay benefit creates a conflict of interest for Supervisors Ronald Mikulaco, Shiva Frentzen, Michael Ranalli and Sue Novasel in regards to any decisions addressing the actions of the County to be taken in regards to the lawsuit. These conflicts would require that these board members not "make, participate in making or in any way use [their] official position to influence a governmental decision..." (Government Code section 87100). With four supervisors precluded from participating in any decision of the Board in regards to the lawsuit, the number of

supervisors available to vote on any decisions regarding the lawsuit is only one, two short of a quorum. Under the rule of legally required participation, a sufficient number of supervisors with conflicts of interest to make a quorum and take action in regards to the lawsuit would be permitted to vote on any proposed action regarding the lawsuit. (2 CCR §18705). Therefore, in order to allow the Board to take action or provide direction to counsel to take action in regards to the lawsuit, it is recommended that the four supervisors randomly select among themselves to see which two supervisors will be able to participate in voting on the ordinance in advance of the closed session regarding the matter of Briggs/Santiago v. County of El Dorado on August 16, 2016.

ALTERNATIVES

There exist no viable alternatives. Without taking the above recommended actions, the Board will not be able to take or direct any action in regards to the pending lawsuit.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

N/A

CAO RECOMMENDATION

CAO concurs in the recommendation.

FINANCIAL IMPACT

N/A

CLERK OF THE BOARD FOLLOW UP ACTIONS

The Clerk of the Board will duly note in the minutes, (1) the receipt and filing of the report disclosing the existence of the conflicts of interest and a description with particularity of the economic interest; and (2) the random selection of two supervisors to participate in the making of decisions regarding the lawsuit.

STRATEGIC PLAN COMPONENT

Good Governance

CONTACT

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