

# EL DORADO LAFCO

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## LOCAL AGENCY FORMATION COMMISSION

***AGENDA OF APRIL 24, 2013***

***REGULAR MEETING***

***SUPPLEMENTAL REPORT***

**TO:** **Don Mette, Chair, and  
Members of the El Dorado County Local Agency Formation  
Commission**

**FROM:** **José C. Henríquez, Executive Officer**

**AGENDA ITEM #4D:** **CONTINUED PUBLIC HEARING TO CONSIDER AND ADOPT  
A RESOLUTION OF INTENTION TO APPROVE A  
CONTRACT BETWEEN EL DORADO LAFCO AND THE  
CALIFORNIA PUBLIC RETIREMENT SYSTEM**

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### **RECOMMENDATION**

Staff recommends that the Commission receive this update on the status of the CalPERS contract.

### **REASON FOR RECOMMENDED ACTION AND BACKGROUND**

The following information is known to the ad hoc committee composed of Chair Mette and Commissioner Veerkamp formed in the March meeting as well as the budget ad hoc committee composed of Chair Mette and Commissioners Briggs and Frentzen. This is so that all Commissioners are apprised of events.

The Item 4D memo included in your packet touched upon an agreement negotiated by LAFCO Counsel with CalPERS whereby this agency can report temporarily under the County's contract but under certain conditions that the County must agree to beforehand. This temporary reporting process is referred to internally as "the exception."

Attachment A contains the explanation of the exception as well as the conditions surrounding it. Assuming that the County agrees to the conditions, to date there has been an indication that the County Administrative Office views the exception positively but nothing has been received in writing, the exception is important because it temporarily makes the LAFCO employees whole: It bridges the service credit gap that was created when CalPERS instructed LAFCO to stop making payments into its system in 2011 and provides a process to continue reporting on a go-forward basis until the LAFCO CalPERS contract is adopted and implemented.

CalPERS has reiterated that "implementation" means not only the Commission's adoption of the LAFCO contract but also the execution of the Reallocation Agreement. If the Commission recalls, the Reallocation Agreement must be signed by the County, LAFCO and CalPERS to give the latter agency permission to move the LAFCO employees' retirement funds from the County's account to a LAFCO-specific account. The County has objected to certain language in the Reallocation Agreement. Changes to said agreement were requested in March and CalPERS' legal team is still reviewing them.

Where this leaves this agency is that the exception provides a limited amount of stability. It removes the issue of a CalPERS' imposed break in service credits for current employees. However, it must be understood that the employees are not out of the woods for several reasons:

- As noted above, the County has not agreed to the exception in writing;
- The exception is temporary. Assuming that the County agrees to the terms of the exception but for whatever reason the LAFCO contract cannot be implemented (the Commission does not adopt a contract and/or the County does not sign the Reallocation Agreement),
  - All service credits are "backed out" to February 2005. This means all current employees will lose their retirement as well as two former employees will lose a portion of theirs. The money deposited into CalPERS from February 2005 forward would be taken out of the CalPERS system and returned to LAFCO.
  - LAFCO employees will have no retirement benefits at that point. This impact is especially acute to the Administrative Assistant who is two years away from retirement (she authorized this disclosure to comply with HIPAA Privacy Rules).
  - LAFCO will have to devise an alternative retirement plan, which may be different from the retirement plan promised to the employees at the time of their hiring in 2005/2006.
  - LAFCO will be exposed to a lawsuit from the two former employees who will lose a portion of their retirement credits.

There is an additional element surrounding the CalPERS contract. Because the Resolution of Intention was not adopted at the February meeting, CalPERS' contracting unit has taken an unpredictable path. This has required technical expertise into the intricacies of retirement law that is beyond your Executive Officer's capabilities. LAFCO Counsel has been instrumental in assisting this agency; however, that assistance has been very costly and will be unsustainable in the long term.

#### Attachments

Attachment A: E-mail to County dated April 15, 2013 explaining the exception