

Livermore Area Recreation and Park District

Staff Report

TO: Chair Faltings and Board of Directors

FROM: Mathew Fuzie, General Manager

PREPARED BY: Julie Dreher, Finance Officer
Jeffrey Schneider, Administrative Services Manager

DATE: June 29, 2022

SUBJECT: LARPD Contribution to the Alameda County Employees' Retirement Association
401(h) Sub-Account for Retirees' Medical for the 2022-2023 Fiscal Year

COMMITTEE: Finance Committee June 20, 2022

RECOMMENDATION: That the Board of Directors approve Resolution # _____ authorizing the funding of the 401(h) Sub-Account for Retirees' Medical with the Alameda County Employees' Retirement Association (ACERA) in the amount of \$338,262.20 for the 2022-2023 Fiscal Year.

BACKGROUND: Each year, by vote of the Board of Directors, the District funds the 401(h) sub-account in compliance with GASB 75 to provide tax-free health care for LARPD's retirees. In fiscal year 2006-2007, the LARPD Board of Directors authorized the creation of an Internal Revenue Code section 401(h) sub-account, under the ACERA's overall 401(h) account, in order to provide tax-free health care for its retirees. LARPD and ACERA entered into a written agreement regarding the funding of an IRC 401(h) sub-account. The agreement authorized a portion of LARPD's regular retirement contributions to be deposited in an agency 401(h) sub-account. LARPD's Board of Directors passed a resolution authorizing ACERA to create and manage an IRC 401(h) sub-account on the District's behalf. In return, ACERA's Board passed a resolution authorizing the transfer of an equivalent amount from the Supplemental Retiree Benefits Reserve ("SRBR") to LARPD's Advance Reserve Account. The net effect is a no-cost transaction to the District (our employer contribution is inclusive of, and not dependent on, the amount that is designated for the 401(h) program).

What is being funded via the 401(h) Account is tax-free health benefits (medical, dental, and/or vision) for LARPD retirees who are enrolled in an ACERA-sponsored medical plan (eg, Kaiser, United Healthcare HMO), with coverage levels that vary based upon years of ACERA-eligible service years. Employees must have at least 10 years of service to qualify (there is no minimum service requirement for duty disability), at which point the monthly medical allowance (MMA) provided by this plan will provide for partial coverage of their monthly medical premiums (50% of Employee-only premiums, which grows to 75% at 15 years of service and 100% at 20+ years).

Of Note:

1. The amount to be authorized for FY22-23 is slightly above last year's total of \$326,604.49 and is dependent upon three factors: a) the percentage of LARPD retirees eligible for retirement benefits (in relation to the entire ACERA pool) – 0.70%; and b) the total funding requirement for the overall ACERA OPEB plan (\$56,762,000) less the estimated balance in the LARPD 401(h) sub-account as of June 30, 2022 (\$59,071.80). The calculation this year is thus $0.70\% \times \$56,762,000 - \$59,071.80 = \$338,262.20$.
2. Relevant law: The County Employees Retirement Law of 1937 (CERL), which allows ACERA to transfer funds contributed by the District to the 401(h) program back to the District's Advance Reserve Account and as such these funds are treated as a pension contribution by the District (eg, no adjustment to the District's ACERA pension contribution is required in order to fund the 401(h) program).
3. The OPEB / 401(h) liability stood at \$32k as of June 30, 2021 and reflects the District's share of the overall net OPEB liability for ACERA, which is based on the District's contributions to the program relative to those of all participating employers. As with the core pension plan itself, the OPEB liability is sensitive to ACERA's investment returns and costs (in this case, healthcare related), and favorable investment returns through December, 2020 were the primary driver of the reduction in the OPEB liability for the FY21-22 fiscal year (down from \$495k as of June, 2020).

Attachment:

Letters from ACERA and its actuary (Segal Consulting) setting forth the required contributions for the 401(h) account for Fiscal Year 2022-2023; Schedule showing the summary of the 401(h) contributions by Participating Employer for Fiscal Year 2022-2023.



May 20, 2022

Mathew Fuzie
General Manager
Livermore Area Recreation and Park District
4444 East Avenue
Livermore, CA 94550

Re: Authorization for 2022-2023 IRC § 401(h) Sub-Account

Dear Mr. Fuzie:

In fiscal year 2006-2007, the Livermore Area Recreation and Park District (LARPD) authorized the creation of an Internal Revenue Code (IRC) Section 401(h) sub-account under the Alameda County Employees' Retirement Association's (ACERA) overall 401(h) Account in order to provide non-vested Retiree Health Benefits (RHBs) to eligible retirees on a non-taxable basis. If LARPD intends to continue with this practice in the upcoming fiscal year, it is time to initiate the process to authorize the contributions to LARPD's IRC § 401(h) sub-account.

The 401(h) sub-account is based on the following criteria:

1. The account is funded by the contributions made directly by LARPD to ACERA for the sole purpose of providing RHBs to retirees,
2. LARPD specifies that these contributions are for the sole purpose of providing RHBs to retirees,
3. The contributions are separately accounted for by ACERA, and
4. The contributions are used by ACERA solely for RHBs.

In accordance with the County Employees Retirement Law of 1937 (CERL), ACERA holds assets in an account called the Supplemental Retiree Benefit Reserve (SRBR), which may be used only to provide benefits to retirees and their beneficiaries as determined by the Board of Retirement. In accordance with § 31592.4 of the CERL, ACERA may transfer amounts from the SRBR to the Employer Advance Reserve account and treat these transfers as if they were contributions made by LARPD to fund health benefits, as long as LARPD makes equal contributions directly to ACERA's 401(h) Account. LARPD does not have an obligation to pay for health benefits for retirees since they are non-vested. Refer to the 401(h) Agreement signed in October 2007.

Included with this letter are the following documents that will assist you with the authorization process, if so desired.

1. A letter from ACERA's actuary setting forth the required contributions for the 401(h) Account for fiscal year 2022-20232 (Exhibit A).
2. A schedule showing the summary of the 401(h) contributions by Participating Employer for fiscal year 2022-2023 (Exhibit B).
3. A proposed resolution for your governing body to authorize contributions to a 401(h) Account (Exhibit C).

Exhibit A is a letter from ACERA's Actuary, Segal Consulting, which estimates the fiscal year 2022-2023 funding requirements of the 401(h) Account from all employers is \$56,762,000. This estimate includes projected health premium subsidy increases of 3.00% for medical, 4.50% for Medicare Part B, and 0.00% for dental and vision plans. An additional 10% subsidy is included to provide a margin for unexpected retirements (e.g., if the employer grants Golden Handshake benefits or other increased benefits). Effective July 1, 2011 administrative expenses for health benefits are also included.¹

Exhibit B is the schedule of the 401(h) Contributions Summary by Participating Employer for the Fiscal Year 2022-2023. This schedule shows that LARPD's net 401(h) contribution amount is \$338,262.20. This result was obtained by multiplying the percentage of LARPD retirees eligible for retirement benefits (0.70%) by the total required contribution amount (\$56,762,000) and adjusting it by the estimated balance that is remaining in LARPD's 401(h) sub-account as of June 30, 2022 (\$59,071.80).

Beginning with pay period 22-14, LARPD should allocate \$13,010.08 of your total contribution amount per pay period toward your 401(h) contributions if your intent is to provide non-vested tax free health benefits to retirees. There is no net financial impact to LARPD because ACERA contributes an equal amount from the SRBR to the Employer Advance Reserve account.

In order to ensure uniform tax compliance in the resolutions passed by the various Participating Employers, we have enclosed a proposed resolution, which appears as Exhibit C. This resolution authorizes LARPD to contribute \$338,262.20 to your 401(h) sub-account for fiscal year 2022-2023. ACERA appreciates that LARPD may require additional language in the resolution, but we request that you include the language provided that relates to the authorization and funding of the 401(h) sub-account. If you wish to change the resolution in any way, including adding to it, ACERA must review the changes before they are adopted to ensure that they comply with federal law that governs the 401(h) Account and your sub-account. We believe that this language addresses and ensures compliance with the CERL statutory issues, the agreed upon funding mechanism and IRC § 401(h) tax code requirements. Once the resolution has been passed, please send me a copy for our files.

Authorization to fund LARPD's 401(h) sub-account must be completed by June 30, 2022. If this date poses a problem, or if you have any questions about any of the material contained in this packet, please contact ACERA for further clarification.

Sincerely,



Assistant Chief Executive Officer

Attachment:
Memo from Segal
401(h) Contributions needed for County and Special Districts FY 2022-2023
Proposed Resolution

¹ This is required to comply with tax qualification requirements per ACERA's Tax Counsel.



VIA E-Mail

April 19, 2022

Ms. Lisa Johnson
Assistant Chief Executive Officer
Alameda County Employees' Retirement Association
475 14th Street, Suite 1000
Oakland, CA 94612-1900

Re: 401(h) Contributions for the 2022-2023 Fiscal Year

Dear Lisa,

Pursuant to the Association's request, we have estimated the 401(h) contributions for the 2022-2023 fiscal year.

Results and Analysis

We project that, for the 2022-2023 fiscal year, the Association will need \$56,762,000 to provide medical benefit subsidies from the 401(h) account. The process used to determine the actual biweekly contribution amounts is discussed on page 2. Please note that as previously directed by ACERA, in developing the estimated 401(h) contribution amount, we have included the expenses related to the administration of health benefits for retirees.

The 401(h) funding requirement is developed as follows:

- | | | |
|----|---|--------------|
| 1. | Total monthly premium subsidy paid by ACERA to all health benefit plan providers during the month of February 2022, projected to June 2022 by the Association (for comparison purposes only). | \$3,937,000* |
| 2. | Annualized premium subsidy as of February 2022, projected to June 2022 (for comparison purposes only). | \$47,244,000 |

** Last year, the total monthly premium subsidy paid by ACERA to all health benefit plan providers for February 2021 and projected to June 2021 by the Association was \$3,862,000, or \$46,344,000 annualized. There is an increase in the projected monthly premium subsidy amount from last year to this year primarily as a result of an increase in the Medicare Part B premium from 2021 to 2022.*

3.	Best estimate of annualized premium subsidy required for 2022-2023 (based on actual payouts from July 2021 through February 2022 and estimated payouts from March 2022 through June 2022 provided by ACERA). Following the Association's current practice, we have assumed that the Retirement Board will increase the Monthly Medical Allowance at the rate equal to one-half of the lowest medical trend assumption for the non-Medicare and Medicare Advantage plans. We have assumed that the Medicare Part B, dental and vision subsidies will increase at the full rate of the trend assumption for those plans for calendar year 2022 (as assumed in the December 31, 2020 SRBR valuation). The assumed increases in the subsidy calculation are 3.00% for medical ¹ , 4.50% for Medicare Part B, and 0.00% for dental and vision plans.	\$50,133,000
4.	Increase of 10% in Item 3 to provide a margin for unexpected retirements rounded to nearest \$1,000.	\$5,013,000
5.	Administrative expenses for health benefits, rounded to nearest \$1,000.	\$1,616,000 ²
6.	Sum of Items 3, 4, and 5.	\$56,762,000

Important Assumptions Regarding Anticipated Change In Health Premium Subsidy

Except for the projected health premium subsidy increases described above, we have not assumed any other changes in the level of subsidy from 2021-2022 to 2022-2023. Our estimate will have to be revised if the Retirement Board later decides to amend the level of benefits.

401(h) Contributions

The actual required contributions for the 2022-2023 fiscal year should be determined by subtracting the June 30, 2022 balance in the 401(h) account from the \$56,762,000. We understand that this net amount will be contributed to the 401(h) account on a biweekly basis by the employers and the Association will transfer a like amount from the Supplemental Retirees Benefit Reserve to the Employer Advance Reserve.

¹ This is based on 50% of the 6.00% trend assumption used to project the increase for Medicare Advantage plans from calendar year 2022 to calendar year 2023, as described in our health care cost trend letter dated March 22, 2021 for the December 31, 2020 SRBR sufficiency valuation. The medical trend assumptions in our letter dated March 14, 2022, recommended for the December 31, 2021 sufficiency valuation, are higher and will be applied in the 401(h) contribution estimate for the 2023-2024 fiscal year.

² As part of the determination of the 401(h) contributions for the 2021-2022 fiscal year, we followed the directions from the Association (as provided in the past) to use the actual 2020 calendar year expense as a proxy for the 2021-2022 fiscal year. We have maintained this procedure and have used the actual 2021 calendar year expense as a proxy for the 2022-2023 fiscal year expense.

As instructed by the Association, we have provided a breakdown of the 401(h) expense by employer in the following table. We understand that the breakdown has been compiled by the Association as of February 2022, based on the number of retirees eligible for retirement benefits.

Employer	Percentage of 401(h) Contributions
Alameda County*	79.49%
Health System	13.60%
Superior Court	5.43%
Livermore Area Recreation and Park District	0.70%
Housing Authority	0.62%
First 5	0.16%
Total	100.00%

**As in years past, retirees from the Office of Education and the Alameda County Fire Department are included in the County's percentage by ACERA.*

Under IRC Section 401(h), medical benefits must be “incidental” to the retirement benefits under a plan. Section 401(h) indicates that medical benefits will be considered “incidental” if the contributions for medical benefits are less than 25% of the total contributions under the plan (excluding unfunded actuarial accrued liability (UAAL) payments). We believe that the transfer from the Supplemental Retirees Benefit Reserve should be treated as an offset to the UAAL contribution requirement (to the extent that the net UAAL payment after the offset is still positive), which means that in a given year the medical contributions can be up to 25% of the total Normal Cost contributions.

In the following table, we demonstrate that the value of the medical benefits is in compliance with the above requirement. Please note that as the Retirement Board has not yet adopted the contribution rates for the December 31, 2021 pension funding valuation, we have continued to apply the average employer and employee contribution rates calculated in the last valuation, that is, as of December 31, 2020, to the payroll calculated in that valuation, increased by 3.25% to reflect one year of projected payroll growth.

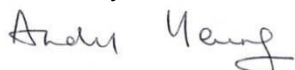
Source of Contributions	Estimated Amount (\$millions)
Employee Normal Cost (based on an aggregate member rate of 9.94% calculated in the December 31, 2020 valuation and an estimated payroll of \$1,193 million)	\$118.6
Employer Normal Cost (based on aggregate employer normal cost rate of 10.89% calculated in the December 31, 2020 valuation and an estimated payroll of \$1,193 million)	\$129.9
Recommended 401(h) Medical Contributions	\$56.8
Total Normal Cost and Recommended 401(h) Medical Contributions	\$305.3
Ratio of 401(h) Contributions to the Total Normal Cost Contributions and Recommended 401(h) Medical Contributions	18.6% ³

These calculations were prepared under our supervision. Except as noted above, the calculations are based on the December 31, 2020 actuarial pension funding valuation results including the membership data and the non-health care cost trend actuarial assumptions on which that valuation was based, and the health care cost trend assumptions letter dated March 22, 2021.

We are members of the American Academy of Actuaries and we meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Please let us know if you have any questions.

Sincerely,



Andy Yeung, ASA, MAAA, FCA, EA
Vice President & Actuary



Mary Kirby, FSA, FCA, MAAA
Senior Vice President and Consulting Actuary

JL/hy

cc: Kathy Foster
Eva Hardy
Katherine Martinez

³ This ratio was 19.3% as provided in our 401(h) contributions letter for the 2021-2022 fiscal year.

EXHIBIT B

401(h) Contributions needed for County and Special Districts - For the Fiscal Year 2022-23

Employer	Percentage of 401(h) Contribution	Paid Interval	Actuarial 401(h) Account Balance Required for FY 2022-23	Est. 401(h) Balance as of 6/30/2022	FY 2022-23 Required 401(h) Contribution Amount	FY 2022-23 Per Pay Period 401(h) Payment	Monthly Payment 2 PP	Sept.'22 & Mar-2023 3 PP	Oct.'22 & Apr-2023 3 PP	Required Adm. Allocation 2022-23	
										Total	Monthly Adm. Allocation
Alameda County	79.49%	Bi-Weekly (26 PP)	\$ 45,120,113.80	\$ 6,782,190.48	\$ 38,337,923.32	\$ 1,474,535.51	\$ 2,949,071.02	\$ 4,423,606.53	\$ 2,949,071.02	\$ 1,284,558.40	\$ 107,046.53
AHS	13.60%	Bi-Weekly (26 PP)	7,719,632.00	1,096,398.84	6,623,233.16	\$ 254,739.74	\$ 509,479.48	\$ 764,219.22	\$ 509,479.48	\$ 219,776.00	\$ 18,314.67
Superior Court	5.43%	Bi-Weekly (26 PP)	3,082,176.60	445,029.15	2,637,147.45	\$ 101,428.75	\$ 202,857.50	\$ 304,286.25	\$ 202,857.50	\$ 87,748.80	\$ 7,312.40
Livermore Area Recreation & Park District	0.70%	Bi-Weekly (26 PP)	397,334.00	59,071.80	338,262.20	\$ 13,010.08	\$ 26,020.16	\$ 26,020.16	\$ 39,030.24	\$ 11,312.00	\$ 942.67
Housing Authority	0.62%	Bi-Weekly (26 PP)	351,924.40	51,414.01	300,510.39	\$ 11,558.09	\$ 23,116.18	\$ 23,116.18	\$ 34,674.27	\$ 10,019.20	\$ 834.93
First 5	0.16%	Bi-Weekly (26 PP)	90,819.20	10,854.86	79,964.34	\$ 3,075.55	\$ 6,151.10	\$ 9,226.65	\$ 6,151.10	\$ 2,585.60	\$ 215.47
Total	100.00%		\$ 56,762,000.00	\$ 8,444,959.14	\$ 48,317,040.86	\$ 1,858,347.72	\$ 3,716,695.44	\$ 5,550,474.99	\$ 3,741,263.61	\$ 1,616,000.00	\$ 134,666.67

Per SEGAL letter dated April 19, 2022 required amount \$ 56,762,000.00

** Please see attached payment schedule.

Prepared by: Hema - 4/29/22

Reviewed by: Hermella - 5/3/22

**THE BOARD OF DIRECTORS
OF THE
LIVERMORE AREA RECREATION AND PARK DISTRICT**

DRAFT RESOLUTION NO. 2754

**A RESOLUTION APPROVING 401(h) ACCOUNT
PURSUANT TO SECTION 31592**

WHEREAS, in 1996, the Alameda County Employee’s Retirement Association (“ACERA”) Board of Retirement informed the Board of Supervisors that by adoption of Resolution No. 96-111, the Board of Retirement had established a health benefits account intended to satisfy the requirements of Internal Revenue Code (“IRC”) Section 401(h) and the regulations thereunder (the “401(h) Account”) in order to provide non-vested, tax-free health benefits to eligible County and Participating Employer retirees (collectively, the “Retirees”); and

WHEREAS, in 1996, this Board of Supervisors adopted Resolution No. R-96-634, which provided that ACERA could offer such non-taxable benefits if the County designated a portion of its contribution to ACERA for a fiscal year as a contribution to the 401(h) Account, and

WHEREAS, under Section 31592.4 and Article 5.5 of the County Employees Retirement Law of 1937 (“CERL”), assets in the Supplemental Retiree Benefit Reserves (“SRBR”) at the end of a fiscal year of ACERA may, in the immediately succeeding fiscal year, be transferred to the Employer Advance Reserve account of the Participating Employers, and treated as a contribution to ACERA by the County and as applicable by other Participating Employers to the extent that in the immediately succeeding fiscal year the County and other Participating Employers make contributions to ACERA’s 401(h) Account in order to pay for retiree health benefits; and

WHEREAS, Section 31592.4 and Article 5.5 of the CERL thus permit the Participating Employers to contribute to a 401(h) Account and pay for retiree health benefits for a fiscal year without increasing the Livermore Area Recreation and Park District’s (“LARPD”) total contributions to ACERA for that fiscal year; and

WHEREAS, commencing with the 1996-1997 fiscal year, and for each fiscal year thereafter, the County has directed that a specified portion of its fiscal year contribution to ACERA for that year be contributed to the 401(h) Account; and

WHEREAS, in 2007 LARPD authorized ACERA to establish and manage a 401(h) sub-account on its behalf to provide tax free health benefits for its retirees.

NOW THEREFORE, IT IS RESOLVED AS FOLLOWS:

1. In fiscal year July 1, 2022 – June 30, 2023 LARPD shall contribute to ACERA \$338,262.20 to be used only for the paying of retiree medical health benefits. This contribution shall be made on the terms and conditions set forth in the Agreement between LARPD and ACERA concerning such contributions, executed on June 20, 2007.
2. This contribution shall be designated, in writing, as being only for LARPD’s IRC §401(h) Account and such designation shall be made at the time of contribution.
3. Such contribution is contingent on the Board of Retirement immediately transferring, in accordance with Government Code §31592.4, an amount equal to such contribution from ACERA’s SRBR account to LARPD’s Advance Reserve account. Such amount shall be treated as a contribution for pension and therefore shall be applied to reduce the pension contribution otherwise required by LARPD for the fiscal year beginning July 1, 2022.
4. No party, including any existing or future LARPD employee, retiree, spouse or dependent, shall have any vested rights, contractual rights or other rights in or to any retiree health benefits or payment or subsidy for any such benefits nor shall any such person or ACERA have any such rights to have LARPD contribute towards paying or subsidizing the cost of any retiree health benefits provided by ACERA under the 401(h) Account or otherwise. LARPD may modify or terminate, at any time and without any limitation, its decision to contribute to LARPD’s 401(h) Account. This modification or termination may occur even if it may affect any employee first hired prior to the date of such modification, any person who retired prior to such date, and/or any person who became a spouse or dependent of an employee or retiree prior to such date.
5. All contributions by LARPD to its 401(h) sub-account shall be governed by requirements of the Internal Revenue Code and all administrative and other applicable rules established by ACERA governing such sub-account and ACERA’s 401(h) Account.

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ON MOTION of Director _____, seconded by Director _____, the foregoing resolution was passed and adopted this 29th day of June, 2022, by the following roll call vote:

AYES: *Directors*
NOES:
ABSTENTIONS:
ABSENT:

Approved this 29th day of June, 2022,

Maryalice Summers Faltings
Chair, Board of Directors

ATTEST:

Mathew L. Fuzie
General Manager and ex-officio Clerk
to the Board of Directors