



● **Board of Directors**
Ethics, Organization, and Personnel Committee

3/14/2023 Board Meeting

7-11

Subject

Adopt CalPERS Resolutions for Paying and Reporting the Value of Employer-Paid Member Contributions; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

CalPERS requires that resolutions be approved by the Board of Directors in order to reflect any changes as required to comply with current Memoranda of Understandings (MOUs) and Administrative Codes including any updates identified by their compliance staff. The Metropolitan Water District of Southern California (Metropolitan) is currently paying the employee's 7 percent normal contributions to PERS according to California Government Code 20691 for all eligible Represented employees as outlined in the current MOUs executed between Metropolitan and the Employees Association groups, AFSCME Local 1902 (AFSCME), Association of Confidential Employees (ACE), MAPA/AFSCME Local 1001 (MAPA), Supervisors Association (SA), and all eligible Unrepresented employees according to Administrative Code 6521. The MOUs and the Administrative Code 6521 specifically state the value of employer-paid member contributions (EPMC) will be reported to CalPERS as compensation earnable and applied as additional compensation for calculating monthly pension allowances. PERS' compliance staff following Job No: 3P20-049 audit recently identified Resolution 9129 approved by the Board on November 8, 2011, did not indicate unrepresented staff would remain under the rules of Resolution 8740, nor included language for reporting the value of EPMC as reflected in its original Resolutions, 8722 approved on December 12, 2000, and 8740 approved on May 15, 2001; and now require two new Resolutions be approved by the Board with the added language to remain compliant with the California Government Codes and Code of Regulations.

Timing and Urgency

Two new resolutions must be received by CalPERS no later than April 2023 to ensure all retirees' pension payments are not impacted by the 7 percent value of EPMC being reported as compensation earnable and included in the monthly salary for calculating the pension allowance.

Details

Background

The current MOUs executed between Metropolitan and the Employees Association groups, AFSCME, ACE, MAPA, and SA, establish a two-tier system of payment of the required PERS employees' contribution effective January 1, 2012, and states Metropolitan will continue to pay the 7 percent PERS employees' contribution for current employees according to California Government Code 20691, but employees hired on or after January 1, 2012, will pay the 7 percent employees' share of PERS contribution themselves to the extent permitted by law. Under Government Code Section 20636(e)(1), and as specifically authorized in Title 2, California Code of Regulations Section 569, this system is authorized under what is known as the time-in-grade exception. Currently, PERS limits the time-in-grade exception for newly hired employees to the first five years of employment. The MOUs also state Metropolitan will report the value of the normal contribution as additional compensation according to Government Code Section 20691. When an employee retires, this additional compensation will be used in the final compensation calculation for an employee's retirement allowance. Section 20636 requires a signed resolution by the public agency and that the employer's labor policy or agreement

specifically provides that the employer-paid member contributions will be reported as additional compensation. A resolution (**Attachment 1**) is necessary to ensure the existing system, the new two-tier system effective January 1, 2012, and the reportable value of EPMC remains in place and corrects Resolution 9129 approved on November 8, 2011.

Metropolitan is currently paying the employee's 7 percent normal contribution to PERS for all Unrepresented employees as outlined in Administrative Code 6521 and according to California Government Code 20636(c)(4) and 20691. Administrative Code 6521 also states that Metropolitan will report the value of the normal contribution as additional compensation according to Government Code Section 20636 (c)(4). When an employee retires, this additional compensation will be used in the final compensation calculation for an employee's retirement allowance. Section 20636 requires a signed resolution by the public agency and Administrative Code 6521 specifically provides that the EPMC will be reported as additional compensation. A resolution (**Attachment 2**) is necessary to ensure the existing system remains in place as stated under Resolution 8740 approved on May 15, 2001.

Neither resolution, if approved, will provide an expansion of retirement benefits for any individual or group of individuals.

Policy

Current authorized Memoranda of Understanding between Metropolitan and the Employees Association/ AFSCME Local 1902, MAPA/AFSCME 1001, Supervisors Association (SA), and the Association of Confidential Employees (ACE) and Metropolitan Water District Administrative Code Section 6521: Retirement

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA (Public Resources Code Section 21065, State CEQA Guidelines Section 15378) because the proposed action will not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and involves organizational or continuing administrative activities (Sections 15378(b)(2) and 15378(b)(5) of the State CEQA Guidelines).

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt two new Resolutions to ensure compliance with the current Memoranda of Understandings and Administrative Code 6521 according to Government Code Sections 20636, 20691, and California Code of Regulations Section 569.

Fiscal Impact: None. The current budget for FY 22/23 and FY 23/24 includes estimated costs and the fiscal impact will be absorbed in the current and future budgets.

Business Analysis: Revised resolutions are required to continue the current administration in place based on the current authorized Memoranda of Understandings and Administrative Code 6521 to provide benefits to Metropolitan retirees.

Option #2

Do not adopt new Resolutions which will result in noncompliance with the current Memoranda of Understandings and Administrative Code 6521.

Fiscal Impact: Unknown

Business Analysis: This option would require revising Administrative Code 6521, and a renegotiation of the current MOUs and may result in an unfair labor practice for not complying with the existing MOUs.

Staff Recommendation

Option #1



Debra Gill
Interim Human Resources Group Manager

3/9/2023
Date



Adel Hagekhalil
General Manager

3/9/2023
Date

Attachment 1 – Resolution For Employer-Paid Member Contributions with Time-in-Grade Exceptions

Attachment 2 – Resolution For Paying and Reporting The value of Employer-Paid Member Contribution

Ref# hr12688527

CalPERS ID: 4104962804

RESOLUTION _____**RESOLUTION FOR EMPLOYER-PAID MEMBER CONTRIBUTIONS
WITH TIME-IN-GRADE EXCEPTIONS**

WHEREAS, the governing body of The Metropolitan Water District of Southern California has elected* to pay all or a part of the normal member contributions to the California Public Employees' Retirement System (CalPERS) pursuant to Government Code Section 20691, and applicable labor policies or agreements;

WHEREAS, the governing body of The Metropolitan Water District of Southern California may elect a time-in-grade Exception to said Employer-Paid Member Contributions (EPMC) within a given group or class of employees as defined in Government Code Section 20636(e)(1) and as specifically authorized in Title 2, California Code of Regulations Section 569;

WHEREAS, the governing body of The Metropolitan Water District of Southern California has identified the following conditions for the application of said Exception:

- This exception shall apply to all employees of AFSCME Local 1902, Association of Confidential Employees (ACE), MAPA/AFSCME Local 1001, and Supervisors Association (SA).**
- The Metropolitan Water District of Southern California elects to pay seven (7) percent for all current employees.
- For employees hired after January 1, 2012, The Metropolitan Water District of Southern California will pay EPMC according to the following time-in-grade schedule:
Year 1 through 5 at 0%.
- Once a newly hired employee accrues five (5) years of total service (either on a continuous or cumulative basis), s/he shall be entitled to payment of EPMC on the same terms that apply to all other employees in the group or class. In so resolving, the governing body of The Metropolitan Water District of Southern California agrees to abide by Section 569, the terms of which are incorporated-by-reference as if fully set forth herein.
- This benefit shall consist of paying seven (7) Percent of the normal contributions as EPMC, and reporting the same percent (value) of compensation earnable** {excluding Government Code Section 20636(c)(4)} as additional compensation.
- The effective date of this Resolution shall remain as January 1, 2012, which corrects and updates Resolution 9129.

NOW, THEREFORE, BE IT RESOLVED that the governing body of **The Metropolitan Water District of Southern California** elects a time-in-grade Exception as set forth above.

PASSED AND ADOPTED by the governing body of The Metropolitan Water District of Southern California this 14th day of March 2023.

SIGNED: _____
Adán Ortega Jr., Chairman of The Board

ATTEST: _____
Rickita Hudson, Interim Board Administrator

CalPERS ID: 4104962804

RESOLUTION _____**RESOLUTION FOR PAYING AND REPORTING THE VALUE
OF EMPLOYER-PAID MEMBER CONTRIBUTION**

WHEREAS, the governing body of The Metropolitan Water District of Southern California has the authority to implement Government Code Section 20636(c) (4) pursuant to Section 20691;

WHEREAS, the governing body of The Metropolitan Water District of Southern California has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation;

WHEREAS, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of The Metropolitan Water District of Southern California of a Resolution to commence paying and reporting the value of said Employer-Paid Member Contributions (EPMC);

WHEREAS, the governing body of The Metropolitan Water District of Southern California has identified the following conditions for the purpose of its election to pay EPMC;

- This benefit shall apply to all Unrepresented employees as indicated in the original Resolution 8740.
- This benefit shall consist of paying seven (7) percent of the normal contributions as EPMC, and reporting the same percent (value) of compensation earnable {excluding Government Code Section 20636(c)(4)} as additional compensation.
- The effective date of this Resolution shall remain as May 27, 2001.

NOW, THEREFORE, BE IT RESOLVED that the governing body of The Metropolitan Water District of Southern California elects to pay and report the value of EPMC, as set forth above.

PASSED AND ADOPTED by the governing body of The Metropolitan Water District of Southern California this 14th day of March 2023.

SIGNED: _____
Adán Ortega Jr., Chairman of The Board

ATTEST: _____
Rickita Hudson, Interim Board Administrator