



CITY COUNCIL AGENDA REPORT

MEETING DATE: September 19, 2006

ITEM NUMBER: **VI-19**

SUBJECT: MILITARY LEAVE PAY AND BENEFITS

DATE: SEPTEMBER 7, 2006

FROM: KIMBERLY HALL BARLOW, CITY ATTORNEY

PRESENTATION BY: KIMBERLY HALL BARLOW, CITY ATTORNEY

FOR FURTHER INFORMATION CONTACT: KIMBERLY HALL BARLOW, 714-754-5399

RECOMMENDATION:

Adopt the attached resolution relating to military leave of absence pay and benefits.

BACKGROUND:

The City of Costa Mesa currently provides fully paid leave of absence and continuation of benefits for a maximum of thirty (30) calendar days per fiscal year to employees who have been in City service for at least one (1) year and who are ordered to report to active duty. In order to alleviate financial hardships which employees and their families may experience as a result of being called to active duty to serve their country during times of crises, the City Council adopted Resolutions No. 01-75 and 03-43 extending leave with partial pay for eligible employees called to involuntary active military service. The resolutions included accrual of retirement benefits to eligible employees.

ANALYSIS:

The California Public Employees Retirement System (CalPERS) has informed the City that the provision of accrual of retirement service credit is not reportable to CalPERS for retirement calculation purposes based upon the definition of "compensation" in Government Code § 20630, which does not include military leave. Therefore, the City's policy is not in compliance with state law.

ALTERNATIVES CONSIDERED:

None considered.

FISCAL REVIEW:

None required.

LEGAL REVIEW:

The City Attorney's office has prepared the attached resolution for your consideration.

CONCLUSION:

The proposed resolution is intended to bring the City's policies into compliance with CalPERS and state regulations. The City Attorney recommends that City Council adopt the resolution.



ALLAN C. ROEDER
City Manager



KIMBERLY HALL-BARLOW
City Attorney

DISTRIBUTION: City Manager

ATTACHMENTS: 1 Resolution

File Name	Date	Time
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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, PROVIDING FOR ADDITIONAL TEMPORARY PARTIAL PAY FOR MILITARY LEAVE OF ABSENCE AND CONTINUATION OF BENEFITS FOR CITY OF COSTA MESA EMPLOYEES CALLED TO ACTIVE DUTY WITH THE ARMED FORCES.

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, the City of Costa Mesa currently provides fully paid leave of absence and continuation of benefits for a maximum of thirty (30) calendar days per fiscal year to employees who have been in City service for at least one (1) year and who are ordered to report to active duty; and

WHEREAS, to alleviate financial hardships which employees and their families may experience as a result of being called to active duty to serve their country during times of crises, the City Council of the City of Costa Mesa adopted Resolutions No. 01-75 and 03-43 extending leave with partial pay for eligible employees called to involuntary active military service; and

WHEREAS, Resolutions No. 01-75 and 03-43 included accrual of retirement benefits to eligible employees; and

WHEREAS, the California Public Employees Retirement System (CalPERS) has informed the City that the provision of accrual of retirement service credit is not reportable to CalPERS for retirement calculation purposes based upon the definition of "compensation" in Government Code § 20630.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COSTA MESA AS FOLLOWS:

1. In addition to the fully paid military leave currently provided by the City of Costa Mesa, each full time employee of the City who is eligible to receive such paid leave (an "Eligible Employee") and who has been, or is in the future, called to involuntary active military service with the Armed Forces of the United States for service in a military action officially declared by the President and/or Congress of the United States of America, shall be entitled to leave with partial pay pursuant to the terms of this resolution for active duty in excess of the period covered by current City paid military leave provisions up to a maximum of 180 calendar days.

2. Upon submission by the Eligible Employee, of acceptable documentation that the Eligible Employee has been called to involuntary active military service for more than 180 calendar days, the City Manager may, in his sole discretion, authorize an extension of said leave with partial pay for an additional 180 calendar days for a total period of one year (365 calendar days) (the "First Extension"). Upon expiration of the First Extension and upon submission by the Eligible Employee of acceptable documentation, the City Manager, may, in his sole discretion, subsequently authorize additional extensions of leave not to exceed one year (365 calendar days) per extension (an "Authorized Extension").

3. The amount of pay each Eligible Employee shall be entitled to receive from the City for any additional period of military leave shall be the difference between the gross pay and allowances actually received by the employee from the United States for such service and the base pay wages that said employee would have received from the City of Costa Mesa if he or she had not been called to active military duty, subject to all required and appropriate deductions and withholdings.

4. The City shall provide continued health and welfare benefits to an Eligible Employee's dependents, provided that the dependents were covered for such benefits prior to the Eligible Employee being called to active duty, up to a maximum of 180 calendar days, the First Extension or an Authorized Extension, whichever is greater.

5. Wage or benefits pursuant to this resolution are conditioned upon the Eligible Employee requesting such payment and providing satisfactory proof and documentation of eligibility to receive payment in accordance with procedures established by the Human Resources Division.

6. The City shall provide continued accrual of benefits including vacation, sick leave and service credit for purposes of merit increases that said Eligible Employee would have received from the City of Costa Mesa if he or she had not been called to active military duty, up to a maximum of 180 calendar days, the First Extension or an Authorized Extension, whichever is greater.

7. The pay and benefits authorized by this resolution shall be available to all eligible City employees who have been or in the future may be ordered to report to active duty in times of crisis, conflict or military action officially declared by the President and/or Congress of the United States of America.

BE IT FURTHER RESOLVED that all provisions of Resolutions No. 01-75 and 03-43 are hereby revoked.

PASSED AND ADOPTED this ____ day of _____, 2006.

ATTEST:

City Clerk of the City of Costa Mesa

Mayor of the City of Costa Mesa

APPROVED AS TO FORM

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Resolution No. _____ was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the ___ day of _____, 2006, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Costa Mesa this ___ day of _____, 2006.

City Clerk and ex-officio Clerk of the
City Council of the City of Costa Mesa