

**ACTION ITEM
BOARD OF SUPERVISORS**

DATE August 19, 2008

TO Board of Supervisors

FROM Anthony J Romanello, ICMA-CM
County Administrator



ISSUE Reaffirm Authorization for Virginia Retirement System Member
Contribution to Comply with New Internal Revenue Service Ruling

STAFF RECOMMENDATION Approval

BUDGET IMPACT N/A

ATTACHMENTS (2)

[1] Ltr dtd 7/11/08

[2] Reso/Ord/Proc # R08-425

[]

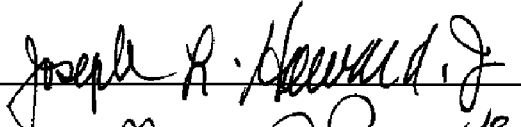
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[] Reso/Ord/Proc #

REVIEW

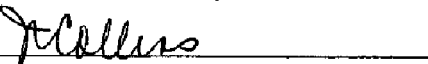
[X] Legal



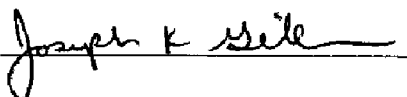
[X] Finance Division



[X] Budget Division



[X] Human Resources



[X] **Consent Agenda**

[] **Other Business**

[] **Public Hearing**

[] **Discussion Item**

[] **Presentation**

[] **Unfinished Business**

[] **New Business**

PRESENTATION BY: N/A

ELECTION DISTRICT: N/A

BACKGROUND REPORT

The Internal Revenue Service (IRS) recently ruled that government employers must, by January 1, 2009, demonstrate formal authorization for their pick up plans. A pick up plan allows the Virginia Retirement System (VRS) member contributions to be treated on a pre-tax basis.

To comply with this IRS ruling, VRS is asking participating localities to adopt a resolution to bring them into compliance with the new ruling. Attachment 1 is a letter from VRS making this request.

The County has been paying the employee's share of the VRS member contribution since the mid 1980s. The recommended action does not change any employee benefit and has no additional costs associated with it.

Staff recommends adoption of proposed Resolution R08-425.



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 E mail vrs@varetire.org

July 11, 2008

JUL 14 2008

STAFFORD COUNTY
 ANTHONY ROMANELLO, COUNTY ADMINISTRATOR
 1300 COURTHOUSE ROAD
 P O BOX 339
 STAFFORD, VA 22554

Dear ANTHONY ROMANELLO

Recently, the Internal Revenue Service (IRS) issued Revenue Ruling 2006-43 giving governmental employers until January 1, 2009 to demonstrate "formal authorization" of their pick-up plans. A pick-up plan allows the Virginia Retirement System (VRS) member contribution (5%) to be treated on a pre-tax basis.

Regrettably, the ruling requires VRS to conduct a full audit of pick-up plan resolutions and obtain a formal resolution from each VRS employer receiving this letter. While you may have enacted such a resolution in the past, you still must formally reaffirm your pick-up plan to meet the requirements of the new ruling. Such a reaffirmation will bring VRS records up to date and ensure that all employers have on file with VRS an executed resolution in proper form.

Among other things, this Revenue Ruling requires

- The pick-up plan to be established pursuant to a formal action by a person authorized to act on behalf of the employer. Generally, any decision by the employer's governing body will satisfy this requirement.
- That such action be evidenced in the form of a written resolution containing all the elements required by the IRS. VRS has furnished such a resolution for use by your governing body (see enclosure).

What does the employer need to do?

Your governing body must pass the resolution in the form provided with this letter and return the signed original to VRS at your earliest convenience, but by no means any later than September 30, 2008.

Why this is important?

VRS is required to ensure all employer pick-up plans are compliant with this ruling. With your help, we can account for all employers' pick-up plans by the Internal Revenue Service's due date of January 1, 2009.

What if we don't do this? Can we discontinue our pick-up plan?

No. As a VRS employer, you are already required by state law to "pick up" your employees' retirement contributions, whether or not you submit a proper resolution. However, failure to submit a resolution could reverse the favorable tax treatment of your employees' member contributions, which could impose significant additional multi-year reporting and recordkeeping burdens on you as the employer and subject your employees to additional tax liabilities.

Who can the employer contact for more information?

If, after you review this letter, you have additional questions, you may refer them to Ben Howard at VRS, by telephone at (888) 827-3847, extension 6686, or by email at bhoward@varetire.org

I sincerely apologize for this inconvenience. However, VRS and its participating employers must strive to maintain continuous compliance with IRS regulations and rulings. Thank you for your assistance.

Sincerely,



Robert P. Schultze
Director, Virginia Retirement System

Enclosure (Resolution)

PROPOSED

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 19th day of August, 2008

MEMBERS

George H. Schwartz, Chairman
M. S. "Joe" Brito, Vice Chairman
Harry E. Crisp
Mark Dudenhefer
Paul V. Milde III
Cord A. Sterling
Robert "Bob" Woodson

VOTE

On motion of , seconded by , which carried by a vote of , the following was adopted

A RESOLUTION TO AFFIRM AUTHORIZATION TO PICK-UP
THE EMPLOYEE'S CONTRIBUTION TO VRS FOR STAFFORD
COUNTY, 66189 UNDER § 414 (h) OF THE INTERNAL
REVENUE CODE

WHEREAS, the County provides its employees with tax deferral pursuant to § 414(h) of the Internal Revenue Code with respect to their member contributions to the Virginia Retirement System (referred to as VRS) by picking up member contributions to VRS, and

WHEREAS, VRS keeps track of such picked up member contributions, and treats such contributions as employee contributions for all purposes of VRS, and

WHEREAS, the Internal Revenue Service in Notice 2006-43 has provided transition relief for existing pick up arrangements provided that an authorized person takes formal action to evidence the establishment of the pick-up arrangement no later than January 1, 2009, and

WHEREAS, in order to avail itself of the protection given under Notice 2006-43, the County desires to affirm its intention to establish and maintain a pick-up arrangement through formal action by its governing body,

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 19th day of August 2008 that the existing member contribution pick-up arrangement is hereby affirmed as it relates to salary reduction elections in effect prior to the date of this Resolution, and

BE IT FURTHER RESOLVED that effective the first pay day on or after August 19, 2008, the County shall pick up member contributions of its employees to VRS, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States, and

BE IT STILL FURTHER RESOLVED that such contributions, although designated as member contributions, are to be made by the County in lieu of member contributions, and

BE IT STILL FURTHER RESOLVED that pick up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees, and

BE IT STILL FURTHER RESOLVED that member contributions made by the County under the pick up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick up arrangement, and

BE IT STILL FURTHER RESOLVED that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by the County directly instead of having them paid to VRS, and

BE IT STILL FURTHER RESOLVED that notwithstanding any contractual or other provisions, the contributions of each member of VRS who is an employee of the County shall be picked up either through a reduction in the current salary of such employee or as an offset against future salary increases of such employee or as a combination of both at the option of the employer by the County on behalf of such employee pursuant to the foregoing resolutions