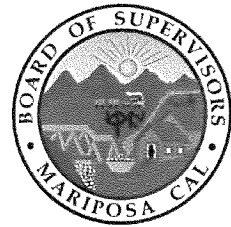




MARIPOSA COUNTY

Human Resources • (209) 966-3222



RESOLUTION - ACTION REQUESTED 2018-437

MEETING: September 11, 2018
TO: The Board of Supervisors
FROM: Steve Dahlem, County Counsel
RE: Approve FLSA Tolling Agreement with the DSA and SMA

RECOMMENDATION AND JUSTIFICATION:

Approve the Tolling Agreement Between the Deputy Sheriffs' Association (DSA) and the Sheriffs' Management Association (SMA) Relative to Any Unpaid Overtime Claims Under the Fair Labor Standards Act (FLSA); and Authorize the Board of Supervisors Chair to Sign the Agreement.

In a matter that went before the U.S. Supreme Court in May 2017, *Flores v. City of San Gabriel*, a case that involved police officers, the Court found that amounts paid to employees in lieu of health benefits must be included in an employee's regular rate of pay for purposes of calculating FLSA overtime. Mariposa County contributes dollars towards a Flexible Benefit Allowance (FBA) to its employees which can be applied towards health benefits, it can be applied towards other non-taxable benefits, or it can be applied to a deferred compensation plan. An employee can also take this amount in cash. The Court has decided that this cash amount must now be included when calculating overtime for those employees who work overtime.

The County and the DSA and SMA have been meeting and conferring to discuss any effects caused by the *Flores* decision. The County Auditor's office has also done an FLSA compliance review in light of *Flores* to determine the impact on employees. Since September 2017, impacted employees have been receiving the FBA cash amount in their overtime regular rate of pay.

The purpose of the Tolling Agreement is to suspend the statute of limitations for an agreed amount of time. This is because the FLSA generally provides a two-year statute of limitations for employees to file an FLSA claim. By tolling the time, this allows the parties the time needed to negotiate and settle this matter. Both sides verbally agreed to toll the applicable statutes of limitations as of September 30, 2017 and tolling will continue through September 30, 2018. This Tolling Agreement will formalize the verbal agreement.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

None on this action.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Resolution - Action Requested 2018-437

A negative action could result in a claim by the union that the County is not negotiating this issue in good faith.

FINANCIAL IMPACT:

N/A.

ATTACHMENTS:

Mariposa DSA and SMA - Tolling Agreement (DOCX)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]

MOVER: Kevin Cann, District IV Supervisor

SECONDER: Merlin Jones, District II Supervisor

AYES: Smallcombe, Jones, Long, Cann, Menetrey