



Agenda Item Number: Office Use

Meeting Date: 6/24/2020

Presenter: Danyce Steck

REQUEST FOR COUNCIL ACTION

Requestor: Danyce Steck

Meeting Date Requested: 6/24/2020

Department: Administrative Services

Date Final Action Required: 6/24/2020

Meeting Type: ☐ Work Session ☐ Public Hearing ☒ Business Item ☐ Other [Click or tap here to enter text.](#)

Action Requested: ☐ Provide Information ☐ Request Feedback ☒ Decision ☐ Other [Click or tap here to enter](#)

Time Requested: Total Time: 10 Minutes (Presentation Time: 5 minutes Council Discussion: 5 minutes)

Signatures:

Submitter: Danyce Steck

Dept. Head: Danyce Steck

Reviewed as to Form: Jared C. Tingley

Executive: Korban Lee
Korban Lee (Jun 23, 2020 08:22 MDT)

Council Office: Ala Ruhl

AGENDA SUBJECT (Name of the item as it should appear on the formal agenda)

Consideration of Resolution 20-46 Authorizing Pick-Up of Certain Public Safety and Firefighter Employee Retirement Contributions

PURPOSE FOR COUNCIL TIME (What specifically is needed from the council, i.e. specific questions to be answered)

Consider Resolution 20-46 Authorizing Pick-Up of Certain Public Safety and Firefighter Employee Retirement Contributions

SUMMARY (Brief synopsis of the of the issue)

S.B. 129 (2019) & S.B. 56 (2020) provided enhancements to Tier 2 Public Safety & Firefighter retirement benefits and will take effect beginning July 1, 2020. Due to the cost of the plan enhancements, contributions will be made by the employer and the employee. An employer may elect to "pick-up" the employee's portion of the retirement contribution (2.27%) and treat it as an employer contribution.

A majority of other public safety agencies have authorized this "pick-up" which further incentivizes this action to support recruitment and retention.

This resolution meets the requirements of the Internal Revenue Service as well as Utah Retirement Systems to allow the City to "pick-up" these retirement contributions.

TIME SENSITIVITY / URGENCY (Explain any deadlines, and the impact of those deadlines)

The “pick-up” allowance will not be permitted until a formal resolution has been passed authorizing this action. Without this resolution, the employee would be required to make the contribution on earnings after July 1, 2020.

BUDGET IMPACT (Estimated cost and source of funding)

\$53,909 (included in the FY 2021 Tentative Budget)

STAFF RECOMMENDATION

Staff recommends approval of Resolution 20-46 authorizing the pick-up of certain public safety and firefighter employee retirement contributions.

MOTION RECOMMENDED (If Applicable)

“I move to approve Resolution 20-46 authorizing the pick-up of certain public safety and firefighter employee retirement contributions.”

MAYOR RECOMMENDATION (if applicable)

The Mayor recommends the City Council approve Resolution 20-46 authorizing the pick-up of certain public safety and firefighter employee retirement contributions with an emphasis on its influence to retention and recruitment in both the Police and Fire Departments.

PACKET ATTACHMENT(S) (Embed Electronically)

Resolution 20-46

OTHER INFORMATION (If Applicable)

The Inside Story article “Pick Ups: Questions & Answers published by Utah State Retirement Systems

INSTRUCTIONS

This document is intended as an aid for planning City Council agendas. The Council has expressed a desire to know what items need to be heard well before packets are prepared. Please submit this form to the City Council Director’s office as soon as it is reasonably known that an item needs to be brought to the council. This is not required for routine special recognition or consent items, but is encouraged for anything that is not routine. Please provide as much information as reasonable, the requestor is authorized to alter the form to extend the sections below as appropriate. Additional attachments are encouraged and can be added as embedded attachments.

THE CITY OF WEST JORDAN, UTAH
A Municipal Corporation

RESOLUTION NO. 20-46

A RESOLUTION AUTHORIZING PICK-UP OF CERTAIN PUBLIC
SAFETY AND FIREFIGHTER EMPLOYEE RETIREMENT
CONTRIBUTIONS.

WHEREAS, the City employs employees who are eligible for and participate as members in the New Public Safety and Firefighter Tier II Contributory Retirement Plans administered by the Utah Retirement System; and

WHEREAS, in accordance with federal and state law, including Section 414(h)(2) of the Internal Revenue Code, employers may take formal action to pick up required employee contributions, which will be paid by the employer in lieu of employee contributions; and

WHEREAS, the City desires to formally pick up a portion of the employee contributions required to be paid under Utah Code Ann. Subsection 49-23-301 (2)(c), as enacted in S.B. 56, Public Safety and Firefighter Tier II Retirement Enhancements (2020 General Session), for all City employees participating in the New Public Safety and Firefighter Tier II Contributory Retirement System; and

WHEREAS, the City Council is duly authorized to take this formal action on behalf of the City as a participating employer with the Utah Retirement Systems.

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF WEST JORDAN, UTAH:

Section 1. Beginning July 1, 2020, the City shall prospectively pick up and pay required employee contributions for all City employees who are members of the New Public Safety and Firefighter Tier II Contributory Retirement System, subject to a maximum of 2.27% of compensation for each employee.

Section 2. The pick-up contributions paid by the City, even though designated as employee contributions for state law purposes, are being paid by the City in lieu of the required employee contributions.

Section 3. The pick-up contributions will not be included in the gross income of the employees for tax reporting purposes, that is, for federal or state income tax withholding taxes, until distributed from the Utah Retirements Systems, so that the contributions are treated as employer contributions pursuant to Section 414(h)(2) of the Internal Revenue Code.

Section 4. The picked-up contributions are a supplement and not a salary reduction to the City employees who are eligible for and participating members in the New Public Safety and Firefighter Tier II Contributory Retirement System.

Section 5. From and after the date of this pick up, a City employee may not have a cash or deferred election right with respect to the designated employee contributions, including that the employees may not be permitted to opt out of the pick-up and may not be entitled to any option of choosing to receive the contributed amounts directly instead of having them paid by the City on behalf of its employees to the Utah Retirement Systems.

Section 6. This Resolution shall take effect on July 1, 2020.

Adopted by the City Council of West Jordan, Utah this 24th day of June, 2020.

CITY COUNCIL OF WEST JORDAN CITY

CHRISTOPHER MCCONNEHEY
Council Chair

ATTEST:

ALAN ANDERSON
Interim Council Office Director

VOTING BY THE CITY COUNCIL	“YES”	“NO”
Councilmember Green	_____	_____
Councilmember Jacob	_____	_____
Councilmember Lamb	_____	_____
Councilmember McConnehey	_____	_____
Councilmember Pack	_____	_____
Councilmember Whitelock	_____	_____
Councilmember Worthen	_____	_____

Tier 2 Public Safety & Firefighter Enhancements

Pick-Ups: Questions & Answers

Enhancements to Tier 2 Public Safety & Firefighter retirement benefits will take effect beginning July 1, 2020. They apply to new and current employees in the Tier 2 Public Safety & Firefighter Retirement system for benefits earned on or after July 1, 2020.

Due to the cost of the plan enhancements, contributions to the Tier 2 Public Safety & Firefighter Hybrid plan will be made by the employer (14%) and the employee (2.27%) for a total of 16.27%.

However, an employer may “pick-up” the employee’s portion of the retirement contribution and treat it as an employer contribution under [IRS Code Section 414\(h\)\(2\)](#).

These changes do not open a new window for employees who have worked beyond a year to change their selections between the [Hybrid Option](#) and [401\(k\) Option](#). The choice that is made during the first year remains irrevocable.

Helpful Links About Employer “Pick-Ups”

- » [IRS Guidance on Employer “Pick-Up” Contributions to Benefit Plans](#)
- » [Revenue Ruling 2006-43](#)
- » [Section 414\(h\)\(2\) of IRS Code](#)
- » [Senate Bill 129 \(2019\)](#)
- » [Senate Bill 56 \(2020\)](#)

IRS Guidance

The IRS provides guidance regarding [Employer “Pick-Up” Contributions to Benefit Plans](#). The following are some key points from the IRS guidance:

What is a “pick-up”?

» An employer may elect to pay the employee contributions on behalf of the employee. If an employer decides to pay the employee contributions on behalf of the employee, it is considered a “pick-up”.

How does an employer “pick-up” the contributions?

1. Formal action must be taken. If an employer wishes to take formal action so the employee does not pay contributions beginning with the new rates on July 1, 2020, the action must be completed by July 1. If an employer does not wish to “pick-up” employee contributions by July 1, they may do so at a later date, but may only “pick-up” prospective contributions.

2. The formal action must be noted through contemporaneous documentation (e.g. resolution, minutes, etc.).

a. The formal documentation must show that the “pick-up” is not offered as a cash or deferred election.

b. It must be mandatory for all employees in the select group affected.

See ‘PICK-UPS’, Page 4

'PICK-UPS'

Continued from Page 3

3. An employer must complete and submit the URS ["Employer Election To Pick-Up Member Contributions: Tier 2 Public Safety and Firefighter" form](#).

What are the tax considerations?

Employee contributions to a defined benefit plan are treated as after-tax contributions, which are subject to income tax and social security and Medicare tax (FICA) purposes.

» If an employer "picks-up" the employee contributions and certain tests are met, then the employee contributions are considered employer contributions and excludable from gross income. The IRS looks for a couple of tests to be met to meet this consideration:

- › The employer specifies that the contributions, although designated as employee contributions are being paid by the employer. For this purpose, the employer must take formal action to show that the contributions on behalf

Webinar: Understanding Pick Ups

Join us for a [webinar](#) at 10 a.m., Wednesday, April 15, 2020, about the Tier 2 Public Safety & Firefighters' Employer Pick Up Elections. If you're unable to join us, the recorded webinar will be available in the [Employer Knowledge Corner](#) within two days following the live presentation.

of a specific class of employees will be paid by the employer.

- › There is no cash or deferred election right with respect to designated employee contributions.

» As long as the "pick-up" is not part of a salary reduction arrangement, it may be excluded from FICA taxes. The "pick-up" must be a salary supplement.

» [See IRS: Employer "Pick-Up" Contributions to Benefit Plans](#) for additional information.

Other Information

What does this mean for employees who have chosen the 401(k) Option?

» [1st Substitute Senate Bill 56 \(2020\)](#), "Public Safety and Firefighter Tier II Retirement Enhancements" states that an employer who elects to "pick-up" contributions for members who have selected the Hybrid Option must also make an additional non-elective contribution to members who have selected the 401(k) Option equal to the "pick-up" amount.

Do you have a sample resolution?

» The state's formal action as an employer is one example. [H.C.R. 9 – "Concurrent Resolution Authorizing State Pick Up of Public Safety and Firefighter Employee Retirement Contributions"](#) is from the 2020 legislative General Session.

This article is intended for general information purposes only and does not and is not intended to constitute legal or tax advice. Consult with legal counsel to determine how laws or decisions discussed herein apply to your specific circumstances. ■











Council Packet_Pick-Up Retirement Contributions 2020.06.24

Final Audit Report

2020-06-23

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