
**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICERS REPORT**

AGENDA ITEM No. 11

(Continued from October 7, 2009)

DATE: November 4, 2009
TO: Fresno Local Agency Formation Commission
FROM: Rick Ballantyne, Executive Officer
Darrel Schmidt, Deputy Executive Officer
SUBJECT: Consider Retirement Options for LAFCo Employees

BACKGROUND

At its September 16, 2009 hearing, staff presented a report setting forth a number of retirement plan options for existing and future LAFCo employees. These options included providing a “defined” benefit plan through membership with the Fresno County Employees’ Retirement Association (FCERA) or CalPERS; offering a defined contribution 401(a) plan; a 457(b) employee contribution plan; or simply not providing any form of retirement benefits.

The Commission after its review determined that current LAFCo staff should continue their same level of membership (Tier I) with FCERA after transitioning from County employment. The Commission also approved a resolution initiating LAFCo’s membership with the FCERA and directed that current staff maintain the same level of retirement benefits (Tier I) as provided under Fresno County employment.

With respect to future LAFCo employees, the Commission indicated a desire to reduce future retirement benefit costs to the agency. One option discussed by the Commission was a possible FCERA “Tier IV” benefit level (this benefit level is presently being discussed and has yet to be established)—or whichever Tier would result in the least cost to LAFCo at the time a new employee is hired. Additional discussion also included providing a “defined contribution” plan so that the Commission could “cap” future employee retirement benefit costs.

Following this discussion, the Commission directed staff to continue evaluating retirement plan options for new employees and provide an additional report to the Commission.

STAFF ANALYSIS

At its September meeting, the Commission’s consensus was to reduce future retirement benefit costs for future LAFCo employees while still providing an attractive plan. Of several options presented—it appeared that a 401(a) defined contribution plan was an attractive option.

It should be stated, and the Commission should be aware, that information presented during September concerning the difference in costs between providing future employees with an FCERA's Tier III benefit level or a 401(a) plan may have been misleading. Staff's report stated:

A comparison of costs between providing a 15% contribution to a 401(a) plan versus costs currently born by LAFCo to cover retirement benefits through FCERA indicates a 401(a) plan would cost LAFCo significantly less money. LAFCo's current budget projects salaries for full-time LAFCo staff will total \$241,941 for the year (not including the anticipated annual leave payout for the retiring Executive Officer's unused annual leave). LAFCo's retirement contribution for these staff is projected to be \$87,292, approximately 36.08% of total salaries. In contrast, providing a 15% contribution toward individual employees' 401(a) plans would cost LAFCo \$38,717, a significant savings.

Staff believes clarification is needed because selecting a 401(a) plan benefit for future employees may not result in the level of savings as indicated above. This is because the above comparison calculates the cost of providing a 15% contribution toward a 401(a) plan for all staff at current staffing and salary levels. The level of staffing is changing however, as the Deputy Executive Officer position has not been funded beyond the end of this calendar year. Also, assuming the LAFCo Clerk and Technician transfer their employment from the County to LAFCo, per the Commission's direction they will continue to receive the Tier I retirement benefit level until such time as they retire or otherwise leave LAFCo employment. Therefore, immediate retirement benefit cost savings will only be realized for the new Executive Officer position.

Assuming salaries for the LAFCo Clerk and Technician remain unchanged at \$101,744 LAFCo's contribution (36.08%) for their Tier I retirement benefit will total \$36,709. If the Commission were to provide a Tier III benefit level for the new Executive Officer, with a salary of \$100,000 (advertised salary range is \$90,000 to \$110,000), at the current Tier III contribution rate of 32.62%, LAFCo's contribution for the Executive Officer would be \$32,620. Total LAFCo retirement benefit contribution costs would, therefore, be \$69,329.

If the Commission were to provide a defined contribution benefit of 15% towards the new Executive Officer's 401(a) plan, at a salary level of \$100,000—LAFCo's retirement contribution for the Executive Officer would be \$15,000. Assuming the retirement contribution level for the LAFCo Clerk and Technician remain unchanged as described above (\$36,709), LAFCo's total retirement benefit costs as per this scenario would be \$51,709.

The difference between these totals (\$69,329 minus \$51,709) is \$17,620. While this cost savings is significant, it is much less than the nearly \$49,000 in savings implied by the comparison in the September 16, 2009 staff report.

Defined Contribution Plan – 401(a) Plan

A 401(a) plan offers the following features:

- Allows the employer to contribute a tax deferred fixed amount or percentage of an employee's compensation to his/her individual investment account.
- Employees may also contribute tax deferred earnings to this account.
- Employee investment accounts are administered by a firm experienced in managing such accounts.

- Employees retain the power to direct how their funds are invested from a range of options offered by the plan administrator.
- Accrued earnings ~~are tax~~ are tax deferred.
- Maximum annual contribution of \$49,000 (for 2009).
- Employees are automatically 100% vested in their own contributions and associated earnings.
- Employer may adopt a vesting schedule for employer contributions.
- Participants in a 401(a) plan may also contribute to a 457(b) plan.
- Early withdrawal penalties, with some exceptions.
- Funds may be rolled over to another 401(a) plan, 457(b) plan, or IRA if the employee separates from LAFCo employment.

A 401(a) plan does also present a number of variables for the Commission's consideration. If the Commission chooses to provide such a plan, it must also determine:

- Whether it will contribute a fixed amount or a percentage of an employee's compensation to the employee's 401(a) plan.
- The total fixed amount or percentage it will contribute.
- If contributing a percentage, whether there is a cap on the total amount to be contributed.
- Whether the employee must also provide a matching contribution.
- Whether a vesting period will be required before the employee is fully vested in LAFCo contributed funds.

Staff is unaware whether there is a "standard" with respect to any of the above variables, though it is believed that contributing a percentage of an employee's compensation, requiring a matching contribution on the part of the employee, and having a vesting period are fairly common. Staff is aware that the Council of Fresno County Governments (COG) provides a 401(a) deferred compensation plan for its employees, contributing an amount equal to 15% of each employee's gross pay. COG employees are not required to contribute to this plan in order to receive future benefits and there is no vesting period for COG employees.

This 15% contribution on the part of COG is somewhat similar to the average retirement and savings benefit costs reported by the United States Department of Labor, Bureau of Labor Statistics in June, 2009. According to the Department of Labor, average local and state government retirement and savings benefit costs for "Management, professional, and related" positions are 11.49% of wages and salaries. These same costs for "public administration" positions are 14.38% of salaries. (Note: These statistics do not identify whether these benefits are for defined benefit, defined contribution, or other types of retirement plans.)

Exact administration costs of providing a 401(a) plan are not known. The International City/County Management Association Retirement Corporation (ICMA-RC), which administers COG's plan, normally charges a \$1,500 annual fee for administering this type of plan, but this fee may be lessened or eliminated depending on the amount of assets contained within the plan. It is also unknown whether this cost would be less for an agency as small as LAFCo. Given this relatively low administrative cost, the overall cost of providing a 401(a) plan to future LAFCo employees appears to be largely dependent upon the contribution level the Commission would choose to provide.

As indicated above, of the retirement benefit options available to the Commission, providing a 401(a) defined contribution plan may best meet the Commission's objective of reducing its future employee retirement benefit costs while still providing an attractive retirement benefit. As

discussed in more detail below, however, a 401(a) defined contribution benefit plan may not be as attractive to prospective employees as would a defined benefit plan, and may be less likely to attract and retain experienced, qualified employees.

If the Commission does decide to provide a 401(a) plan for future employees, staff would recommend that the Commission direct that the plan include the following provisions:

- LAFCo contribution equals 15% of full-time, permanent employee's gross-base compensation (not to include overtime).
- The Commission does not establish a total contribution cap at this time, but it reserves the ability to establish a cap at a later time at the Commission's discretion.
- Employees are not required to contribute matching funds to receive the full 15% contribution.
- LAFCo contributions are vested with the employee at 50% upon completing one year of service, and 100% upon completing two years of service.

Staff believes that the above recommended stipulations are generous enough to compare locally with Fresno COG's defined contribution plan, as well as on a national level based on Department of Labor statistics. Additionally, the two year 100% vesting period is recommended to provide incentive for future employees to remain LAFCo employees, but is not so long as to discourage prospective employees from accepting a position with LAFCo.

Defined Benefit Plan – Fresno County Employees' Retirement Association

While a 401(a) retirement plan option could provide a significant retirement benefit to future LAFCo employees, in certain instances it may not provide an attractive option to all. In some instances experienced and highly-qualified prospective employees may already be vested in either a CalPERS or a 1937 Act Retirement Program (including FCERA). This is the experience of all other LAFCos contacted by staff. Given such circumstance it may deter some highly qualified individuals from accepting a position with Fresno LAFCo if it would result in not being able to continue with increasing an existing defined benefit program.

This may not be a concern for some prospective employees who may desire to retire earlier and establish a new retirement program. It may, however, reduce the number of potential LAFCo candidates due to personal circumstances.

Staff also notes that, while there is a difference in retirement benefit costs that LAFCo would bear if future employees were enrolled in FCERA (at any Tier level) as opposed to enrolling future employees in a 401(a) plan, LAFCos are traditionally very small agencies—often just two or three employees. While FCERA benefit costs are relatively high as a percentage of gross compensation, LAFCo's limited size does serve to minimize overall retirement benefit costs in relation to much larger governmental agencies--such as cities, counties, and many special districts.

If the Commission does decide to provide a 401(a) plan to its future employees rather than a defined benefit plan through FCERA, it may still wish to retain the option of providing a defined benefit plan through FCERA if it determines that such is necessary to attract and retain experienced employees.

Employee Elective Deferred Compensation Plan Options – 457(b) Plan

Another type of retirement plan offered by many agencies (including the County of Fresno and Fresno COG) is a 457(b) plan. Similar to a 401(k) plan, 457(b) plans allow employees to make tax-deferred contributions to their own individual plans. A 457(b) plan is entirely voluntary and employees have full control over their individual accounts up to a maximum annual amount as provided by law. They are fully funded by employee contributions and do not receive contributions from the employer. LAFCo's staff may currently participate in such system.

The 457(b) plan normally allows a maximum annual contribution of \$16,500. Employees can contribute up to this amount regardless of whether he/she is also enrolled in a 401(a) plan. COG administrators have indicated that they do not pay an administrative cost to provide 457(b) plans to their employees. ICMA-RC Services (COG plan administrators) indicate that their fees are derived from a percentage of the employee's contributions.

Staff believes that a 457(b) plan serves as a great benefit to LAFCo employees and provides the following advantages:

- Providing a 457(b) plan will allow current LAFCo employees (who already have access to such a plan via their employment with Fresno County) to continue to use this plan.
- It may be considered a valuable benefit by current and future employees.
- There is little or no cost to LAFCo for providing such a plan.

Recommended Actions:

Staff believes that a "defined" benefit plan would attract and retain experienced and highly qualified employees. The costs associated with such option are significantly different in comparison with most governmental agencies.

If reducing agency costs (including retirement benefits) is of the most concern to the Commission (regardless of other factors), then staff would recommend the following:

1. Establish a 401(a) defined contribution plan for future LAFCo employees to be considered by and approved by the Commission. The plan shall include the following criteria:
 - a. LAFCo's contribution shall equal 15% of full-time, permanent employees' gross base compensation (not to include overtime).
 - b. The Commission reserves the right to establish a total contribution cap at the Commission's discretion.
 - c. Employees are not required to contribute matching funds to receive the full 15% contribution.
 - d. LAFCo contributions shall be vested with the employee at 50% upon completing one year of service, and at 100% upon completing two years of service.
2. Direct staff to take necessary steps to establish a 457(b) contribution plan as an optional benefit for all existing and future LAFCo employees. Return to the Commission with a recommended provider(s).

Alternative Action—If the Commission desires to offer future employees a defined benefit retirement plan within FCERA, staff recommends the following recommendation replace Recommended Action “1” above:

1. Direct LAFCo Counsel to prepare a resolution reflecting the Commission’s desire for future LAFCo employees to also become members within the Fresno County Employees’ Retirement Association (FCERA). Such resolution shall specify that future employees shall be provided the Tier level benefit that is the least costly to LAFCo at the time of hiring, as determined by the Commission.