

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: July 21, 2009

[] Consent
[] Workshop

☐ Regular
☒ Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For: COUNTY ATTORNEY

I. EXECUTIVE BRIEF

Motion and Title:

(A) Staff recommends motion to waive: The ordinance enactment notice requirements of Section 125.66(2), Florida Statutes, declaring that an emergency exists and that the immediate enactment of an ordinance adopting and establishing an employee voluntary separation incentive program is necessary, pursuant to the emergency enactment procedure set forth in Section 125.66(3), Florida Statutes.

(B) Staff recommends motion to adopt: An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, adopting and establishing a Palm Beach County employee voluntary separation incentive program; providing for short title; providing for purpose; providing for eligibility criteria; providing for voluntary separation incentives; providing for implementation; providing for captions; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the code of laws and ordinances; and providing for effective date.

Summary: On July 13, 2009, the Board of County Commissioners directed staff to proceed with developing a voluntary separation incentive program for its employees. Section 215.425, Florida Statutes, requires that a county program offering its employees additional incentives to voluntarily end their employment must be adopted by ordinance before it can be implemented. As a result, staff drafted this ordinance for the Board's consideration. However, for this program to be an effective tool for staff to address the budgetary issues now facing the County, it must be implemented as soon as possible before the end of the current fiscal year on September 30, 2009. Regular enactment of an ordinance requires notice to be published at least 10 days before enactment. The Board meeting today is less than 10 days after July 13, 2009, and waiting until the Board's next regular meeting on August 18, 2009, to enact the ordinance would not give staff sufficient time to fully implement the program before September 30, 2009. Pursuant to the emergency ordinance enactment procedure in Section 125.66(3), Florida Statutes, the Board may enact an ordinance with a waiver of the regular notice requirements by a four-fifths vote of the membership, declaring that an emergency exists and that immediate enactment of this ordinance is necessary. **Countywide (EC)**

Background and Policy Issues: During the course of budget discussions for FY 2010, the Board discussed the possible need, due to increasingly critical budgetary issues, for a program that would offer qualified employees certain incentives to voluntarily end their employment with the county sooner than they would have otherwise. (Continued on following page.)

Attachments:

1. Ordinance

Recommended by:

County Attorney

Date _____

7/20/09

Approved by:

N/A

Date _____

Background and Policy Issues (Continued from previous page.): Staff generated and distributed a survey to potentially qualified employees of a proposed employee voluntary separation incentive program to determine the level of interest in such a program. The response generated by the survey indicated that an employee voluntary separation incentive program would be an extremely valuable tool for addressing the organizational restructuring necessary to accommodate budgetary restrictions for FY 2010. As a result, staff drafted this proposed ordinance that would adopt and establish an employee voluntary separation incentive program.

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

* **NOTE:** Costs to implement the employee voluntary separation incentive program will vary depending on the number of eligible employees electing to participate in the program and will be offset by savings from not filling vacancies.

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Department _____ Unit _____ Object _____

Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

 7-21-09
 OFMB
  7/21/09
 Contract Development and Control

B. Legal Sufficiency:


 Assistant County Attorney

C. Other Department Review:

Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

ORDINANCE NO. 2009-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ADOPTING AND ESTABLISHING A PALM BEACH COUNTY EMPLOYEE VOLUNTARY SEPARATION INCENTIVE PROGRAM; PROVIDING FOR SHORT TITLE; PROVIDING FOR PURPOSE; PROVIDING FOR ELIGIBILITY CRITERIA; PROVIDING FOR VOLUNTARY SEPARATION INCENTIVES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR CAPTIONS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the Palm Beach County Board of County Commissioners has determined that organizational restructuring is periodically necessary to accommodate budgetary restrictions and other County interests; and

WHEREAS, the Board of County Commissioners recognizes that one method consistent with this goal is to periodically provide an incentive to certain qualified County employees to voluntarily end their employment with the County by a certain date; and

WHEREAS, Section 215.425, Florida Statutes, authorizes the County to provide its employees with a voluntary separation incentive program adopted by County ordinance; and

WHEREAS, the Board of County Commissioners has determined that adoption of an ordinance establishing a voluntary separation incentive program is in the public interest and serves a public purpose; and

WHEREAS, recalculation of budgetary revenue and the resulting necessity to adjust the budget based on the latest available data have severely constrained the budgetary decision process for FY 2010;

WHEREAS, for a voluntary separation incentive program to be an effective tool to address

1 serious and emergent budgetary issues facing the County for FY 2010, immediate enactment of this
2 ordinance on an emergency basis is critical and necessary; and
3

4 **WHEREAS**, pursuant to Section 125.66(3), Florida Statutes, the Board of County
5 Commissioners has, by a four-fifths vote of its membership, waived the notice requirements under
6 Section 125.66(2), Florida Statutes, declaring that an emergency exists and that immediate enactment
7 of this ordinance is necessary.
8

9 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
10 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, THAT:**
11

12 **Section 1.**

13 The foregoing "WHEREAS" clauses are hereby adopted and confirmed as being true and
14 correct and are hereby made a specific part of this ordinance.
15

16 **Section 2. SHORT TITLE.**

17 The provisions of this ordinance shall be known and cited as the Palm Beach County
18 Employee Voluntary Separation Incentive Program Ordinance.
19

20 **Section 3. PURPOSE.**

21 (A) The purpose of this ordinance is to adopt and establish a Voluntary Separation
22 Incentive Program (hereinafter "VSIP") that serves the budgetary and organizational
23 interests of the county by authorizing the County Administrator, at his or her
24 discretion, to periodically offer qualified county employees an incentive to
25 voluntarily end their employment with the county by a date established by the County
26 Administrator.
27

28 (B) This ordinance is not intended to alter or affect any rights, obligations or entitlements
29 that an employee may have under the Florida Retirement System Act, Chapter 121,

1 Florida Statutes.

2
3 **Section 4. ELIGIBILITY CRITERIA.**

4 (A) An employee is eligible to participate in the VSIP established and adopted by this
5 ordinance if he or she meets all of the following criteria as of a date established by
6 the County Administrator:

7
8 (1) The employee must be a permanent-status, full-time employee of the Palm
9 Beach County Board of County Commissioners.

10
11 (2) (a) The employee must be a participant in the Deferred Retirement
12 Option Program (hereinafter "DROP") of the Florida Retirement
13 System (hereinafter "FRS") established by, and administered under,
14 the Florida Retirement System Act, Chapter 121, Florida Statutes; or

15
16 (b) The employee must reach his or her normal retirement date as defined
17 under Section 121.021, Florida Statutes, within two(2) years
18 following a date established by the County Administrator. For the
19 purposes of this ordinance, the normal retirement date as defined
20 under Section 121.021, Florida Statutes, shall apply to the employee
21 regardless of whether the employee is a participant in the FRS
22 Pension Plan or the FRS Investment Plan.

23
24 (B) Employees electing to participate in the VSIP must agree to voluntarily separate from
25 county employment by a date established by the County Administrator.

26
27 (C) The County Administrator, at his or her discretion, may require that employees who
28 agree to voluntarily separate from county employment under the VSIP must also
29 agree to not be rehired as an employee of the Palm Beach County Commissioners for

1 a period of time established by the County Administrator.

2
3 (D) The County Administrator, at his or her discretion, may require employees electing
4 to participate in the VSIP to sign a waiver, release, or both, by a date established by
5 the County Administrator.

6
7 (E) Any employee who does not meet all of the eligibility criteria set forth in this
8 ordinance is not eligible to participate in, or receive any benefit from, the VSIP.

9
10 (F) No employee can participate in the VSIP more than once.

11
12 **Section 5. VOLUNTARY SEPARATION INCENTIVES.**

13 (A) An eligible employee meeting all necessary criteria who makes a timely election to
14 voluntarily participate in the VSIP and separates from county employment under the
15 VSIP will receive the following separation incentives from the county:

16
17 (1) The county will pay the separated employee the lesser of:

18
19 (a) Eight(8) weeks of regular pay at the employee's base rate of pay as of
20 his or her date of separation from county employment under the
21 VSIP; or

22
23 (b) If the employee qualifies for the VSIP, in part, because of his or her
24 participation in DROP, and the employee has less than eight(8) weeks
25 remaining in DROP following his or her date of separation from
26 county employment under the VSIP, then the equivalent number of
27 weeks, or any portion thereof, of regular pay at the employee's base
28 rate of pay as of his or her date of separation from county
29 employment under the VSIP that the employee has remaining in

1 DROP following his or her date of separation from county
2 employment under the VSIP.
3

4 (2) The county will pay the separated employee the normal payout due to
5 separation from county employment for the employee's remaining leave
6 balances, as determined by applicable county policy, union agreement, or
7 both.
8

9 (3) (a) The separated employee, and any of the separated employee's eligible
10 dependents covered by the county's group health insurance plan as of
11 the employee's date of separation from county employment under the
12 VSIP, can remain on the county's group health insurance plan under
13 the VSIP for the lesser time period of:
14

15 (i) Three(3) years following the date the employee separates
16 from county employment under the VSIP; or
17

18 (ii) The time period equivalent to, and coterminous with, the
19 separated employee's remaining time left in DROP following
20 the employee's date of separation from county employment
21 under the VSIP, if the employee qualifies for the VSIP, in
22 part, because of his or her participation in DROP.
23

24 (b) The extension of county insurance under the VSIP specifically applies
25 to the county's group health insurance plan only, and does not apply
26 to any other insurance or benefits provided by the county.
27

28 (c) The county will pay the county's designated portion of the separated
29 employee's county group health insurance premium on behalf of the

1 separated employee and the separated employee's eligible covered
2 dependents, if any, for county group health insurance coverage under
3 the VSIP.
4

5 (d) A separated employee covered by the county's group health insurance
6 plan under the VSIP must, in a timely manner, pay the county the
7 same designated portion of his or her county group health insurance
8 premium that active county employees with like coverage must pay
9 toward their county group health insurance premium for themselves
10 and their eligible covered dependents, if any.
11

12 (e) Any future adjustment initiated by the county to the designated
13 portion or amount that active county employees must pay toward their
14 county group health insurance premiums and the designated portion
15 or amount that the county must pay toward those premiums shall also
16 apply to any separated employee maintaining county group health
17 insurance coverage under the VSIP.
18

19 (f) If a separated employee maintaining county group health insurance
20 coverage under the VSIP changes coverage or adds any eligible
21 dependents to the county group health insurance plan under the VSIP,
22 then the separated employee is responsible for, and must pay the full
23 amount of, any resulting net increase to the total county health
24 insurance premium for the separated employee and his or her eligible
25 covered dependents, if any.
26

27 (g) Notwithstanding anything in this ordinance to the contrary, county
28 group health insurance coverage under the VSIP, and the county's
29 obligation under the VSIP to pay any portion of the county group

1 health insurance premium for and on behalf of the separated
2 employee and the separated employee's eligible covered dependents,
3 if any, shall end upon the occurrence of any of the following:

4
5 (i) The separated employee fails to make payment toward his or
6 her group health insurance premium as required by the VSIP
7 within thirty(30) days of the payment due date.

8
9 (ii) The separated employee obtains any other health insurance
10 coverage, excepting Medicare or Medicaid, after the
11 employee's separation from county employment under the
12 VSIP.

13
14 (iii) The death of the separated employee.

15
16 (B) Any offer of voluntary separation incentives conveyed under the VSIP shall remain
17 open for a limited period of time established at the discretion of the County
18 Administrator. An employee can only elect to participate in the VSIP while the offer
19 is open. Upon the expiration of this time period, the offer is closed and an employee
20 can no longer elect to participate in the VSIP.

21
22 (C) Any payment or provision of voluntary separation incentives under the VSIP shall
23 be subject to any and all withholding, reporting and taxes required by law.

24
25 **Section 6. IMPLEMENTATION.**

26 (A) The County Administrator shall be responsible for implementing the VSIP.

27
28 (B) The County Administrator, at his or her discretion, shall determine if and when to
29 implement the VSIP as budgetary and operational needs dictate.

1
2 (C) The County Administrator, at his or her discretion, may implement the VSIP more
3 than once as budgetary and operational needs dictate.
4

5 (D) Additional duties of the County Administrator in implementing the VSIP shall
6 include, but not be limited to, the following:
7

8 (1) Establish the date that employees must meet all eligibility criteria.
9

10 (2) Establish the date that any offer of voluntary separation incentives is
11 conveyed.
12

13 (3) Establish the limited time period any offer of voluntary separation incentives
14 is open and may be accepted.
15

16 (4) Establish the date that employees who elect to participate in the VSIP must
17 separate from county employment.
18

19 (5) Determine and confirm that employees accepting any offer of voluntary
20 separation incentives under the VSIP, or separated employees receiving any
21 benefit from the VSIP, meet all of the criteria for eligibility set forth in this
22 ordinance.
23

24 (6) Determine whether employees electing to participate in the VSIP must agree
25 to a waiver or release.
26

27 (7) Determine whether employees electing to participate in the VSIP must agree
28 to not be rehired by the Palm Beach County Board of County Commissioners
29 for a specified period of time.

1 (8) Provide for any forms and documents that the County Administrator, at his
2 or her discretion, deems necessary for the proper implementation of the VSIP.

3
4 (9) Establish any other date, deadline, time frame or time period deemed
5 necessary for the proper and efficient implementation of the VSIP.

6
7 (10) Establish any other method, measure, policy or procedure deemed necessary
8 for the proper and efficient implementation of the VSIP.

9
10 (E) The County Administrator, at his or her discretion, may appoint one or more
11 ' designees to fulfill any duty or responsibility of the County Administrator under this
12 ordinance.

13
14 **Section 7. CAPTIONS.**

15 The captions, section headings, and section designations used in this ordinance are intended
16 for the convenience of users only and shall have no effect in the interpretation of the
17 provisions of this ordinance.

18
19 **Section 8. REPEAL OF LAWS IN CONFLICT.**

20 All Palm Beach County ordinances in conflict with any provision of this ordinance are
21 hereby repealed to the extent of any conflict.

22
23 **Section 9. SEVERABILITY.**

24 If any section, subsection, paragraph, sentence, clause, phrase, word or provision of this
25 ordinance is for any reason held by the court to be unconstitutional, inoperative or void, such
26 holding shall not affect the remainder of this ordinance.

27
28 **Section 10. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

29 The provisions of this ordinance shall become and be made a part of the Code of Laws and

1 Ordinances of Palm Beach County, Florida. The sections of this ordinance may be
2 renumbered or relettered to accomplish such, and the word "ordinance" may be changed to
3 "section," "article," or other appropriate word.
4

5 **Section 11. EFFECTIVE DATE.**

6 The provisions of this ordinance shall be deemed to be filed and shall take effect when a
7 certified copy has been accepted by the postal authorities of the Government of the United
8 States for special delivery by certified mail to the Florida Department of State for filing.
9

10 **APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach**
11 **County, Florida, on this the _____ day of _____, 2009.**


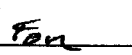
12
13 **ATTEST:**
14 **SHARON R. BOCK, CLERK & COMPTROLLER**
15

16
17
18 By: _____
19 Deputy Clerk
20

21
22 **PALM BEACH COUNTY, FLORIDA,**
23 **BY ITS BOARD OF COUNTY COMMISSIONERS**
24

25
26
27 By: _____
28 John F. Koons, Chairman
29

30
31 **APPROVED AS TO FORM AND**
32 **LEGAL SUFFICIENCY**
33

34
35 By:  
36 County Attorney
37
38
39

40 **EFFECTIVE DATE:**

41 Accepted by the postal authorities of the Government of the United States for special delivery
42 by certified mail to the Florida Department of State on the _____ day of _____,
43 2009.