


City of Alexandria, Virginia

MEMORANDUM

DATE: SEPTEMBER 15, 2008

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: PROPOSED RESOLUTION BY THE VIRGINIA RETIREMENT SYSTEM TO
RESTATE THE CITY'S POLICY ON EMPLOYEE CONTRIBUTIONS TO
THE PENSION PLAN

ISSUE: Consideration of a proposed resolution mandated by the Virginia Retirement System (VRS) to restate the City's policy on employee contributions to the pension plan.

RECOMMENDATION: That City Council adopt the attached resolution (Attachment I) in which the City reaffirms that it will pay required employee contributions as it has since 1982.

BACKGROUND: VRS provides retirement benefits to employees of the City who are classified as regular, full-time employees, and who are not firefighters or police officers. In order to comply with new Internal Revenue Service (IRS) rulings, VRS is requiring (Attachment II) localities to pass a new resolution which contains a prior Council decision establishing a pick-up plan for member contributions, even though the City passed such a resolution in 1982 (Attachment III). VRS has set a deadline of September 30, 2008, for receipt of all adopted resolutions.

DISCUSSION: On June 8, 1982, Council adopted Resolution No. 868, which states that the City will pay all pension contributions required of employees, beginning with the contribution for the month of July 1982. This action, which had the City pick up the five percent employee contribution, was taken as a substitute for a general pay increase for employees participating in the VRS plan. The City continues to make the five percent member contribution to VRS on behalf of employees. VRS does not permit localities or other entities who also made this decision to pay for the employees share to reverse that decision. Section 414(h)(2) of the Internal Revenue Service (IRS) Code allows these contributions, although they are designated as employee contributions (or member contributions), to be treated as employer contributions because they are picked up (paid) by the City. Since member contributions are not treated as taxable income until they are paid out as retirement benefits, this provides employees a tax advantage.

More recently, the IRS issued Revenue Ruling 2006-43, which describes the actions required for a governmental entity to treat certain contributions as employer contributions to a plan qualified

under 401(a) of the IRS Code. This ruling requires governmental employers to demonstrate “formal authorization” of their pick-up plan by January 1, 2009. Even though Council adopted a resolution in 1982, VRS requires that participating localities, including the City, formally reaffirm the pick up plan by adopting the attached resolution, which includes language complying with the requirements of Revenue Ruling 2006-43. VRS has only recently corresponded with all localities on this issue because of guidance received from the IRS. VRS requires that this signed resolution be returned to VRS by September 30, 2008.

The City Attorney’s Office, in conjunction with other local government attorneys, recommended that VRS modify language in the resolution to more accurately reflect the appropriate actions to be taken by each locality. The VRS attorney has now agreed to the modified language which is reflected in Attachment I.

It should be noted that all 237 state agencies pick up and pay the 5% member contribution for state employees. Of the 577 non-state entities in VRS (including counties, cities, towns, school boards, authorities and districts) 537 pay the member contribution for employees.

FISCAL IMPACT: The passage of this resolution will have no fiscal impact. It will not affect employee benefits or the City’s contributions.

ATTACHMENTS:

Attachment I: VRS Resolution: Affirmation of Authorization to Pick-up the Employee’s Contribution to VRS for City of Alexandria, 55200 under §414(h) of the Internal Revenue Code

Attachment II: Letter dated July 11, 2008, from VRS to Finance Director Laura B. Triggs

Attachment III: City of Alexandria Resolution No. 868 adopted June 8, 1982

STAFF:

Mark Jinks, Deputy City Manager
Michele Evans, Deputy City Manager
Laura Triggs, Finance Director
Steven Bland, Retirement Administrator
Christopher Spera, Assistant City Attorney

RESOLUTION

Affirmation of Authorization to Pick-up the Employee's Contribution to
VRS for CITY OF ALEXANDRIA, 55200
Under § 414(h) of the Internal Revenue Code

WHEREAS, the CITY OF ALEXANDRIA 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;

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.

WHEREAS, in order to avail itself of the protection given under Notice 2006-43, the CITY OF ALEXANDRIA desires to affirm its intention to establish and maintain a pickup arrangement through formal action by its governing body.

NOW, THEREFORE, IT IS HEREBY RESOLVED 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 it is further

RESOLVED that effective the first pay day on or after _____, the CITY OF ALEXANDRIA 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 it is further

RESOLVED that such contributions, although designated as member contributions, are to be made by the CITY OF ALEXANDRIA in lieu of member contributions; and it is 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 it is further

RESOLVED that member contributions made by the CITY OF ALEXANDRIA 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 it is further

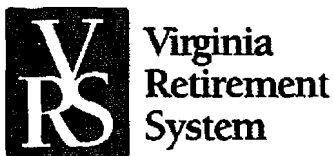
RESOLVED that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by the CITY OF ALEXANDRIA directly instead of having them paid to VRS; and it is further

RESOLVED that notwithstanding any contractual or other provisions, the contributions of each member of VRS who is an employee of the CITY OF ALEXANDRIA shall be picked up using the method under which the employer will pay the employees' statutorily required contributions to VRS and the salary will not be modified.

Adopted in ALEXANDRIA, Virginia this ____ day of _____

Name & Title Printed

Authorized Signature Title



P.O. Box 2500, Richmond, Virginia 23218-2500
Toll free: 1-888-VARETIR (827-3847)
Web site: www.varetire.org
E-mail: vrs@varetire.org

July 11, 2008

ATTACHMENT II

CITY OF ALEXANDRIA
LAURA TRIGGS, DIRECTOR FINANCE
301 KING STREET CITY HALL
ROOM 1600
ALEXANDRIA, VA 22314

Dear LAURA TRIGGS:

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,

A handwritten signature in black ink, appearing to read "Robert P. Schultze". The signature is fluid and cursive, with the first name "Robert" being the most prominent.

Robert P. Schultze
Director, Virginia Retirement System

Enclosure (Resolution)

ATTACHMENT III

RESOLUTION NO. 868

WHEREAS, the City Council of the City of Alexandria, Virginia, believes that wages and benefits for City employees should be maintained at levels which are properly competitive in the metropolitan labor market, and

WHEREAS, sufficient funds have been provided in the approved FY 1982-83 operating budget to provide approximately comparable increases in wages and benefits for all City employees; and

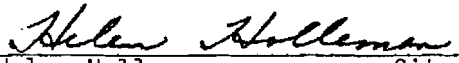
WHEREAS, the Code of Virginia permits the City of Alexandria to assume and pay all of the contributions required of the City's employees who are participating in the City's agreement with the Virginia Supplemental Retirement System; and

WHEREAS, a number of other Virginia jurisdictions have utilized this method and found it mutually beneficial to the employer and the employees because it reduces federal taxes and increases employee take-home pay;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alexandria, Virginia, that the following benefits or pay adjustments will be provided to City employees in lieu of a general pay increase:

- A. The City of Alexandria will assume and pay all pension contributions required of employees who are participating in the City's agreement with the Virginia Supplemental Retirement System, beginning with the contribution for the month of July, 1982.
- B. Full-time employees on the General Schedule pay scale who are not participants in the City's agreement with the Virginia Supplemental Retirement System will receive a one-step pay increase effective on the first day of the pay period beginning on or after July 1, 1982.
- C. Full-time public safety employees who participate in the Police and Fire Pension Plans will be reallocated to the same pay step of the next higher pay grade, effective on the first day of the pay period beginning after July 1, 1982.
- D. Part-time employees and temporary employees will be placed on a new hourly pay scale with an increase of approximately 5%, effective September 29, 1982.
- E. The City Manager will receive the equivalent of a 5% pay increase to be applied at his discretion to deferred compensation, an individual retirement account, or insurance.

ADOPTED: June 8, 1982


Helen Holleman City Clerk

RESOLUTION NO. 2295

WHEREAS, the CITY OF ALEXANDRIA 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 CITY OF ALEXANDRIA desires to affirm its intention to establish and maintain a pickup arrangement through formal action by its governing body; and

NOW, THEREFORE, IT IS HEREBY RESOLVED 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 it is further

RESOLVED that effective the first payday on or after September 23, 2008, the CITY OF ALEXANDRIA 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 it is further

RESOLVED that such contributions, although designated as member contributions, are to be made by the CITY OF ALEXANDRIA in lieu of member contributions; and it is 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 it is further

RESOLVED that member contributions made by the CITY OF ALEXANDRIA 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 it is 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 CITY OF ALEXANDRIA directly instead of having them paid to VRS; and it is further


RESOLVED that notwithstanding any contractual or other provisions, the contributions of each member of VRS who is an employee of the CITY OF ALEXANDRIA shall be picked up using the method under which the employer will pay the employees' statutorily required contributions to VRS and the salary will not be modified.

ADOPTED: September 23, 2008



WILLIAM D. EUILLE MAYOR

ATTEST:



Jacqueline M. Henderson, CMC City Clerk