



**BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

Notice of Time Change

**LEGISLATIVE/HUMAN RESOURCES
COMMITTEE MEETING**

**10:00 a.m.
Tuesday, July 08, 2014**

Notice is hereby given that on Tuesday, July 08, 2014 the Legislative/Human Resources Committee Meeting of the Board of Directors has been rescheduled from 10:15 a.m. to 10:00 a.m. The meeting will be held in the Training Resource Center of the Administration Building, 375 - 11th Street, Oakland, California.

Dated: July 3, 2014

A handwritten signature in cursive script that reads 'Lynelle M. Lewis'.

Lynelle M. Lewis
Secretary of the District



**BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 – 11th Street, Oakland, CA 94607

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AGENDA

Legislative/Human Resources Committee

Tuesday, July 8, 2014

10:00 a.m.

Training Resource Center

(Committee Members: Directors McIntosh {Chair}, Coleman and Mellon)

ROLL CALL:

PUBLIC COMMENT: The Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.

DETERMINATION AND DISCUSSION:

1. Legislative Report (Dumaine)
 - Update on Legislative Issues of Interest to EBMUD
2. ACA Mandates, Excise Tax, High Deductible/Consumer Directed Health Plans, and Health Savings Accounts (Turner)
3. Transparency in Labor Negotiations (Turner)

ADJOURNMENT:

Disability Notice

If you require a disability-related modification or accommodation to participate in an EBMUD public meeting please call the Office of the Secretary (510) 287-0404. We will make reasonable arrangements to ensure accessibility. Some special equipment arrangements may require 48 hours advance notice.

Document Availability

Materials related to an item on this Agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD's Office of the Secretary at 375 11th Street, Oakland, California, during normal business hours.

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: July 3, 2014

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *mc*

FROM: Delores Turner, Manager of Human Resources *DL Turner*

SUBJECT: ACA Mandates, Excise Tax, High Deductible/Consumer Directed Health Plans, and Health Savings Accounts

SUMMARY

Staff will provide an update on Health Care at the Legislative/Human Resources Committee meeting on July 8, 2014. The information will include highlights of the Affordable Care Act (ACA) mandates that will impact the District over the next three years, with a focus on the Cadillac Plan excise tax in 2018. Staff will review some of the strategies the District must consider to avoid the impact of the excise tax, that include rolling out High Deductible/Consumer Directed Health Plans and Health Savings Accounts to non-represented employees in 2015.

DISCUSSION

Most of the early ACA related taxes which impacted health insurers and are to be included in the cost of health insurance began in 2014. Approximately 1% to 3% of rate increases for 2014 were directly attributable to ACA related fees.

The upcoming ACA related mandates are:

Year 2015:

- Employers with more than 50 employees must offer medical care coverage to all employees who work more than 30 hours per week or pay penalties. Employers will be assessed an annual penalty of \$2,000 per full-time employee for failure to comply with this mandate. If any employee receives coverage through the Health Insurance Exchange, the annual penalty rises to \$3,000 per full-time employee.
- Employer reporting requirement: Employers must report on minimum essential coverage of benefit plans to the Federal government and confirm whether employees' contributions to health plan costs for employee-only coverage exceed 9.5% of their wages.

Both of these provisions, initially slated to become effective in 2014, were delayed to 2015.

Year 2017:

- Employers with 100 or more employees may be allowed to join State Health Care Exchanges.

Year 2018:

- 40% non-deductible excise tax on high cost health plans, also known as “Cadillac Plans”, will be assessed beginning in 2018 on the cost of health plans that exceed the threshold of \$10,200 for individual coverage and \$27,500 for family coverage. The aggregate value of the plan includes employee and employer contributions to a medical plan and the District’s supplemental benefit of \$905 allocated to a Medical Flexible Spending Account, plus any employee and/or employer contributions allocated to a Medical Flexible Spending Account or Health Savings Account.

Of the ACA mandates, the excise tax has the greatest potential impact to employees and the District. On the current trajectory, the cost of the excise tax across all District health plans in 2018 would be \$2.17 million. Of that cost, \$1.9 million is attributable to the Health Net plan.

Insurers	Active Covered	Retiree Covered	Tax Per Employee/Retiree			Total Tax		
			2018	2019	2020	2018	2019	2020
Health Net								
Individual	76	17	\$3,440	\$4,076	\$4,836	\$319,884	\$379,082	\$449,720
Family	155	13	\$9,618	\$11,439	\$13,604	\$1,615,782	\$1,921,698	\$2,285,456
						\$1,935,666	\$2,300,781	\$2,735,176
Kaiser								
Individual	224	116	\$0	\$0	\$95	\$0	\$0	\$32,365
Family	988	113	\$0	\$0	\$189	\$0	\$0	\$208,089
						\$0	\$0	\$240,454
Anthem BC								
Individual	54	3	\$649	\$760	\$923	\$52,535	\$61,541	\$74,770
Family	114	27	\$1,309	\$1,618	\$2,070	\$184,536	\$228,191	\$291,897
						\$237,071	\$289,732	\$366,666
						\$2,172,737	\$2,590,513	\$3,342,296

It is clear that our current non-Kaiser HMO coverage through Health Net is unsustainable. It is important to have a non-Kaiser HMO option for District employees; however, the current District health plan funding strategy, where Kaiser is zero cost and other plans have cost share, makes it difficult to find an alternative to the high cost Health Net plan. Insurers do not want to bid on a plan that will always be undercut by Kaiser. It is also possible that Health Net will simply drop District coverage.

Over the next several years it will be important for the District's management, Board of Directors, and employees to engage in conversations about a variety of solutions that must be explored to ensure that after 2018, we can continue providing quality and varied health care coverage options to our employees without automatically accepting millions of dollars in new costs.

Staff is building a three-year benefits communication strategy to ensure that information is shared and conversations launched across the District related to health care coverage, cost, and alternatives. For instance, one cost-reduction option that is just becoming available in the Bay Area is called "narrow network HMO products." These offerings from Sutter Health and United Healthcare are hoping to be more competitive with Kaiser by creating a model of service closer to the Kaiser model. Their plan is to choose one or two select well run hospitals and a smaller group of well managed physician networks and tie them together into a network that is smaller than current large scale HMO networks. There are also many private exchanges popping up that are similar in nature to the Association of California Water Agencies/Joint Powers Insurance Authority (ACWA/JPIA) network that may be an alternative for the District.

While the excise tax is charged to the insurer initially, it is known that these costs will be passed down to employers to determine how to share the cost with employees. Although insurers will be able to pass the tax to employers, there will be pressure for insurers to help employers find plan designs that will mitigate the excise tax. There is likely to be quite a bit of change happening over the next several years leading up to 2018, and the goal is to ensure District employees, management, and the Board understand the changes and options available in avoiding the excise tax in advance of our next round of bargaining.

Current and often used alternatives to delivering quality health plans with costs under the excise tax thresholds are High Deductible Health Plans, also known as Consumer Directed Health Plans (CDHP). The CDHP has a plan deductible that must be paid by the participant prior to the insurer picking up costs. If the plan has a \$1,500 deductible, the participant would pay the first \$1,500 dollars of cost in the plan year. Once paid, the insurer will begin sharing in the cost of the coverage. In accordance with the ACA, preventative care is still covered at 100% without having to meet the deductible.

CDHPs are generally paired with Health Savings Accounts (HSAs) as a way for participants to pay for plan deductibles with the added benefit of providing a mechanism to pay for other qualified medical expenses using pre-tax dollars. A Health Saving Account (HSA) can be funded with pre-tax dollars from the participant or the employer. The 2014 contribution maximums for HSAs are \$3,300 for individuals and \$6,450 for families. The over-arching concept of the CDHP paired with a HSA is to make participants enlightened consumers of health care because they will be cognizant of the true cost of health care due to what they incur towards meeting their CDHP deductible. Unlike Flexible Spending Accounts, HSAs are employee-owned; so all contributions grow and earn interest year after year and can be rolled into a personal HSA account when employment ends. HSA funds can be used for qualifying out of pocket health care

expenses such as copayments, coinsurance and deductibles, and may even be used after a person has signed up for Medicare. HSA funds can be used to pay for Medicare Part B premiums, Medicare Advantage premiums, and qualified long-term care premiums. Ordinary income tax is paid on amounts not spent on qualifying health care expenses.

CDHPs and HSAs were discussed with District union employees during bargaining in 2013; however, the unions were only interested in adding HSAs. The District determined that as a way to get conversation about these plans started and to test employee response to these plans, the District would roll out CDHPs and HSAs to management, non-represented employees, and the Board of Directors beginning with the 2015 plan year. The District will roll out a CDHP option from each of our current insurers: Health Net, Kaiser, and Anthem Blue Cross.

With the lower cost of premiums on CDHPs, the District is able to fund HSAs with the full cost of the deductible, keeping cost flat, and in some instances saving money. It is the intent to fully fund the cost of the deductible for the CDHPs for a few years and continuously review this strategy to ensure it remains cost-effective for the District.

District funding of the deductible and the lower premium and related employee cost share should be incentives to try the CDHPs and would make it a financial win-win situation for the District and for those who enroll in these plans.

FISCAL IMPACT

The annual cost of CDHP premiums and HSA funding will range from flat to approximately four percent lower than current medical premium plan costs, depending on health plan; therefore, Board approval is not required to roll out these plans. There will be minimal upfront costs to build the new plans into our online enrollment site at Total Administrative Services Corporation (TASC, formerly Benesyst), and we will need to implement a contract update with TASC to engage their services for HSA account administration.

NEXT STEPS

Staff will seek board approval of an updated contract for TASC at its July 22, 2014 meeting. CDHPs and HSAs will roll out to management, non-represented employees and the Board during open enrollment in October.

ARC:DT:LS:rdw

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: July 3, 2014

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Delores Turner, Manager of Human Resources *Delores Turner*

SUBJECT: Transparency in Labor Negotiations

SUMMARY

The Board of Directors recently became aware of a civic ordinance that requires certain disclosures regarding labor negotiations and has requested that staff provide information regarding possible steps the District may take to increase transparency in the next round of labor negotiations. This item will be discussed at the July 8, 2014 Legislative/Human Resources Committee meeting.

BACKGROUND

In 2012, the City of Costa Mesa, California, initiated negotiations disclosure and other requirements through a city ordinance titled Civic Openness In Negotiations (COIN). The ordinance requires an independent negotiator to handle labor negotiations with its union; an independent economic analysis of the fiscal impacts of each contract term that must be made public 30 days prior to negotiations; disclosure by council members of any communications about the negotiations with representatives of the union; public disclosure of offers and counter offers and their fiscal impact, as well as offers and counter-offers that are no longer being considered; and, discussion at two City Council meetings prior to a vote on a labor contract, with public disclosure of costs on the city's website seven days prior to the first meeting.

Staff presented information on the topic of transparency in negotiations at the Legislative/Human Resources Committee meeting on April 8, 2014. At the end of the presentation, the Committee members expressed an interest in having this item on the agenda for a subsequent meeting as there was not sufficient time for discussion. The item was placed on the agenda for the Legislative/Human Resources Committee meeting of May 13, 2014. After discussion by the Committee, staff was directed to draft an ordinance for the Committee's review.

DISCUSSION

Staff has drafted the attached ordinance for the Committee's review based on specific direction provided by the Committee as to the requirements of the ordinance. These requirements include: District posting of the written proposals from each party and an independent economic analysis of the financial impact of the proposals on the District's website, and disclosure by board members of any communications about negotiations with representatives of unions, taxpayer groups or other interested parties.

NEXT STEPS

During the Legislative/Human Resources Committee meeting, staff will seek Board direction on next steps.

ARC:DT:MR:rdw

Attachment

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ORDINANCE NO. _____

AN ORDINANCE TO PROMOTE
TRANSPARENCY IN NEGOTIATIONS BETWEEN THE
EAST BAY MUNICIPAL UTILITY DISTRICT
AND UNIONS REPRESENTING DISTRICT EMPLOYEES

Introduced by Director

; Seconded by Director

BE IT ENACTED by the Board of Directors of the East Bay Municipal Utility District that Ordinance No. ___, which is entitled "AN ORDINANCE TO PROMOTE TRANSPARENCY IN NEGOTIATIONS BETWEEN THE EAST BAY MUNICIPAL UTILITY DISTRICT AND UNIONS REPRESENTING DISTRICT EMPLOYEES," is hereby adopted as follows:

WHEREAS, the Board of Directors of the East Bay Municipal Utility District engages in negotiations with unions representing District employees pursuant to Government Code section 3500 *et seq*, otherwise known as the "Meyers-Milias-Brown Act"; and

WHEREAS, the Board of Directors has the authority to adopt changes to wages, hours, and other terms and conditions of employment for District employees pursuant to such negotiations; and

WHEREAS, such changes to wages, hours, and other terms and conditions of employment have direct impacts on the finances of the District and, by extension, on District ratepayers; and

WHEREAS, the Board of Directors finds that disclosure of such impacts is consistent with sound public policy and California laws requiring the public access to government to encourage public participation in local government decisions;

NOW, THEREFORE, the Board of Directors does hereby ordain, as follows:

1. Whenever the District and the unions representing District employees are engaged in negotiations for successor Memoranda of Understanding, the District shall post the written proposals from each party on the District's website in a timely manner. The District shall make copies of the proposals of either the District or the unions available to ratepayers upon request.
2. District staff is hereby directed to secure the services of an independent, professional consultant with expertise in calculating the financial impact of changes to wages, hours, and other terms and conditions of employment to the District's budget. The consultant will calculate the financial impact of all proposed changes to wages, hours and other terms and conditions of employment that are made during negotiations for successor Memoranda of Understanding.
3. The financial impact of said proposals shall also be posted on the District's website in a timely manner, and be made available to ratepayers upon request.

4. Members of the Board of Directors shall disclose to the ratepayers in a timely manner any meetings or discussions they have with any union representative, taxpayer group or other interested party regarding negotiations for successor Memoranda of Understanding as the negotiations progress. Such disclosures shall be made during Board Member comments as part of the regular agenda for meetings of the Board of Directors and shall include the date(s) of any such meeting(s).

5. This Ordinance shall become effective and in full force at 12:01 a.m. on the thirty-first day after its passage.

President

I HEREBY CERTIFY that the foregoing Ordinance was duly and regularly introduced at a regular meeting of EAST BAY MUNICIPAL UTILITY DISTRICT held on (DATE), at the offices of said District, 375 - 11th Street, Oakland, California, and thereupon, after being read, further action was scheduled for the regular meeting of said Board of Directors held at the same place on (DATE), at which time the same was finally adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel