

# 2005-2006 GRAND JURY REPORT

## Board of Supervisors and Clerk of the Board

### Background

The Riverside County Board of Supervisors has five members elected from five supervisorial districts. They have a combined staff of thirty-three exempt employees.

The Clerk of the Board is the official custodian of all county records. The Clerk's functions are dictated by County ordinances, Board resolutions and policies, and state law.

### Findings

1. Board Resolution 2005-475, Section 204, reads, "Any employee whose position is determined to be exempt from the Fair Labor Standards Act (FLSA) shall not be entitled to compensation for overtime of any type."
2. There are exempt Board of Supervisors and Clerk of the Board employees who utilize compensatory time for vacation in lieu of annual leave, then "buy down"<sup>1</sup> this banked leave. Both County Counsel and Human Resources Director stated that this is an acceptable practice. The Grand Jury found this to be in direct violation of Board Resolution 2005-475.
3. The Human Resources Director issued a memorandum effective October 13, 2005, addressing the following points:
  - a. Cited Department of Labor regulation 29 C.F.R. 541.118(a), as a basis for allowing compensatory time for exempt employees, even though this regulation was superseded by C.F.R. 541.602(a) on August 23, 2004.

<sup>1</sup> The County of Riverside has an Annual Leave redemption policy, referred to as "buy down", for employees who are entitled to this benefit.

- b. "The Board of Supervisors' staffs are exempt employees paid a regular salary. However, due to the extensive and irregular hours worked by the staff that exceed the normal workday, they are also allowed to accumulate (earn) a large amount of compensatory time."
  - c. "Each employee is required to contact the Clerk of the Board in the event their annual leave banks need to be charged (decreased). . . in excess of pay earned or banked 'compensatory time' during the pay period of the occurrence."
  - d. "Each employee is required to informally track the compensatory time earned. Board members or their designee will periodically review and direct staff members to begin using their annual leave banks when the compensatory time is exhausted."
- 4. Some departments require all employees to complete detailed time sheets signed under penalty of perjury. Other departments require no time reporting unless the employee takes annual leave during that period.
- 5. There is no law or regulation specifically requiring exempt employees to report their time. Not having a consistent time reporting system creates a breakdown in internal controls causing an opportunity for, and appearance of, impropriety or fraud in the payroll process.
- 6. During fiscal years, July 1, 2002 through June 30, 2005:
  - a. Four of the thirty-three Board of Supervisors' staff employees did not utilize any annual leave time.
  - b. Nine of the Board of Supervisors' staff employees did not utilize annual leave time for one or more years during this period.

- c. Almost half of the thirty-three Board of Supervisors' staff employees, who worked part-time or a fraction of the year, did not use annual leave within reasonable limits of an average percentage, as determined by the County Auditor-Controller.
7. An employee can "buy down" (receive compensation) for annual leave time earned in the amount of 80 hours in any one calendar year. Subject to budgetary limitations, the employee can also "buy down" an additional 80 hours in the same calendar year with supervisory approval. He/she is not permitted to "buy down" more than 160 hours in the same calendar year, nor permitted to submit more than two "buy down" requests in the same calendar year.
8. Nine of the thirty-three Board of Supervisors' staff employees, including several who did not utilize any annual leave time, "bought down" annual leave in excess of 160 hours, thus violating Section 704 of Board Resolution 2005-475.
9. Many of the "buy down" requests reviewed were incomplete, lacked supervisory approval and/or had hours not formally tracked. Further Grand Jury investigation revealed employees feel that it is not their responsibility to track their requests.

## **Recommendations**

### **Riverside County Board of Supervisors Riverside County Clerk of the Board Riverside County Auditor-Controller Riverside County Executive Officer**

1. Riverside County Board of Supervisors and Clerk of the Board employees adhere to Board Resolution 2005-475, Section 204, and the Fair Labor Standards Act (FLSA).
2. County Executive Officer improve countywide control over the payroll process, to include a requirement that all exempt employees prepare, sign and submit regular biweekly time sheets to their supervisors under penalty of perjury.

3. The accuracy of time sheets submitted by all employees of the Board of Supervisors and the Clerk of the Board be certified by a supervisor or designee.
4. County Executive Officer enforce current County policy regarding the maximum allowable "buy down" provisions, and implement a tracking program to assure compliance. In the alternative, discontinue the annual leave "buy down" benefit.
5. Auditor-Controller audit all County departments to determine if similar reporting inconsistencies exist in payroll recordkeeping.

**Report Issued: 06/26/06**  
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