COUNTY AGENDA REQUEST

Department:	Human Resources	Presenter(s):	Connie Boehnke
Meeting Date:	Thursday, January 12, 2012	Type of Request:	Consent

Wording for the Agenda:

Approval of staff's recommendation to adopt two Certificates of Adopting Resolution pertaining to Fayette County's existing 457 (b) Defined Contribution Retirement Plan, due to a change in federal law, and authorization for the Chairman to sign the Certificates contingent upon the County Attorney's review.

Background/History/Details:

The United States Congress has recently passed changes to the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART), the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA), and the Pension Protection Act of 2006. Fayette County was required to add amendments to its 457 (b) Defined Contribution Retirement Plan before December 31, 2011- thereby implementing the changes. Fayette County did not learn about the changes until early December 2011, however, given the shortened time constraints and the established Board of Commissioner's meeting schedule, this item was not able to come to the Board until January 2012.

The Human Resources Department has worked with the Smith Barney's and Mass Mutual's legal counsels, as well as the county's broker, Mr. Jim Fallon of Morgan Stanley, who have drafted the required certificates.

The required changes will not have any financial impact on the County or on the management of its 457 (b) plan.

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to adopt two Certificates of Adopting Resolution pertaining to Fayette County's existing 457 (b) Defined Contribution Retirement Plan, and authorization for the Chairman to sign the Certificates contingent upon the County Attorney's review.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?	No	Backup Provided with Request?	Yes

STAFF USE ONLY

Approved by Finance	Not Applicable	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval	Yes		

Staff Notes:

MassMutual
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Ms. Connie Boehnke
Director of Human Resources
Fayette County Board of Commissioners
140 Stonewall Avenue West
Fayetteville, Georgia 30214

December 14, 2011

Dear Ms. Boehnke:

Re: 457(b) Amendments for Pension Protection Act and Other Law Changes
60325-2 – Fayette County, Georgia 457(b) Deferred Compensation Plan

IMMEDIATE ACTION REQUIRED

MassMutual's ERISA Advisory Services℠ has completed two amendments to your 457(b) Governmental Plan to reflect how your plan has been administered under recent changes in the law. This package contains separate plan amendments that require immediate action. Each amendment includes a Certificate of Adopting Resolution if your organization requires one. In addition, we are providing a supplemental explanation of each amendment's provisions to further explain the required and optional provisions and default provisions that apply.

Pension Protection Act Amendment

The first amendment contains changes required by the Pension Protection Act of 2006 (PPA) and an optional change allowed for the definition of post-severance compensation used for contribution purposes.

There is only one provision that requires your review and may require a change to the default election reflected in this amendment. Article III reflects changes made to the definition of post-severance compensation that were included in the Final Section 415 Regulations. A participant may defer from an amount received following severance of employment if the amount satisfies the definition of post-severance compensation. There are some optional elections that a plan may choose when defining post-severance compensation. Please review the default definition in Article III. If this default definition aligns with your contribution practices, you do not need to make any alternate elections in Article III. If your plan uses an alternate definition, please make the elections in the appropriate check boxes. If your plan does not allow participants to make deferral contributions on any compensation paid after severance of employment, please make the election that states, "Article III is not adopted".

Important –Required Timing for the PPA Amendment Execution

The PPA regulations require that the PPA amendment be adopted on or before the last day of the 2011 plan year. For plans with a calendar plan year this means that the PPA amendment should be executed by **December 31, 2011**. Please sign and date the PPA Amendment were indicated.

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HEART and WRERA Amendment

The second amendment brings the plan into compliance with the Heroes Earnings Assistance and Relief Act of 2008 (HEART Act) and the suspension of 2009 Required Minimum Distributions as set forth in the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA).

The HEART Act provides some required and optional benefits to participants who are on a leave of absence for qualified military service. The amendment has been prepared with default provisions. If these default elections align with your practices, you do not need to make any elections in Article II section 2.2.

WRERA allowed Required Minimum Distributions to be suspended for the 2009 distribution year. The amendment has been prepared to reflect that Required Minimum Distributions were suspended for 2009 unless a participant or beneficiary individually elected to receive a distribution for that year. If the default elections align with your practices, you do not need to make any elections in Article II section 2.3.

If your practices do not align with the default provisions elected in this amendment, please send an email to EASConsulting@Massmutual.com and we will revise the amendment.

Required Timing of the HEART and WRERA Amendment Execution

Governmental employers have until the last day of the 2012 plan to amend for HEART and WRERA. For plans with a calendar plan year this means that the Heart and WRERA amendment should be executed by December 31, 2012. For your convenience, we are sending both amendments at the same time to expedite the amendment process.

ACTION REQUIRED:

Please forward a copy of each signed and dated plan amendment, to MassMutual by **December 31, 2011**. You may email or fax the amendment to:

Email to: EASConsulting@Massmutual.com or
Fax to: (413) 744-6822

If you have any questions please contact your MassMutual service representative.

Thank you for your timely response.

ERISA Advisory Services
MassMutual Financial Group
1295 State Street, MIP B210
Springfield, MA 01111

Enclosures: Pension Protection Act Amendment, HEART and WRERA Amendment

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CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of _____ (the Employer) hereby certifies that the following resolutions were duly adopted by Employer on _____, and that such resolutions have not been modified or rescinded as of the date hereof:

RESOLVED, the HEART/WRERA Amendment to the _____ Plan (the Amendment) is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the amendment.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: _____

Signed: _____

_____
[print name/title]

CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of _____ (the Employer) hereby certifies that the following resolutions were duly adopted by Employer on _____, _____, and that such resolutions have not been modified or rescinded as of the date hereof;

RESOLVED, the PPA Amendment to the _____ Plan (the Amendment) is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the amendment.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: _____

Signed: _____

_____
[print name/title]