

CITY OF YUBA CITY
STAFF REPORT

Date: October 7, 2014
To: Honorable Mayor & Members of the City Council
From: Human Resources Department
Presentation By: Natalie Walter, Human Resources Director

Summary

Subject: Administration of Patient Protection and Affordable Care Act (ACA).
Recommendation: Adopt a Resolution approving the City's administration of the ACA.
Fiscal Impact: An increase in cost of \$7,100 for FY 2014/2015

Purpose:

To establish the City protocol for the administration of the Patient Protection and Affordable Care Act (ACA).

Background:

In March 2010, President Obama signed the Affordable Care Act into law. Many reforms of the ACA have been implemented such as covering dependent children up to age 26 on a parent's plan, insurers may not put a lifetime cap on health benefit coverage, and insurers are required to provide preventive care services with no deductible or copay. The employer mandate component of the ACA was delayed until January 1, 2015 which gave employers, like the City, more time to deal with the coverage requirements of the ACA. Now the delay period is nearing to a close and the ACA large employer mandates are going into effect with the first of the New Year.

Because the City is considered a large employer (which is defined as at least 50 full time employees, including full time equivalents), the City has to offer affordable health care to substantially all of its "full-time" employees or face potential penalties. The ACA defines a "full-time" employee as someone who averages 30 or more hours of service per week in any given month. A penalty is triggered when any "full-time" employee is not offered affordable health care coverage and receives a subsidy through Covered California (the marketplace implementing the ACA in California). In 2016, IRS will require the City to self-report on the administration of the ACA for 2015.

Analysis:

All bargaining unit employees are eligible for health care coverage through their Memorandum of Understanding or Letter of Understanding. The employees that may need to be offered coverage as a result of the ACA are non-regular, temporary employees working throughout the City in various departments who are deemed "full-time" for

purposes of the ACA. Types of non-regular, temporary employment with the City include work in the afterschool programs in the Parks and Recreation Department or seasonal work in the Streets Division, Public Works Department. It is the City's intent to limit the number of hours the non-regular, temporary employees are working to minimizing the cost impact of offering health insurance. At this point in time Human Resources estimates that only three (3) temporary firefighters would be eligible for health benefits. As part of the City's Memorandum of Understanding with the Fire Department, the City is contractually obligated to provide three (3) full time temporary employees. With this contracted agreement, the City is obligated to provide health benefits for the temporary firefighters which results in an increase in the budget for the Fire Department.

The attached resolution adopts a "Look Back Measurement Method Safe Harbor" to determine whether an employee is "full-time" for the purposes of the ACA. The City's "standard measurement period" is twelve months. At the end of the twelve month period, Human Resources will look back at hours worked during the measurement period and calculate the average number of hours worked by each non-regular, temporary employee. An employee identified as "full-time" (working an average of at least 30 hours per week during this twelve month period) will then be offered health coverage during an administrative period. If the employee elects to pay the employee portion of health insurance, then during the twelve month "stability" period the employee will have health coverage.

Fiscal Impact:

The proposed changes will result in a net increase in cost of \$7,100 for FY 2014/2015.

Alternatives:

Do not approve ACA Resolution and provide staff direction.

Recommendation:

Adopt a Resolution approving the City's administration of the ACA.

Prepared By:

[/s/Natalie Walter](#)

Natalie Walter
Human Resources Director

Submitted By:

[/s/Steven C. Kroeger](#)

Steven C. Kroeger
City Manager

Reviewed By:

Finance

RB

City Attorney

TH

RESOLUTION NO. ____

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF YUBA CITY ADOPTING THE LOOK BACK MEASUREMENT
SAFE HARBOR UNDER THE PATIENT PROTECTION AND
AFFORDABLE CARE ACT**

WHEREAS, the Patient Protection and Affordable Care Act (ACA) was enacted on March 23, 2010;

WHEREAS, the ACA added Section 4980H (Shared Responsibility for Employers Regarding Health Care Coverage) to Title 26 of the United States Code (Section 4980H);

WHEREAS, Section 4980H imposes an assessable payment on an applicable large employer when (1) it fails to offer “substantially all” of its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage or offers coverage to “substantially all” of its full-time employees (and their dependents) that is “unaffordable” or does not provide minimum value and (2) any full-time employee is certified to the employer as having received a subsidy for coverage through Covered California, the California health insurance exchange established pursuant to the ACA (Assessable Payment);

WHEREAS, the City of Yuba City is considered an applicable large employer because it is expected to employ an average of at least 50 full-time equivalent employees on business days during the preceding calendar year;

WHEREAS, the Department of Treasury issued final regulations regarding Section 4980H, that permit the City to adopt a look-back measurement method safe harbor in order to determine the status of an employee as full-time for the purposes of determining and calculating the Assessable Payment; and

WHEREAS, the City intends to adopt the provisions of the look-back measurement method safe harbor in order to determine the full-time status of employees for purposes of the Assessable Payment;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Yuba City as follows:

1. That all of the recitals set forth above are true and correct, and the City so finds and determines.
2. Ongoing Employees. The City establishes the look-back measurement method with regard to all ongoing employees as follows:
 - a. Measurement Period
 - i. Standard Measurement Period. The City establishes a twelve (12) month standard measurement period for ongoing employees. Starting with the first day of the first pay period in November 2014, a standard measurement period will start each year on the first day of the first pay period in November and end the following year on the last day of the last pay period beginning in October.

- ii. Transitional Measurement Period. For purposes of the stability period commencing on January 1, 2015 only, a transitional measurement period will be implemented starting on May 3, 2014 and ending on October 31, 2014.
 - iii. The standard measurement period will be the period during which an ongoing employee's hours are measured.
 - b. Administrative Period.
 - i. Standard Administrative Period. The City will establish a standard administrative period of sixty (60) days. Starting with the first day of the first pay period in November 2015, the administrative period associated with the standard measurement period for ongoing employees will start each year on the first day of the first pay period in November and end on the last day of the last pay period beginning in December.
 - ii. Transitional Administrative Period. The administrative period associated with the transitional measurement period for ongoing employees will start on November 1, 2014 and will end on the last day of the last pay period beginning in December 2014.
 - c. Stability Period. The City will establish a twelve (12) month standard stability period for ongoing employees. Starting with the first day of the first pay period in January 2015, the stability period for ongoing employees will start on the first day of the first pay period in January and will end on the last day of the last pay period beginning in December.
 - d. Employees employed on average at least thirty (30) hours per week during the measurement period. If an ongoing employee was employed on average at least (thirty) 30 hours per week during the measurement period, the employee will be treated as a full-time employee, for purposes of the ACA, during the subsequent stability period, regardless of the employee's number of hours during such stability period, so long as he or she remains a City employee.
 - e. Employees not employed an average of at least thirty (30) hours per week during the measurement period. If an employee was not employed on average at least (thirty) 30 hours per week during the measurement period, the City shall treat the employee as not a full-time employee during the following stability period regardless of the employee's number of hours during such stability period.
 - f. Change in Employment Status or Position. If an employee's employment status or position changes before the end of a stability period, the change in status will not affect the classification of the employee (as full or part-time) for the remaining portion of the stability period.
- 3. Status of New Employees. On the start date of a new employee, the City will make a determination as to whether that new employee is reasonably expected to be a full-time employee (i.e., work an average of thirty (30) hours or more per

week in a month). If the new employee is reasonably expected to be a full-time employee and is not a seasonal employee, the City will offer minimum essential coverage to that employee before the end of the employee's initial three full calendar months of employment.

Whether a new employee (who is not a seasonal employee) is a full-time or non-full-time employee is determined based on the facts and circumstances at the employee's start date. While no one factor is determinative, the factors the City will consider when determining whether such an employee is reasonably expected to be a full-time employee include, but are not limited to:

- a. Whether the employee is replacing an employee who was, or was not, a full-time employee.
 - b. The extent to which hours of service of ongoing employees in the same or comparable positions have varied above and below an average of thirty (30) hours of service per week during recent measurement periods.
 - c. Whether the job was advertised, or otherwise communicated to the new employee or otherwise documented (e.g., employment contract or job description) as requiring hours or service that would average thirty (30) or more hours per week.
4. New Variable Hour, Seasonal and Part-Time Employees. If, based on the fact and circumstances at the start of a new employee, the City is unable to determine that the employee is reasonably expected to be employed an average of at least thirty (30) hours per week over the initial measurement period, then the employee is considered a variable hour employee. If the employee is hired into a position for which the customary annual employment is six (6) months or less, then the employee is considered a seasonal employee. If, based on the facts and circumstances at the start date of a new employee, the City reasonably expects the employee to be employed on average less than thirty (30) hours per week during the initial measurement period, the employee will be deemed a part-time employee. The City establishes the look-back measurement method with regard to new variable hour, seasonal and part-time employees as follows:
- a. Initial Measurement Period. The City establishes a twelve (12) month measurement period for each new variable hour, seasonal and part-time employee. The initial measurement period will start the first day of the first calendar month after the employee's start date, unless the start date is the first of a calendar month in which case the initial measurement period will start on that date.
 - b. Administrative Period. The administrative period shall start the day following the last day of the initial measurement period and shall end no later than the last day of the first calendar month beginning on or after the first anniversary of the employee's start date.
 - c. Stability Period. The City establishes a twelve (12) month stability period associated with the initial measurement period.
 - i. Employees employed an average of at least thirty (30) hours per week during the initial measurement period. If the new variable hour,

seasonal or part-time employee was employed on average at least thirty (30) hours per week during the initial measurement period, the employee will be treated as a full-time employee, only for purposes of the ACA, during the associated stability and administrative periods.

- ii. Employees not employed an average of at least thirty (30) hours per week during the initial measurement period. If the new variable hour, seasonal or part-time employee does not measure as a full-time employee during the initial measurement period, the employee will not be treated as a full-time employee for purposes of the stability period associated with the initial measurement period. The stability period associated with the initial measurement period shall not exceed the remainder of the first entire standard measurement period (plus any associated administrative period) for which the employee has been employed.
 - d. Change in Employment Status or Position. If a new variable hour, seasonal or part-time employee's position or employment status materially changes before the end of the initial measurement period in a way that, if the employee had started his or her employment in the new position or status, the employee would have reasonably been expected to be employed on average at least (thirty) 30 hours a week, the City is not required to treat the employee as a full-time employee for purposes of Section 4890H until the first day of the fourth month following the change in employment status or, if earlier and the employee averages more than thirty (30) hours of service per week during the initial measurement period, the first day of the first month following the end of the initial measurement period and associated administrative period.
5. Transition between Initial and Standard Measurement Periods. A new variable hour, seasonal or part-time employee will be measured during the first complete standard measurement period for which he/she is employed. This means that a new variable hour, seasonal or part-time employee may be tested under an initial measurement period and at the same time be measured under the overlapping standard measurement period.
 - a. Employees employed an average of at least thirty (30) hours per week during the initial measurement period. If an employee measures as full-time during the initial measurement period, he/she will retain full-time status, for ACA purposes only, for the entire associated stability period (even if the employee does not qualify as full-time during the overlapping or immediately following standard measurement period).
 - b. Employees not employed an average of at least thirty (30) hours per week during the initial measurement period. If an employee does not measure as full-time during the initial measurement period, but qualifies as full-time during the overlapping or immediately following standard measurement period, the employee must be treated as full-time, only for purposes of the ACA, during the stability period associated with the standard measurement period (even if that means coverage must be offered before the end of the stability period associated with the initial measurement period).

6. Rehired Employees. When an employee is rehired after termination, upon return the employee will retain the status the employee had previously with respect to any stability period except that an employee will be treated as a new employee:
 - a. if the employee resumes employment after a period of at least 13 consecutive weeks with less than an hour of service; or
 - b. if the period (measured in weeks) during which no services are performed is at least four consecutive weeks long and exceeds the number of weeks of that employee's period of employment immediately preceding the period during which the employee was not credited with any hours of service.
7. Unpaid Leave. When an employee takes special unpaid leave (i.e. unpaid leave under the Family and Medical Leave Act of 1993, unpaid leave under the Uniformed Services Employment and Reemployment Rights Act of 1994, or unpaid leave on account of jury duty), and is not treated as a new employee based on 6) above, upon resumption of services and to determine hours of service, the City will determine the employee's average hours of service for the measurement period after excluding any periods of special unpaid leave during the measurement period. That average will be applied for the entire measurement period.
8. The Director of Finance is hereby authorized to make the necessary budget adjustments to implement the provisions of this resolution.
9. The City Manager is hereby authorized to make any changes to the foregoing resolutions solely for the purpose of complying with provisions of the ACA or regulations thereunder related to Section 4980H.

The forgoing Resolution of the City Council of the City of Yuba City was duly introduced, passed and adopted at a regular meeting thereof held on the 7th day of October 2014.

AYES:

NOES:

ABSENT:

Kash Gill, Mayor

ATTEST:

Terrel Locke, City Clerk