

MOUNTAINS RECREATION AND CONSERVATION AUTHORITY

January 7, 2015 — Agenda Item VII(k)

Resolution No. 15-11

RESOLUTION OF THE GOVERNING BOARD OF THE MOUNTAINS RECREATION AND CONSERVATION AUTHORITY ADOPTING SAFE HARBORS UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT (ACA)

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

WHEREAS, The ACA added Section 4980H Shared Responsibility for Employers Regarding Health Care Coverage (Section 4980H) and Section 6056 Certain Employers Required to Report on Health Insurance Coverage (Section 6056) to Title 26 of the United States Code, the Internal Revenue Code;

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), but that coverage 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 the exchange (“Assessable Payment”);

WHEREAS, Section 6056 requires an applicable large employer to file with the Internal Revenue Service an annual return for each full-time employee;

WHEREAS, the Mountains Recreation and Conservation Authority (“Authority”) is considered an applicable large employer because it employed an average of at least 50 full-time employees (including full-time equivalents) on business days during the preceding calendar year;

WHEREAS, the Department of Treasury issued final regulations regarding Section 4980H, that permit the District to adopt the Look Back Measurement Method Safe Harbor in order to determine the status of an employee as “full-time” for purposes of reporting and calculating the Assessable Payment, if any (79 Federal Register 8544, 8586, February 12, 2014);

WHEREAS, the Authority intends to adopt the provisions of the Look Back Measurement Method Safe Harbor in order to determine the full-time status of its employees for reporting purposes related to the Assessable Payment;

WHEREAS, the Department of Treasury issued final regulations regarding Section 4980H

that permit the District to use one of three affordability safe harbors for any reasonable category of employees as long as it is applied on a uniform and consistent basis for all employees in the category (79 Federal Register 8544, 8599-8601, February 12, 2014);

WHEREAS, the Authority intends to use the affordability safe harbors as contemplated in the final regulations;

WHEREAS, the Authority intends to use good faith efforts to comply with legal requirements under the ACA despite that they have not yet been fully developed; and

WHEREAS, the Authority expects that further guidance and regulations may be issued regarding ACA.

Resolved, That the Governing Board of the Mountains Recreation and Conservation Authority hereby:

1. Establishes the Look Back Measurement Method Safe Harbor with regard to all employees for the purpose of identifying full-time employees for IRS reporting purposes relating to the Assessable Payment;
2. Does not establish the Look Back Measurement Method Safe Harbor for the purpose of determining eligibility for an offer of medical coverage as to any employee. All represented employees' eligibility for an offer of medical coverage shall be governed by the terms of any applicable memorandum of understanding;
3. Delegates authority to the Executive Officer, including his/her designee(s), to create an ACA Administrative Policy ("Policy") that establishes measurement, administrative, and stability periods, governs the measurement and tracking of employees' hours of service, and/or otherwise establishes procedures in accordance with Section 4980H to comply with the Look Back Measurement Method Safe Harbor;
4. For each reasonable category of employees, the Authority in its sole discretion, but on a uniform and consistent basis for all of the employees in a reasonable category, will apply one of the three affordability safe-harbors (i.e. Form W-2 Safe Harbor, Rate of Pay Safe Harbor, or Federal Poverty Line Safe Harbor) to determine the affordability of the minimum value coverage that it may, if applicable, offer to its full-time employees;
5. Delegates authority to the General Manager, including his/her designee(s), to establish the Policy to comply with any of the three affordability safe harbors in accordance with and as permitted by Section 4980H;

6. The Executive Officer, including his/her designee(s), shall have authority to modify the Policy to ensure the District's compliance with Sections 4980H and 6056 of the Internal Revenue Code;
7. ADOPTS the staff report and recommendation dated January 7, 2015 for this item, and
8. AUTHORIZES the Executive Officer to do any and all acts necessary to carry out this resolution and any recommendations made by the Governing Board.

Chair

AYES:

NOS:

ABSTAIN:

ABSENT:

I HEREBY CERTIFY that the foregoing resolution was adopted at a regular meeting of the governing board of the Mountains Recreation and Conservation Authority, duly noticed and held according to law, on the 7th day of January, 2015.

Date:

Executive Officer