



DATE: June 9, 2016

TO: Programs and Administration (P&A) Committee

FROM: Wendy Sommer, Executive Director

BY: Pat Cabrera, Administrative Services Director

SUBJECT: Authorization to establish separate interest bearing account.

SUMMARY

At the June P&A meeting, in order to comply with State probate law, staff will recommend that the Committee request the Authority to direct the Executive Director or designee to: 1) Establish a separate interest bearing account to deposit a recently deceased employee's (Allan Miller) final paycheck and accrued vacation payout until the disposition of these earnings has been resolved pursuant to state law and, 2) Address any other issues regarding the proper disposition of compensation owned to Mr. Miller under Probate Code Section 13600(a), which covers the salary or other compensation owed by an employer for personal services of the deceased employee.

DISCUSSION

On March 28, 2016, Administrative Aide Allan Miller passed away unexpectedly. Staff was able to locate a son, however with the exception of Mr. Miller's life insurance policy (which named his son as his beneficiary), Mr. Miller had not designated a beneficiary for his final paycheck, vacation accruals, his deferred compensation account, etc., and it does not appear that he had a will or any other document bequeathing these assets.

The Authority must place his final earnings in a separate interest bearing account until advised by the conservator of the estate to release the funds. The [Authority's investment policy](#) requires board approval for the establishment of any investment accounts other than the Alameda County Investment Pool and the Local Agency Investment Fund (LAIF). Based on the advice of the Agency's labor attorney, the Authority as the employer must comply with California probate law and recommends that it take the following action:

- 1) Obtain death certificate to verify purpose of supporting basis for issuing final paycheck to deceased's successor(s);

- 2) Hold onto the final paycheck/payout accruals and put the funds in a separate interest bearing account;
- 3) Wait until employer receives legal documentation from estate conservator/representative with further instructions (who and where to issue the final paycheck to, etc.);
- 4) Contact the next of kin (the son), and let him know the employer has a final paycheck for the employee, and that the employer will release the check to the representative of the estate once one has been appointed.
- 5) The estate's conservator must provide an affidavit (containing requisite statements) as well as proof of appointment in order for an employer to release funds per *Probate Code* § 13601.
Note: once this is received, the Authority will be relieved of any obligation or liability regarding the release of these funds.

We obtained Mr. Miller's death certificate and have contacted Mr. Miller's son. However, with respect to establishing a separate account for Mr. Miller's final earnings, while the Authority's investment policy allows funds to be transferred to and from the Alameda County Investment Pool and LAIF to established payroll and vendor/contractor payment accounts, staff must receive Authority approval prior to placing funds in other investments. Given that the law specifically states that Mr. Miller's final earnings must be placed in a separate interest bearing account, staff is seeking Authority Board approval to establish this account.

Mr. Miller's combined last paycheck and vacation accruals totals approximately \$4,100 (net earnings), and staff is recommending establishing a federally secured account such as a savings or flexible CD account in that amount. These funds will be released to Mr. Miller's estate when we receive the necessary documentation as outlined above. Staff is recommending opening this account with Wells Fargo, which handles the Agency's payroll and vendor payment accounts.

In addition, to avoid this problem in the future staff will provide a beneficiary designation form for final wages to all new and current employees, which will allow them to name beneficiaries for their final paycheck and vacation payout.

RECOMMENDATION

Staff is recommending that the P&A Committee recommend to the Authority Board to direct the Executive Director or designee to: 1) Establish a separate interest bearing federally secured account to hold Mr. Allan Miller's final earnings until the disposition of these earnings have been resolved pursuant to state law and, 2) Address any other issues regarding the proper disposition of compensation owed to Mr. Miller under Probate Code Section 13600(a), which covers the salary or other compensation owed by an employer for personal services of the deceased employee.