

DEPARTMENT: County Counsel BY: Jeffrey G. Green PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes\_\_\_ No\_X)

Adopt the attached Resolution which amends the previous Resolution adopted by the Board by revising Mario Diaz's disability retirement date from January 1, 1998 to February 1, 1998. PERS recently informed Mr. Diaz that because they did not receive his application for retirement until February 13, 1998, the effective date of retirement can be no earlier than February 1, 1998 in accordance with Government Code section 21252. Government Code section 21252 states:

"In no event shall the retirement date become effective or the retirement allowance begin to accrue earlier than the first of the month in which the member's application is received at an office of the board or by an employee of the system designated by the board."

This amended Resolution also includes a revision to the advanced disability pension payment section by not advancing disability payments. Mr. Diaz recently began receiving "Service Retirement" benefits while awaiting approval of his application for "Service Pending Industrial Disability Retirement"; an individual that files a "Service Pending Industrial Disability Retirement" application receives slightly more benefits than a straight "Service Retirement". After the adoption of the attached Resolution and upon receipt by PERS of the Resolution, PERS will forward to Mr. Diaz his remaining benefits.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board adopted Resolution No. 98-212 on June 9, 1998 certifying Mario Diaz's disability retirement effective January 1, 1998.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

N/A. The Board previously approved certifying Mario Diaz's disability retirement.

COSTS: ( ) Not Applicable  
A. Budgeted current FY \$ \_\_\_\_\_  
B. Total anticipated costs \$ \_\_\_\_\_  
C. Required additional funding \$ \_\_\_\_\_  
D. Internal transfers \$ \_\_\_\_\_

SOURCE: ( ) 4/5ths Vote Required  
A. Unanticipated revenues \$ \_\_\_\_\_  
B. Reserve for contingencies \$ \_\_\_\_\_  
C. Source description: \_\_\_\_\_  
Balance in Reserve for Contingencies, if approved: \$ \_\_\_\_\_

SPECIAL INSTRUCTIONS:  
List the attachments and number the pages consecutively:  
Resolution (as amended).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CLERK'S USE ONLY:  
Res. No.: 98-273 Ord. No. \_\_\_\_\_  
Vote - Ayes: 4 Noes: \_\_\_\_\_  
Absent: Parker Abstained: \_\_\_\_\_  
(X) Approved ( ) Denied  
( ) Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.  
Date: \_\_\_\_\_  
ATTEST: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California  
By: \_\_\_\_\_  
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:  
This item on agenda as:  
 Recommended  
 Not Recommended  
 For Policy Determination  
 Submitted with Comment  
 Returned for Further Action  
Comment: \_\_\_\_\_  
A.O. Initials: *JG*

RESOLUTION NO. 98-273  
(Amends Resolution No. 98-212)

RESOLUTION OF THE BOARD OF SUPERVISORS  
COUNTY OF MARIPOSA

Section 21156, Government Code

**WHEREAS**, the County of Mariposa (hereinafter referred to as Agency) is a contracting agency of the Public Employees' Retirement System;

**WHEREAS**, an application for disability retirement of Mario Diaz employed by the Agency in the position of Jail Officer has been filed with the Public Employees' Retirement System; and

**WHEREAS**, the County of Mariposa has reviewed the medical and other evidence relevant to such alleged disability;

**NOW, THEREFORE, BE IT RESOLVED**, that the County of Mariposa find and determine and it does hereby find and determine that Mario Diaz is incapacitated within the meaning of the Public Employees' Retirement Law for performance of his duties in the position of Jail Officer; and

**BE IT FURTHER RESOLVED THAT A PETITION** has been filed with the Workers' Compensation Appeals Board for a determination pursuant to Section 21166, Government Code; and a copy of such determination will be provided when rendered; and

**BE IT FURTHER RESOLVED** that the member was separated from his employment in the position of Jail Officer after expiration of his leave rights under Section 21164, Government Code, effective December 13, 1997 and that no dispute as to the expiration of such leave rights is pending.

There is not a possibility of third party liability.

Advanced Disability Pension payments will not be made.

The primary disabling condition is injury to right knee, right hip, and left elbow from a slip and fall.

The member's disabling condition is not a direct consequence of a violent act perpetrated upon the member's person.


The effective date of the member's disability retirement is February 1, 1998.

**PASSED AND ADOPTED** by the Mariposa County Board of Supervisors this 7th day of July 1998, by the following vote:

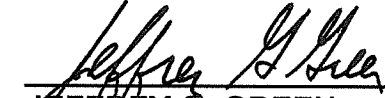
**AYES:** Reilly, Balmain, Stewart, Pickard  
**NOES:** None  
**ABSENT:** Parker  
**ABSTAINED:** None

  
\_\_\_\_\_  
**PATTI A. REILLY**, Chair  
Mariposa County Board of Supervisors

ATTEST:

  
\_\_\_\_\_  
**MARGIE WILLIAMS**  
Clerk of the Board

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
**JEFFREY G. GREEN**  
County Counsel