

RESOLUTION R-11-178

**A RESOLUTION OF MANATEE COUNTY, FLORIDA,
APPROVING THE "PICK UP" OF MANDATORY
CONTRIBUTIONS INTO THE FLORIDA RETIREMENT
SYSTEM AND IMPLEMENTING THE PROVISIONS OF
SECTION 414(H)(2) OF THE INTERNAL REVENUE CODE
ON BEHALF OF EMPLOYEES OF MANATEE COUNTY
GOVERNMENT; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Manatee County is a political subdivision of the State of Florida and participates in the Florida Retirement System pursuant to Florida Statutes Chapter 121 and has the authority to implement the provisions of section 414(h)(2) of the Internal Revenue Code ("IRC"); and

WHEREAS, the Florida Legislature passed, and the Governor approved, S.B. 2100, which modifies the Florida Retirement System (the "Plan"); and

WHEREAS, S.B. 2100 amends Florida Statutes §§ 121.071 and 121.71 to require that effective July 1, 2011, each employee shall contribute to the Plan on a salary-reduction basis in accordance with section 414(h) IRC in an amount equal to three percent (3%) of the employee's gross compensation effective July 1, 2011; and

WHEREAS, Florida Statutes § 121.71, as amended by S.B. 2100, provides that these contributions shall be reported as employer-paid employee contributions and credited to the account of the employee. The contributions shall be deducted from the employee's salary before the computation of applicable federal taxes and treated as employer contributions under section 414(h)(2) IRC. The employer specifies that the contributions, although designated as employee contributions, are being paid by the employer in lieu of contributions by the employee; and

WHEREAS, Florida Statutes § 121.71, as amended by S.B. 2100, provides that the employee does not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer into the Plan; and

WHEREAS, Florida Statutes § 121.71 as amended by S.B. 2100, provides that each employee making such a mandatory contribution shall be deemed to consent to any payroll deduction for purposes of the employee contribution; and

WHEREAS, section 414(h)(2) IRC provides that where contributions designated as employee contributions are “picked up” by the employer, the contributions so picked up shall be treated as employer contributions; and

WHEREAS, in accordance with Internal Revenue Service (“IRS”) Revenue Ruling 2006-43, the IRS will not treat designated employee contributions that are “picked up” by the employer pursuant to section 414(h)(2) IRC as includible in an employee’s taxable income until distributed, even if the employer effectuates the “pick up” of such contributions through a reduction in salary, provided the employer prospectively specifies through formal action that the contributions, although designated as employee contributions, are being paid by the employer.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, that effective July 1, 2011, the employee contributions of all Manatee County Government employees participating in the Plan and required to make employee contributions to the Plan pursuant to Florida Statutes §§ 121.071 and 121.71, although designated as employee contributions, shall be paid by Manatee County, Florida, in lieu of employee contributions; and

BE IT FURTHER RESOLVED that the source of each such contribution paid by Manatee County, Florida, shall be a corresponding reduction in the salary of the Manatee County Government

employee for whom Manatee County Government pays the required employee contributions to the Plan; and

BE IT FURTHER RESOLVED that the contributions designated as employee contributions that are "picked up" by Manatee County Government pursuant to this action shall be treated as paid by Manatee County Government for the purpose of section 414(h)(2) IRC, but shall be treated as employee contributions paid by employees for the purpose of Florida Statutes § 121.071 and 121.71; and


BE IT FURTHER RESOLVED that a Manatee County Government employee for whom Manatee County Government pays the required employee contributions to the Plan from and after the date of the "pick up" shall have no cash or deferred election right (within the meaning of section 1.401(k) – 1(a)(3) of the Treasury Regulations) with respect to the designated employee contributions paid to the Plan by Manatee County Government; and

BE IT FURTHER RESOLVED that the undersigned hereby authorizes and directs the officers, employees, representatives, and agents of Manatee County Government to take all such action as may be necessary and appropriate to implement the foregoing resolutions.

This action is being taken *nunc pro tunc*.

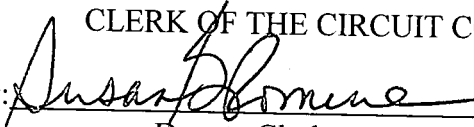
ADOPTED with a quorum present and voting this 23 day of August, 2011.

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

By: 
Chairman

ATTEST: R. B. SHORE

CLERK OF THE CIRCUIT COURT

By: 
Deputy Clerk

