

RESOLUTION NO. 2682

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTION 5.3.5 OF THE TOWN OF PAYSON PERSONNEL POLICY MANUAL TO COMPLY WITH HB 2643, RELATING TO COMPENSATION FOR PUBLIC SAFETY EMPLOYEES WHO ARE ELIGIBLE FOR WORKERS COMPENSATION, AND DECLARING AN EMERGENCY.

WHEREAS, on or about February 16, 2012, the Town of Payson adopted the current version of its Personnel Rules now known as the Town of Payson Personnel Policy Manual ("the Personnel Manual"); and

WHEREAS, on April 18, 2012, the Governor signed HB2643 into law, codified as A.R.S. §38-961, relating to Public Safety Supplemental Benefits Plan; and

WHEREAS, HB2643 takes effect on August 2, 2012; and

WHEREAS, the League of Arizona Cities and Towns ("the League") along with the Arizona Municipal Risk Retention Pool ("AMRRP") have been developing a model policy to implement HB2643; and

WHEREAS, on July 31, 2012, the Town received the League/AMRRP's model policy for implementing HB2643; and

WHEREAS, the Town of Payson desires to amend Section 5.3.5 (Workers' Compensation Leave) of the Personnel Manual by adding subsection (B), based upon the model policy, to implement HB2643,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. Section 5.3.5 of the Personnel Manual is hereby amended and as amended shall read as set forth in Exhibit A attached hereto.

Section 2. If any section, sentence, or portion of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The Town Council declares that it would have adopted this Resolution and each section, sentence, or portion thereof, irrespective of the fact that any one or more sections, sentences, or portions may be declared invalid or unconstitutional.

Section 3. Whereas, it is necessary for the preservation of the peace, health and safety of the Town of Payson, Arizona, and to provide for the immediate implementation of HB2643, an emergency is declared to exist and this Resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this ____ day of _____, 2012, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

ATTEST:

Silvia Smith, Town Clerk

Kenny J. Evans, Mayor

APPROVED AS TO FORM:



Timothy M. Wright, Town Attorney

Exhibit A
to
Resolution 2682

5.3 WORKERS' COMPENSATION LEAVE

5.3.5-SCHEDULE OF BENEFITS

A) The schedule of benefits described within this section shall apply to all employees not covered by subsection (B).

For absences of one (1) to seven (7) calendar days due to job related injury or illness arising out of and in the course of Town employment, employees will receive their regular pay from the Town without loss of accrued PTO, compensatory time, or personal leave.

For absences over seven (7) calendar days and beginning on the eighth day of absence, employees will be compensated by the Town up to 1,040 total hours, including those used in the first seven (7) days, on a regular biweekly payroll cycle, for the difference between compensation in accordance with the Arizona Workers' Compensation Act and 100% of their gross salary.

For absences beyond 1,040 hours, the Town may continue to supplement Arizona Workers' compensation payments up to 100% of the gross salary if the employee provides medical evidence that there is a reasonable likelihood that the employee will be able to return to his/her position within three (3) months.

Employer contributions shall be subject to applicable taxes, benefit deductions, and other applicable withholdings.

If the job related injury or illness continues beyond the thirteenth (13) calendar day, compensation shall be computed by the workers' compensation insurance carrier, in accordance with the Arizona Workers' Compensation Act, and made retroactive to the date of injury or illness in accordance with state law. This retroactive payment to the employees will result in an over payment for the first seven (7) days of workers' compensation leave as the employee will have already received payment for 100% of his/her salary from the Town. This duplicate payment received by the employee from the workers' compensation carrier for the first seven (7) days of absence shall be turned over to the Town. If the employee does not voluntarily comply with this provision, the Town reserves the right to collect the gross amount equal to the Workers' Compensation payments made to the employee for the first seven (7) days of Workers' Compensation leave from future payments to the employee, or any other method as may be suitable for the collection of said amount.

Employees who are on a continuous leave of absence and who are receiving workers' compensation benefits shall continue to accrue PTO for a period not to exceed thirty (30) calendar days after the date of the job related injury or illness.

B) Supplemental Benefits Plan for Members of the Public Safety Personnel Retirement System.

Purpose - The purpose of this Supplemental Benefits Plan for Public Safety Employees (SBP or "this plan") is to meet the requirements of A.R.S. §38-961 and provide additional economic benefits to police and fire employees who are injured and eligible for a specific category of workers' compensation benefits.

Eligibility - The Town has discretion to determine eligibility of an employee to participate or continue in this plan. To be eligible for supplemental benefits under this plan initially and to continue in the plan as described in this policy, the employee must meet all of the following criteria:

1. Be a police officer or firefighter who is a member of the Public Safety Personnel Retirement System, employed full-time by the Town at the time of injury.
2. Be injured and eligible for workers' compensation benefits pursuant to A.R.S. §23-1021.
3. Be receiving workers' compensation lost-time wage replacement benefits pursuant to A.R.S. §23-1041 and related statutes.
4. Request supplemental benefits, in writing addressed to the Human Resources Department, within 30 days of receiving first payment of workers' compensation lost-time wage replacement benefits pursuant to A.R.S. §23-1041.
5. Follow all other procedures for requesting benefits as outlined in this plan and any policies implementing the plan.
6. Participate in all risk management activities related to his or her workers' compensation injury.
7. If an alternative work assignment or light duty is available, be physically unable to return to work for the Town in any capacity, including alternative work assignments or light duty, as determined by the Town and as supported by the employee's physician or an independent medical exam (IME) ordered by the Town directly or through its workers' compensation insurance provider. The employee's inability to work in a capacity assigned by the Town, including inability to work light duty assignments, must be supported by appropriate medical documentation in order for the employee to remain eligible under this supplemental benefits plan.
8. Remain a full time employee of the Town during the time period the employee is receiving plan benefits.

Benefits - All benefits under this plan will be provided while the employee meets all eligibility criteria, for a period up to six months from the date the employee receives first payment of workers' compensation lost-time wage replacement benefits pursuant to A.R.S. § 23-1041.

Benefits under this plan include:

1. Payment by the Town of the difference in salary between the employee's base pre-injury salary, less taxes and the workers' compensation benefit paid to the employee under A.R.S. 38-961, and any other voluntary deductions on the part of the employee.

2. Continued payment of the Town's portion of health care benefits as was paid pre-injury and/or as is paid for other similarly enrolled employees. The employee remains responsible for paying the same portion of his/her health care benefits as was paid pre-injury and/or as is paid by similarly enrolled employees.
3. Payment by the Town of both employer and employee contributions to the Public Safety Personnel Retirement System. Payments for the employee's contributions may be subject to taxation.
4. Credit for service in the Public Safety Personnel Retirement System at the same accrual rate as pre-injury.
5. Maintenance of accrued PTO balances at pre-injury level (i.e., no accrual or deductions).

To the extent the employee is eligible for and receives salary or benefit changes while receiving benefits under this plan, the plan benefits will be adjusted accordingly. For instance, if all employees are provided automatic salary adjustments as part of an annual process, the employee will receive benefits under this plan based on his/her new adjusted salary as he/she would receive if not injured. Such adjustments may or may not benefit the employee. For instance, if during the benefit period under this plan the Town changes health care benefits to require a higher contribution by the employee, the employee will be required to pay additional premiums as would any other similarly situated employee.

Procedures - The following procedures shall be utilized in the application for benefits under this plan:

1. The Human Resources Department (which shall be the SBP Administrator) will receive all requests for plan benefits, in writing from the employee outlining the request and any relevant information needed for decision making by the Town. Such requests must be made within 30 days of the employee's receipt of his or her first lost-time wage replacement benefit paid under workers' compensation. Failure to make a request within the timeframe established herein shall be construed as a waiver of any rights under A.R.S. §38-961.
2. The SBP Administrator will review the written request, the circumstances surrounding the injury, employee eligibility for workers' compensation, and any other relevant factors. Within 30 days of receipt of request for benefits under this plan, the SBP administrator shall provide the employee with a written determination of benefits eligibility under this plan.
3. Supplemental benefits under the plan will be provided from the date of an employee's injury for a period not to exceed six months, as long as the employee continues to meet all eligibility criteria.
4. Employees granted benefits under this plan will cooperate fully with the Town, the SBP administrator, and others working to coordinate benefits.
5. The employee's PTO account will be frozen as of date of injury until conclusion of participation in the plan.
6. If an employee is denied participation in the plan for any reason, he/she has a right to appeal such denial. The process for doing so is, exclusively, the following:

- a. Within ten (10) working days from receipt of denial letter file a written appeal with the Town Manager stating the reason for the appeal and facts that the employee wishes to have considered.
- b. Within five (5) working days the Town Manager will render a written determination affirming or denying eligibility based upon the information provided.

Effective Date - This subsection shall be effective on August 2, 2012. The subsection shall sunset on September 20, 2014, unless the provisions of A.R.S. §38-961 as added by HB2643 (Chapter 287, 2012 Session Laws, Second Regular Session) are extended.