

# **A Guide for Municipal Coverage Plan Employers Considering a Pick-up of Employee Contributions**



**PERA**

Public Employees  
Retirement Association  
of New Mexico

**INVESTED IN TOMORROW.**

**Background:**

Contributions to Public Employee's Retirement Association's (PERA's) retirement plans are made by the employer and the employee in amounts set by law. A municipal coverage plan employer can elect to pick-up employee contributions in accordance with applicable federal and state law. Section 10-11-125 NMSA 1978 and Section 414 (h)(2) of the Internal Revenue Code provide for income tax deferral pick-ups and Section 10-11-5 NMSA 1978 sets out the authority and procedures for a municipal coverage plan employer to make employee contributions.

**Tax Deferral Pick-up:**

A municipal coverage plan employer may pick-up the employees' portion of the retirement contribution to a qualified pension plan. Taxes for the picked-up contributions may then be deferred until the employee receives the contributions as either a refund after termination of employment or as retirement benefits. Without a pick-up, employee contributions to a qualified pension plan are generally taxable at the time the contribution is made. A pick-up allows deferral of the income taxes on the employee's required contribution amount. Please note:

- No federal income or state income taxes are withheld from the picked-up (tax-deferred) retirement contributions as long as the municipal coverage plan employer has filed a resolution authorizing employer pick-up of member contributions for determining tax treatment under the Internal Revenue Code. A sample resolution is included on page 6.
- The contributions are not reported as taxable income on the employee's W-2 form for federal or state purposes.
- Contributions are subject to local taxes and may be subject to Medicare taxes.

**Employer Pick-Up of Employee Contributions:**

A municipal coverage plan employer can elect to pay up to 75% of the statutorily defined employee contributions to PERA on behalf of all or a specified group of employees. Pick-ups done through formal resolution are **irrevocable**. Individual governmental entities should consider the long-term fiscal impact when considering adoption of a resolution. Employees do not have the option to receive the contributions directly. All contributions are paid by the employer directly to PERA. A sample is included on page 7 of this guide.

At the time a municipal coverage plan employer elects to pay (pick-up) a portion of the employees’ retirement plan contribution, the percentage of the employee contribution the employer plans to pick-up must be designated in the municipal coverage plan employer’s resolution to PERA. The following provides a list of current municipal employee contribution rates for employees who earn \$25,000 or more annually. Employee Contribution Percentages are set by state statute and are subject to change.

Coverage Plan	Employee Contribution Percentage
General Plan 1	9.50%
General Plan 2	11.65%
General Plan 3	15.65%
General Plan 4	18.15%
Police Plan 1	9.50%
Police Plan 2	9.50%
Police Plan 3	9.50%
Police Plan 4	14.85%

Coverage Plan	Employee Contribution Percentage
Police Plan 5	18.80%
Fire Plan 1	12.00%
Fire Plan 2	12.00%
Fire Plan 3	12.00%
Fire Plan 4	16.80%
Fire Plan 5	20.20%
Detention Officer Plan 1	19.15%

### Percentage of Employee Contribution Pick-up Example #1:

The municipal coverage plan employer wants to reduce the amount withheld from employees' pay for the Municipal Plan 3 employee contribution from 15.65% to 14.65%. The percentage of the pick-up would be 6.83%:

$$1.00 - (14.65 \div 15.65) = 0.0639 \text{ (i.e. 6.39\%)}$$

To double-check the percentage:

$$15.65 \times 6.39\% = 1.00$$

In this example, the employee is responsible for paying 14.65% of the employee's gross salary and the employer pays (picks-up) the remaining 1.00% of the employee's gross salary in addition to the required employer contributions.

### Percentage of Employee Contribution Pick-up Example #2:

The municipal coverage plan employer wants to reduce the full Municipal Plan 3 employee contribution by 1.00%. To determine the percentage the following applies:

$$15.65 \times 1\% = 0.1565$$

$$\text{Then, } 15.65 - 0.1565 = 15.4935$$

To double-check the percentage:

$$1.00 - (15.4935 \div 15.65) = 0.01 \text{ (i.e. 1.00\%)}$$

In this example, the employee is responsible for paying 15.4935% of the employee's gross salary and the employer picks-up the remaining 0.1565% of the employee's gross salary.

**Note:** In both examples, the required employee contribution amount (15.65% of the employee's gross salary) is deposited to the employee's account at PERA.

**How to implement a Tax Deferral or Employer Pick-up:**

When a municipal coverage plan employer chooses to implement a pick-up, the following steps must be taken:

- Draft a tax and/or employee contribution pick-up resolution to be approved by your governing body.
- Sample resolutions 1 and 2 are included on pages 6 and 7 for your convenience; however, you must tailor the resolution to your organization.
- Send the draft resolution to PERA's Contribution Accounting Division prior to presenting it to your governing body. PERA will review the document to ensure the resolution meets PERA's regulatory requirements. We may request that you ask for a Private Letter Ruling from the IRS to confirm that your plan is in compliance before PERA approves the pick-up resolution.
- Finally, your pick-up must be approved by your governing body and a copy of the approval documents must be submitted together with a cover letter to PERA. Once approved, you will receive a letter confirming the approval and effective date of your pick-up.

(Sample Resolution #1)

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION AUTHORIZING EMPLOYER PICK-UP OF MEMBER CONTRIBUTIONS FOR DETERMINING TAX TREATMENT UNDER THE INTERNAL REVENUE CODE**

**WHEREAS**, the employees of [insert employer’s name], with few exceptions, are members of the Public Employees Retirement Association of New Mexico; and

**WHEREAS**, members have mandatory PERA contributions deducted from their compensation and paid to PERA; and

**WHEREAS**, members must pay federal income tax on the mandatory PERA contributions deducted from their compensation; and

**WHEREAS**, Section 414(h) of the Internal Revenue Code provides for the exclusion of such contributions from current income if the contributions are picked-up by the members’ employer; and

**WHEREAS**, the Governing Body of [insert employer’s name] has the authority to establish the compensation plan(s) for employees of [insert employer’s name];

**NOW, THEREFORE, BE IT RESOLVED** by the State of New Mexico, acting by and through the Public Employees Retirement Association, that [insert employer’s name], as employer, shall pick-up the member contributions required of all PERA members in its employ. The picked-up member contributions shall be treated as employer contributions for the purpose of determining tax treatment under the Internal Revenue Code. Member contributions picked-up shall not be included in the employee’s gross income for tax purposes until such time as the picked-up contributions are distributed by refund or annuity payments.

[Insert employer’s name] shall pick-up the member contributions from funds established and available in the payroll account, which funds would otherwise have been designated as member contributions, deducted from the member’s salary and paid to PERA. Member contributions picked-up pursuant to this resolution shall be treated for all other purposes the same as member contributions made prior to the effective date of this resolution.

[Insert employer’s name] will ensure that it has the expertise and equipment to implement the change in payroll records and the preparation of W-2 forms at the end of each calendar year.

Adoption of this resolution is applicable to, and incorporates by reference, [insert employer’s name] resolution that adopted the following Coverage Plan: PERA Municipal [insert coverage plan, ie: General, Fire, Police, or Detention Officer] Coverage Plan \_\_\_\_\_.

**PASSED, APPROVED AND ADOPTED BY THE GOVERNING BODY OF THE [EMPLOYER’S NAME] ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_.**

**[Employer’s Name]**

**By: Printed Name, Title (i.e, Mayor, Chairperson, etc.)**

**ATTEST:**

\_\_\_\_\_  
**Printed Name, Title (i.e. Clerk, Treasurer, etc.)**

(Sample Resolution #2)

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING \_\_\_\_\_% PICK-UP  
OF PERA MEMBER CONTRIBUTIONS

WHEREAS, NMSA 1978, Section 10-11-5, authorizes affiliated public employers to be responsible for making contributions of up to seventy-five percent of its employees' member contributions to the Public Employees Retirement Association (PERA) under certain conditions;

WHEREAS, (explain the circumstances, ie: union agreement, equity, etc., why the governing body is adopting this resolution);

WHEREAS, [insert employer's name] desires to make seventy-five percent (75%) (or *whatever percentage is desired up to 75%*) of employee contributions for its municipal employees covered under PERA Municipal [insert coverage plan, ie: *General, Fire, Police, or Detention Officer*] Coverage Plan \_\_\_\_\_. (This paragraph should clearly identify the PERA coverage plan.);

WHEREAS, pursuant to NMSA 1978, Section 10-11-5, this Resolution is irrevocable (subject to the exceptions set forth in Section 10-11-5) and shall apply to all [insert employer's name] employees [or specify covered group of employees] within PERA Municipal [insert coverage plan, ie: *General, Fire, Police, or Detention Officer*] Coverage Plan \_\_\_\_\_;

THEREFORE, BE IT RESOLVED, that [insert employer's name], pursuant to NMSA 1978, Section 10-11-5, hereby elects to be responsible for making contributions of seventy-five percent (75%) (or *whatever percentage is desired up to 75%*) of employees' member contributions to the Public Employees Retirement Association for its municipal employees (or *police or firefighters*) under PERA Municipal [insert coverage plan, ie: *General, Fire, Police, or Detention Officer*] Coverage Plan \_\_\_\_\_.

**PASSED, APPROVED AND ADOPTED BY THE GOVERNING BODY OF THE [EMPLOYER'S NAME] THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.**

[Employer's Name]

\_\_\_\_\_  
By: Printed Name, Title (i.e. Mayor, Chairperson, etc.)

ATTEST:

\_\_\_\_\_  
Printed Name, Title (i.e. Clerk, Treasurer, etc.)

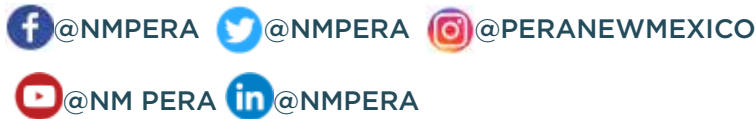
**Instructions for using these documents:**

- All blanks must be completed to make the resolution specific to your entity and situation.
- Refer to employee(s) included in the plan by job title and classification; do not use names.
- Resolution must be on your organization's letterhead. A separate resolution must be submitted for each plan.
- The sample resolution for Employer Pick-ups assumes all employees are eligible to participate. If fewer than all employees will be eligible under your pick-up plan, you must specify the eligible classes of employees in your resolution.

**Note:** PERA reserves the right to request that you ask for a Private Letter Ruling from the IRS to confirm your plan is in compliance.

For questions, please email [PERA-Albuquerque@state.nm.us](mailto:PERA-Albuquerque@state.nm.us).

[www.nmpera.org](http://www.nmpera.org)



**August 2023**

This brochure is written in plain language for use by PERA affiliated public employers and is intended solely as a convenient guide concerning PERA procedures. As a result, the information is of a general nature and may not apply to all situations. Neither PERA nor the PERA Board of Trustees provides legal, accounting or tax advice. This brochure is not a contract. It is not intended to, and cannot be considered to, create any contractual obligation on the part of PERA. Future changes in federal or state law may make some information obsolete. In all situations, the provisions of federal and state law control and override any statement or information contained in this brochure.