

---

---

**BRENT P. COLLINSON, ATTORNEY AT LAW**

---

---

**DATE:** 3/22/2015  
**TO:** TTAD BOARD OF DIRECTORS  
**FROM:** BRENT P. COLLINSON  
**RE:** HEALTH INSURANCE BENEFITS/PI 212

---

One item on this month's Agenda is a proposed revision to Policy Instruction 212. This is proposed in order to better ensure compliance with Government Code section 53208.5, below. The most pertinent portions are sub-sections (b) and (c):

**53208.5. Health and welfare benefits for members of legislative bodies; limits; legislative findings, declarations and intent**

(a) It is the intent of the Legislature in enacting this section, to provide a uniform limit on the health and welfare benefits for the members of the legislative bodies of all political subdivisions of the state, including charter cities and charter counties. The Legislature finds and declares that uneven, conflicting, and inconsistent health and welfare benefits for legislative bodies distort the statewide system of intergovernmental finance. The Legislature further finds and declares that the inequities caused by these problems extend beyond the boundaries of individual public agencies.

Therefore, the Legislature finds and declares that these problems are not merely municipal affairs or matters of local interest and that they are truly matters of statewide concern that require the direct attention of the state government. In providing a uniform limit on the health and welfare benefits for the legislative bodies of all political subdivisions of the state, the Legislature has provided a solution to a statewide problem that is greater than local in its effect.

(b) Notwithstanding any other provision of law, the health and welfare benefits of any member of a legislative body of any city, including a charter city, county, including a charter county, city and county, special district, school district, or any other political subdivision of the state shall be no greater than that received by nonsafety employees of that public agency. In the case of agencies with different benefit structures, the benefits of members of the legislative body shall not be greater than the most generous schedule of benefits being received by any category of nonsafety employees.

(c) Notwithstanding any other provision of law, members of the legislative body of a city, including a charter city, county, including a charter county, city and county, special district, school district, or any other political subdivision of the state shall not be eligible

to accrue multiple health and welfare benefits greater than the most generous schedule of benefits being received by any category of nonsafety employees from two or more public agencies for concurrent service except in the case of a member who serves as a regular full-time employee in a separate public agency.

(d) This section shall be applicable to any member of a legislative body whose first service commences on and after January 1, 1995.

Unfortunately, the Legislature failed to specify if the "benefits" are the premiums being expended or the coverage. There are no reported cases interpreting this section. My interpretation is that it refers to the coverage, not the cost as presumably the Legislature would have specified cost if that was what was intended.

Therefore, the District has in the past attempted to ensure that the coverage provided to the Directors by the District is no greater than that received by the employees. However, as Ms. Lyon has noted, it is difficult to locate a service that will compare policy coverage. However, staff has located a policy through CalPERS that offers nearly identical benefits.

Therefore, in order to better ensure compliance with the Government Code, it is proposed (and recommended) that the Board revise PI 212 as drafted. Although it is believed that our current policy is in compliance with the Code, utilizing the CalPERS policy or allowing a Director to obtain their own coverage but be limited in the reimbursement received to the cost of coverage for the District's employees.

One final item to note: since the Board's decision may reasonably have a foreseeable economic impact on all of the Board Members, the minimum number of directors that do have a conflict will be selected at random pursuant to the "Rule of Necessity". It will be necessary to disclose that conflict and why the "Rule of Necessity" is being utilized. Those directors not so selected (and having that potential conflict) must also disclose that conflict and leave the room, but may make public comment on the proposed action as it relates to themselves.

BPC

*B. C.*