



## Legislation Text

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File #: 2019-341, Version: 1

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### Resolution - Approval of Amendments and Restatement of Employees' 401(k) Savings Plan - R Smith

Submitted By: Audri Nelson on behalf of Wes Burns

Department: Human Resources

**Financial Impact and Cost/Benefit Considerations:** Anticipated cost of \$44,608 for ("true-up") plan year employer matching contribution adjustment; anticipated \$454,000 for any additional employer match on employee contributions of bonus; and anticipated \$212,500 for employer match on employee contributions of accrued PTO trade-outs. Anticipated amounts are subject to federal limits currently in effect at this time under our current Plan that includes amounts for which PEC currently may match to employees' accounts.

The Cooperative wishes to amend and restate the Pedernales Electric Cooperative, Inc. Employees' 401(k) Savings Plan document to incorporate several prior amendments to the Plan, clarify the Plan's current administrative practices, and make several optional design changes to the Plan.

**WHEREAS**, effective January 1, 1968, Pedernales Electric Cooperative, Inc. ("Plan Sponsor"), established, for the exclusive benefit of its employees and their beneficiaries, the *Pedernales Electric Cooperative, Inc. Employees Defined Contribution Savings Plan* ("Plan"), a money purchase pension plan intended to qualify under Sections 401(a) and 501(a) of the Internal Revenue Code;

**WHEREAS**, effective December 31, 2001, the Plan Sponsor amended the Plan to add a qualified cash or deferred arrangement to the Plan as permitted to a "rural cooperative plan" under Section 401(k)(7)(A) of the Internal Revenue Code, eliminated the fixed employer contribution previously provided for under the Plan, so that it became a profit-sharing plan rather than a money purchase pension plan as of January 1, 2002, and renamed the Plan the *Pedernales Electric Cooperative, Inc. Employees' 401(k) Savings Plan*;

**WHEREAS**, under the terms of the Plan, the Plan Sponsor has the continuing ability to amend the Plan;

**WHEREAS**, the Plan Sponsor has most recently amended and restated the Plan effective January 1, 2012 and has subsequently amended the restated Plan four times; and

**WHEREAS**, the Board of Directors ("Board") of the Plan Sponsor now desires to amend and restate the Plan, effective as of January 1, 2020, except as otherwise provided below to: (i) permit participants to make elective deferrals to the Plan from bonus payments and certain payments related to accrued paid time off ("PTO Payments"); (ii) provide for matching contributions on catch-up contributions and elective deferrals made with respect to bonus payments and PTO Payments; (iii) provide for an annual "true-up" adjustment on matching contributions, effective January 1, 2019; (iv) add an automatic enrollment feature with respect to newly hired employees, (v) eliminate the joint and survivor annuity default form of payment with respect to new Plan participants who are married at the time of a distribution; (vi) permit participants to make in-service withdrawals of their entire Plan account, including employer contributions, beginning at age 59 ½; (vii) clarify certain timing and service rules related to matching contributions; (viii) remove a 1,000 hours of service requirement for employees not classified as full-time; (ix) revise the Plan's election requirements applicable to catch-up contributions; (x) clarify that Department of Labor regulations applicable to certain "disability claims" do not apply to the Plan; and (xi) make certain other minor changes and clarifications.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE COOPERATIVE** that the

Plan is hereby amended and restated, effective January 1, 2020, except as otherwise stated herein, in the form presented to the Board and attached as Exhibit "A."

**BE IT FURTHER RESOLVED** that the Chief Executive Officer, or designee, is authorized, in the name of and on behalf of the Plan Sponsor, to take all such other steps as necessary to implement this resolution.