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**Board of Supervisors**

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**Brad Wagenknecht**
Chairman

FILED
SEP 17 2013
Clerk of the Napa Superior Court
By: C. Brennan
Deputy

September 10, 2013

The Honorable Diane Price
Presiding Judge
Superior Court of California, County of Napa
825 Brown Street
Napa, CA 94559

Dear Judge Price:

As required by Penal Code Section 933(c), enclosed is the response by the Board of Supervisors to the 2012-2013 Final Report on A Review of Napa County Public Employee Retirement Benefits.

The Board would like to acknowledge the members of the 2012-2013 Grand Jury for the time they have devoted in preparing their report. Grand Jury members committed an enormous amount of time in educating themselves on the complexities of retirement benefits afforded public employees. The amount of research completed and individuals interviewed was extraordinary. The Board is grateful for the thorough analysis.

Sincerely,

Brad Wagenknecht, Chairman
Napa County Board of Supervisors

Enclosure

cc: Foreman, 2012-2013 Grand Jury

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# NAPA COUNTY
# RESPONSE TO THE GRAND JURY FINAL REPORT
# A REVIEW OF NAPA COUNTY PUBLIC EMPLOYEE RETIREMENT BENEFITS
# FISCAL YEAR 2012-2013

**Finding 1**: Napa County never allowed the "spiking" of final salaries for pension benefit calculation, with one-time bonuses, unused vacation time and other extraordinary compensation items.

***Board of Supervisors Response***: The Board of Supervisors agrees with this finding. While some of the "spiking" identified by the Grand Jury is not available to the County as a participating member of CalPERS, other benefits could have been negotiated but the County, together with its bargaining groups, has consistently avoided those benefits.

**Finding 2**: In FY2004-2005, Napa County, like virtually all California entities, adopted retroactive enhanced pension formulas enabled by SB400. These benefit enhancements contributed to reduced funding levels.

***Board of Supervisors Response***: The Board of Supervisors agrees with this finding. SB 400 took effect January 2000. After that, it became increasingly evident as public entities continued to approve benefit enhancements, that the County's ability to recruit and retain talented individuals would be difficult if we did not offer similar benefits. Through negotiations, the Board agreed to equally share the cost of the new benefit formula which took effect in December 2004. The agreed upon benefit was 2.5% @ 55 versus the more aggressive formulas being adopted statewide such as 2.7% @ 55 or 3% @ 60.

**Finding 3**: Subsequently, Napa County took assertive steps, ahead of the California State Legislature action on public pension reform, to reduce future County pension and OPEB liabilities.

***Board of Supervisors Response***: The Board of Supervisors agrees with this finding. Beginning in 2008, with a very aggressive position regarding funding its liability for Other Post Employment Benefits (OPEB) and through its recent action to not phase in the cost of actuarial assumption changes, the Board and working with employee bargaining groups have continued to reduce future pension and OPEB liabilities.

**Finding 4**: In FY2010-2011 the County adopted lower pension formulas for all employee categories.

***Board of Supervisors Response***: The Board of Supervisors agrees with this finding. Through negotiations, the Board adopted lower formulas for all employee bargaining groups well in advance of the new pension reform package.

**Finding 5**: Napa County's strong and growing local economy has helped to maintain the affordability and sustainability of pension and OPEB benefit plans despite increasing ARCs.

***Board of Supervisors Response***: The Board of Supervisors agrees in part with this finding. As the Grand Jury correctly points out another significant contributor is the return on investment earned at CalPERS as well as the cost sharing agreed to with employee bargaining groups.

**Finding 6**: The most significant contributor to the growing levels of unfunded pension and OPEB liabilities is CalPERS' ROI, a factor that is not controlled by Napa County.

***Board of Supervisors Response***: The Board of Supervisors agrees with this finding.

**Finding 7**: Under the doctrine of "vested rights", pension and OPEB benefit formula reductions can only be applied to new employees; thus, such changes will do very little to reduce the County's unfunded liabilities in the next 10-15 years.

***Board of Supervisors Response***: The Board of Supervisors agrees with this finding. The impact of recent retirement formula reductions will increase over time as employees with higher retirement formulas retire and are replaced by new employees with lower retirement formulas and benefits. The Board has made proactive changes to reducing OPEB and retirement benefits that will have a significant impact in future years.

**Finding 8**: Statutes and institutionalized policies have impeded progress toward reducing unfunded liabilities of retiree benefit plans. As a consequence, a single incident of imprudent management of retirement benefits, or unexpectedly negative investment returns, can have a long term negative impact on funding status of such liabilities.

***Board of Supervisors Response***: The Board of Supervisors agrees with this finding.

**Finding 9**: The concept of a hybrid pension plan has become more popular with taxpayers and has been approved by voters in some California entities. However, such plans face legal and logistical hurdles and may not be the most equitable and cost-effective method of providing retirement income security to public employees.

***Board of Supervisors Response***: The Board of Supervisors agrees with this finding. In its 2008 review of the Grand Jury findings, the Board reviewed hybrid plans determining that unless they become available throughout the State they will negatively impact the County's ability to recruit and retain qualified and talented individuals.

**Finding 10**: Napa County has experienced steep increases in healthcare costs for both active and retired employees, which has contributed to the difficulty in managing OPEB funding.

***Board of Supervisors Response***: The Board of Supervisors agrees that steep increases in healthcare costs has contributed to its liability; however, the Board has been very aggressive funding its OPEB obligation and is committed to effectively managing this component of its retirement benefits.

**Finding 11**: In late 2012, the State Legislature enacted the California Public Employee Pension Reform Act of 2013 (PEPRA), which has enabled CalPERS-contracting entities to reduce future post-retirement benefit obligations. Napa County is well along the path to the full implementation of PEPRA.

***Board of Supervisors Response***: The Board of Supervisors agrees with this finding.

**Finding 12**: PEPRA, combined with recent proposed changes to CalPERS actuarial methodology and the potentially precedent-setting legal challenges to public employees' "vested right" to retirement benefits, show promise to provide improved capability of public entities to manage their retirement benefit obligations while still retaining qualified employees.

***Board of Supervisors Response***: The Board of Supervisors agrees with this finding.

**Recommendation No. 1**: Implement all PEPRA provisions as soon as practicable, but no later than at the time of adoption of the next memorandum of understanding (MOU) with the employee bargaining units.

***Board of Supervisors Response***: The recommendation has been implemented. When the two employee union memoranda of understanding expire (Deputy Sheriff's Association – September 30, 2013 and Napa Association of Public Employees, SEIU Local 1021- June 30, 2014) all new PERS members hired after December 31, 2013 will begin paying a minimum of half the normal cost of their retirement benefit. Until those dates they will pay the same amount as the other members of the bargaining unit or half the normal cost.

**Recommendation No. 2**: Maintain a maximum 20-year amortization of the unfunded OPEB liability in addition to funding all current obligations on a pay-as-you-go basis. Reduce the amortization period if an opportunistic funding mechanism develops.

***Board of Supervisors Response***: The recommendation has been implemented. The Board of Supervisor's adopted Budget Policies include a policy which specifies, "Continue to fund the County's Other Post-Employment Benefits (OPEB) unfunded liability on a 20-year amortization schedule, and allocate the relevant cost to County Departments." The Board is committed to maintaining funding to fully fund OPEB obligations by 2028 and has built this in as an ongoing part of the County Budget. If a future funding mechanism becomes available the Board would consider shortening the funding time-frame.

**Recommendation No. 3**: Develop plans to control future health care costs including the concepts advocated by the Government Finance Officers Association (GFOA) of accessing increased-deductible or higher co-pay insurance plans.

***Board of Supervisors Response***: The recommendation requires further analysis. The County will continue to work with CalPERS, our health insurance provider, to identify options for controlling employee health care costs in the years ahead. With the implementation of the Affordable Care Act over the next few years, the County must meet increasingly complex criteria when providing employee health insurance, including minimum value and affordability tests. Developing cost effective approaches to providing quality employee health benefits will be a priority for the County and other employers in the years ahead.

**Recommendation No. 4**: Implement a side-fund to offset the risk of overly optimistic discount rate assumptions by CalPERS, if a budget surplus or another opportunistic funding source becomes available.

***Board of Supervisors Response***: The recommendation requires further analysis and would likely require negotiation with employee labor representatives because of the County's cost sharing formulas.

**Recommendation No. 5**: Develop a plan to phase in the ARC changes that will result from recently announced CalPERS actuarial methodology and discount rate changes, as quickly as financially feasible.

***Board of Supervisors Response***: The recommendation has been implemented. Staff is working with the County's actuary to project future costs associated with the changes in actuarial methodology and discount rate policies adopted by CalPERS. Once the revised projections are available, they will be included in the Five Year Budget Plan and budgeted accordingly in future fiscal years.

**Recommendation No. 6**: If favorable rulings result from federal bankruptcy proceedings concerning California jurisdictions, investigate freezing earned pension benefits of active employees who were beneficiaries of the SB400 retroactive formula enrichments and reset to the lower formulas in effect when the employees joined the County.

***Board of Supervisors Response***: The recommendation requires further analysis. There continues to be significant debate as to whether an employer can reduce previously agreed to pension benefits. Any future reduction in benefits would likely require negotiation with employee labor representatives before a change could be made and would almost certainly face significant legal challenges.