County of Santa Clara

Employee Services Agency

County Government Center, East Wing
70 West Hedding Street, 8th Floor
San Jose, California 95110-1705

RECEIVED
MAR 29 2017
CIVIL GRAND JURY

Sent Via E-Mail to JJones@scscourt.org

March 29, 2017

Santa Clara County Civil Grand Jury
Superior Court
Attention: Tamara Davis, Deputy Manager of Jury Services
191 North First Street
San Jose, California 95113

Dear Mr. Davis,

On February 14, 2017, the 2016-2017 Santa Clara County Civil Grand Jury requested a follow-up to the 2011-2012 Santa Clara County Civil Grand Jury report entitled "An Analysis of Pension and Other Post-Employment Benefits." The follow-up requests the following:

1) How the County views the various recommendations;
2) Whether the recommendations were accepted;
3) If there is a plan for future action.

Upon the issuance of the report, "An Analysis of Pension and Other Post-Employment Benefits" ("Report"), at the August 21, 2012 meeting of the County of Santa Clara Board of Supervisors (Item No. 20), the Board adopted the response from County Administration and recommendations relating to the Report. Please see ATTACHMENT 1.

This letter provides the responses from the County of Santa Clara, Employee Services Agency ("County"), including additional information, changes, and/or Board actions taken since the issuance of the Report in 2012 to the present.

- In 2013, the Board took several specific actions to address the unfunded liability for Other Post-Employment Benefits (OPEB), resulting in an OPEB funded status of 32.5% as of June 30, 2016, which is an increase of 22.4% when compared to the funded ratio of 10.10% described in the Report (page 17). In 2017-2018 and beyond, the County contributions would equal 100% of the Annual Required Contribution.

- A new 15-year service requirement tier is in place for the majority of employees hired after August 2013 to qualify to receive retiree medical benefits.

- In addition to the statewide impacts from pension reform, the County has taken additional steps to reduce pension liabilities. During the 2014-2016 labor contract negotiation cycle, the County reached agreement with all but two of its labor organizations to end the Employer Paid Member Contribution (EPMC) to PERS for Classic members.

- On February 7, 2017, the Board directed the Administration to prepay the CalPERS Annual Unfunded Actuarial Liability contribution, which may result in a short-term savings of up to $7 million.

Finding 1: Public sector employees are eligible for retirement at least 10 years earlier than is common for private sector employees.

Recommendation 1: The Cities should adopt pension plans to extend the retirement age beyond current retirement plan ages.

> **County Follow-up Response**: The California Public Employees' Pension Reform Act (PEPRA), which took effect in January 2013, reduces the benefit formula and increases the retirement age provisions for all new miscellaneous and safety members hired on, or after, January 1, 2013. PEPRA creates a new defined benefit formula of 2% at age 62 for all new miscellaneous members, with an early retirement age of 52 and a maximum benefit factor of 2.5% at age 67. Likewise, PEPRA also creates three new defined benefit formulas for new safety members: 2% at age 57, 2.5% at age 57, and 2.7% at age 57.

Finding 2: Campbell, Gilroy, Los Altos Hills, Los Gatos, Milpitas and Palo Alto have adopted second tier plans that offer reduced Benefits, which help reduce future costs, but further changes are needed to address today's unfunded liability. Santa Clara County and the cities of Cupertino, Los Altos, Monte Sereno, Morgan Hill, Mountain View, San Jose, Santa Clara, Saratoga and Sunnyvale have not adopted second tier plans.

Recommendation 2A: Santa Clara County and the cities of Cupertino, Los Altos, Monte Sereno, Morgan Hill, Mountain View, San Jose, Santa Clara, Saratoga and Sunnyvale should work to implement second tier plans.

> **County Follow-up Response**: Same as the follow-up response to Recommendation 1.

Recommendation 2B: For Gilroy, Los Gatos, Milpitas and Palo Alto, which have not implemented second tier plans for Misc. and Public Safety, second tier plans should be implemented for both plans.

> **County Follow-up Response**: Not applicable, as this Recommendation was directed to the four cities listed.

Recommendation 2C: All Cities' new tier of plans should close the unfunded liability burden they have pushed to future generations. The new tier should include raising the retirement age, increasing employee contributions, and adopting pension plan caps that ensure pensions do not exceed salary at retirement.

County Follow-up Response: PEPRA provides that, beginning in 2018, an employer may require employees to pay 50 percent of the total annual normal cost, up to an 8 percent contribution rate for miscellaneous employees and an 11 or 12 percent contribution rate for safety employees. PEPRA doesn't require an employer to implement this change, but the employer may do so once the employer has completed the good faith bargaining process as required by law, including any impasse procedures requiring mediation and fact finding.

Employer Paid Member Contributions (EPMC) are generally prohibited for new members, unless an existing MOU effective January 1, 2013, or prior, will be impaired. However, EPMC are prohibited for new members once the impaired MOU is amended, extended, renewed, or expires. During the 2014-2016 negotiations, the County reached agreement with all but two of its labor organizations to end EPMC to PERS for Classic members.

Other pension plan changes provided by PEPRA include a cap on the annual salary that can be used to calculate final compensation for all new members (excluding judges) at $118,775 (2017) for employees that participate in Social Security, or $142,530 for those employees that do not participate in Social Security. For new members, final compensation is the average annual pensionable compensation for a 36-consecutive-month period of employment.

Finding 3: Retroactive benefit enhancements were enacted by Cities using overly optimistic ROI and actuarial assumptions without adequate funding in place to pay for them.

Recommendation 3: The Cities should adopt policies that do not permit benefit enhancements unless sufficient monies are deposited, such as in an irrevocable trust concurrent with enacting the enhancement, to prevent an increase in unfunded liability.

County Follow-up Response: Under CalPERS law, Public employers are prohibited from granting retroactive pension benefit enhancements that would apply to service performed prior to the operative date of the enhancement.

Finding 4: The Cities are making an overly generous contribution toward the cost of providing Benefits.

Recommendation 4A: The Cities should require all employees to pay the maximum employee contribution rate of a given plan.

County Follow-up Response: Through negotiations with the labor organizations, most employees have agreed to share in the costs to provide health benefits and retiree medical benefits. Additionally, a majority of the employees hired starting in August 2013 are subject to a 15-year vesting period (up from ten years) before they would be entitled to receive retiree medical benefits. (The impact of the new eligibility requirement on those employees varies based on their date of hire as well as their bargaining unit.) As of June 30, 2016, about 21% of active employees were subject to the 15-year service requirement.

For active employees, most labor agreements provide for employees to pick up an additional amount equal to 10% of that year's total premium increases for Fiscal Years 2016 through 2019. The total amount of contributions made by employees toward medical premium costs is approximately $7 million each year.

For 2015-2016, the total amount of contributions made by employees toward retiree medical costs was about $5.2 million. In 2016-2017, the amount of employee contributions to retiree medical costs is projected to be $5.5 million.

Recommendation 4B: The Cities should require employees to pay some portion of the Past Service Cost associated with the unfunded liability, in proportion to the benefits being offered.

County Follow-up Response: No change to the initial response submitted in 2012.

Finding 5: The Cities are not fully funding OPEB benefits as evidenced by large unfunded liabilities and small funded ratios.

Recommendation 5: The Cities should immediately work toward implementing policy changes and adopting measures at making full OPEB ARC payments as soon as possible.

County Follow-up Response: The Board had taken several actions resulting in an OPEB funded status of 32.5% as of June 30, 2016, which is an increase of 22.4% when compared to the funded ratio of 10.10% described in the Report (page 17).
On June 21, 2013, the Board adopted Resolution No. 2013-92 to allocate 60% of the revenues resulting from the dissolution of the Redevelopment Agencies to the County's trust fund, California Employers Retirement Benefit Trust (CERBT), which is administered by CalPERS. Please see ATTACHMENT 2.

Additionally, in September 2013, the Board adopted County Ordinance No. NS-300.866 to incrementally increase the level of annual required contributions (ARC). For 2016-2017, the County contributions would equal 90% of the ARC. In 2017-2018 and beyond, the County contributions would equal 100% of the ARC. The funding ordinance also provides that the unfunded liabilities be paid off within 30 years of July 1, 2017, and that this closed 30-year amortization period will be used starting with the fiscal year that begins July 1, 2017. Please see ATTACHMENT 3.

Finding 6: The City of San Jose permits the transfer of pension trust fund money, when ROI exceeds expectations, to the SRBR, despite the fact that the pension trust funds are underfunded.

Recommendation 6: The City of San Jose should eliminate the SRBR program or amend the SRBR program to prevent withdrawal of pension trust money whenever the pension-funded ratio is less than 100%.

County Follow-up Response: Not applicable.

Finding 7: The Cities defined benefit pension plan costs are volatile. Defined contribution plan costs are predictable and therefore more manageable by the Cities.

Recommendation 7: The Cities should transition from defined benefit plans to defined contribution plans as the tier plans are implemented.

County Follow-up Response: No change to the initial response submitted in 2012.

Sincerely,

John P. Mills
John P. Mills,
Deputy County Executive/ Director, ESA

Copy: Jeffrey V. Smith, County Executive

ATTACHMENT 1

Adopted
Aug 21, 2012 9:00 AM

The County of Santa Clara
California

Report
63743

Adopt response from Administration to Final Grand Jury Report relating to An Analysis of Pension and Other Post Employment Benefits; and, Authorize the Board President and Clerk of the Board of Supervisors to forward department response to Grand Jury report to the Presiding Judge of the Superior Court with approval that responses constitute the response of the Board of Supervisors, consistent with provisions of California Penal Code Section 933 (c).

Information

Department:	Office of the County Executive	**Sponsors:**	
Category:	Report		

Links

Link 63953 : Adopt a separate or amended response to the Final Grand Jury Report relating to An Analysis of Pension and Other Post Employment Benefits, and authorize the Board President and Clerk of the Board to forward response to the Presiding Judge of the Superior Court.

Attachments

An Analysis of Pension and Other Post Employment Benefits Final Report
Employee Services Agency Response
Cover letter Grand Jury

Body

FISCAL IMPLICATIONS

There are no fiscal implications associated with these Board actions.

REASONS FOR RECOMMENDATION

Attached is the Employee Services Agency response to the Grand Jury's findings and recommendations enumerated in the Final Report, An Analysis of Pension and Other Post Employment Benefits. The response has been completed pursuant to California Penal Code, Section 933 (c) and 933.05 (a).

CHILD IMPACT

The recommended action will have no/neutral impact on children and youth.

SENIOR IMPACT

The recommended action will have no/neutral impact on seniors.

SUSTAINABILITY IMPLICATIONS

The recommended action will have no/neutral sustainability implications.

BACKGROUND

The Grand Jury conducted a survey to gather information from all cities, towns and the County of Santa Clara and reviewed the Comprehensive Annual Financial Reports (CAFRs). The Grand Jury has the following question: "Is the cost of providing pension and other post employment benefits interfering with the delivery of essential City Services and is the ultimate cost to the taxpayers a bearable burden?" The Grand Jury concludes that until significant modifications are enacted, there is no doubt that the escalating cost of providing Benefits at the current level is interfering with the delivery of essential services and the ultimate cost to the taxpayers is an unbearable burden.

The Grand Jury makes seven specific findings and recommendations to the Cities, towns and County of Santa Clara; Employee Services Agency response is attached with responses to the findings and recommendations to the Civil Grand Jury Final Report.

CONSEQUENCES OF NEGATIVE ACTION

The County would not be in compliance with the law in responding to the Grand Jury's Final Report.

STEPS FOLLOWING APPROVAL

Following approval of the response provided, forward all comments of the Santa Clara County Board of Supervisors to the Honorable Richard J. Loftus, Jr., Presiding Judge, Santa Clara County Superior Court on or before Friday, September 14, 2012.

Meeting History

Aug 21, 2012 9:00 AM Video **Board of Supervisors** **Regular Meeting**

RESULT:	**ADOPTED [4 TO 0]**
MOVER:	George Shirakawa, President
SECONDER:	Dave Cortese, Supervisor
AYES:	Mike Wasserman, George Shirakawa, Dave Cortese, Ken Yeager
AWAY:	Liz Kniss

Transcript

Aug 21, 2012 9:00 AM **Board of Supervisors** **Regular Meeting** Show prev 60 sec

11:49 AM Responses to facilities and fleet roads and parks that address the recommendations and we would request the board adopt those responses and forward them to superior court.

All right, colleagues, if I could have a motion. All right. Please vote by light. All right. Gary, number 19.

11:50 AM Number 19 is the final grand jury report on custody or rehabilitation on the county's approach to women inmates at elmwood. The administration, through the sheriff department of correction, has responded to the 10 recommendations and would request that the board adopt that response and forward it to the superior court.

I'll entertain a motion. >> so moved.

Second. >> please vote by light. Then number 20 that passes (inaudible).

11:50 AM Post employment benefits. The administration has prepared a comprehensive response and would request the board adopt it and forward it to superior court.

I'll entertain a motion.>> so moved.

Second.

Please vote by light.

11:51 AM On public safety (inaudible).

Right. and the administration has prepared a response and would request the board adopt that response and forward it to superior court.

So moved.>> second.

Motion by wasserman. second by yeager. And that carries four to zero to one, with supervisor kniss out of the room. Item 22 is to consider items previously removed from the consent calendar. Let's start off with item number nine. Can we have a motion to defer number nine?

I move to defer item number nine to our next meeting.

I'll second.>> motion by yeager, second by wasserman to defer item number nine to the next meeting and that carries with a four to zero to one, with supervisor kniss out of the room.

Supervisor yeager, item 47 was -- I believe you pulled that one.

Show next 60 sec

County of Santa Clara
Employee Services Agency

County Government Center, East Wing
70 West Hedding Street, 8th Floor
San Jose, California 95110
(408) 299-5802

August 7, 2012

To: **Gary Graves**
Chief Operating Officer

From: **Luke Leung**
Deputy County Executive

Subject: **Response to Santa Clara County Grand Jury Report –** ***An Analysis of Pension and Other Post Employment Benefits***

This memo is in response to the June 13, 2012 Santa Clara County Grand Jury Report – ***An Analysis of Pension and Other Post Employment Benefits***. It should be noted that throughout the report, the County of Santa Clara and the cities and towns within are collectively referred to as *City* or *Cities*.

The findings, recommendations, and the County's responses are as follows:

Finding 1: Public sector employees are eligible for retirement at least 10 years earlier than is common for private sector employees.

Recommendation 1: The Cities should adopt pension plans to extend the retirement age beyond current retirement plan ages.

> **County Response:** *Agree as to Finding 1. However, the recommendation requires further analysis and discussion between County Administration and the Board of Supervisors as such a change (i.e. through switching to a lesser retirement plan formula like 2%@60 for Miscellaneous or 3%@55 for Safety) would be subject to successful collective bargaining with the County's employee organization groups and would require that these groups all agree to such a change within their respective CalPERS membership category. It is also important to note that under current CalPERS rules, such a change would only be allowed as a second tier plan change affecting new hires only and cannot be applied to existing current employees. (See County Response below to Recommendation 2A).*
>
> *Extending the retirement age is just one of several possible pension plan changes that could be considered, but which need to be discussed together with other potential benefit and contract changes for collective bargaining; therefore a full discussion of*

the various options and alternatives to be negotiated needs to occur before direction and priority for specific pension plan changes can be provided. It is expected that this discussion will occur within the next six months as negotiations with the majority of the bargaining groups will begin shortly after the start of the new calendar year.

Finding 2: Campbell, Gilroy, Los Altos Hills, Los Gatos, Milpitas and Palo Alto have adopted second tier plans that offer reduced Benefits, which help reduce future costs, but further changes are needed to address today's unfunded liability. Santa Clara County and the cities of Cupertino, Los Altos, Monte Sereno, Morgan Hill, Mountain View, San Jose, Santa Clara, Saratoga and Sunnyvale have not adopted second tier plans.

Recommendation 2A: Santa Clara County and the cities of Cupertino, Los Altos, Monte Sereno, Morgan Hill, Mountain View, San Jose, Santa Clara, Saratoga and Sunnyvale should work to implement second tier plans.

County Response: *Agree as to Finding 2. However, the recommendation requires further analysis and discussion between County Administration and the Board of Supervisors as such a change would be subject to successful collective bargaining with the County's employee organization groups and would require that these groups all agree to such a change within their respective CalPERS membership category (Miscellaneous or Safety).*

It should be noted that during the recent round of collective bargaining for Fiscal Year 2011-2012 which included the majority of bargaining groups, the County proposed second tier plans to each of the groups within their respective CalPERS membership category. The second tier plan proposal included changing to a reduced benefit plan formula (i.e. lower benefit percentage and/or higher normal retirement age) and returning to the highest three-year salary compensation for calculating pension.

Unfortunately, the County was not successful in getting agreement for these changes from its bargaining groups with the exception of one of the Safety bargaining groups. However, under current CalPERS rules, an employer is not allowed to have separate pension formulas for their individual bargaining groups and therefore the County could not move ahead with implementing a second tier plan for the one Safety group until all of the other Safety bargaining groups agree to the second tier plan or until CalPERS changes its rules to allow for separate contracts for individual bargaining groups. (The same rules apply for the Miscellaneous bargaining groups.)

Negotiations have recently begun with the remaining Safety bargaining groups, which the County is hoping to get agreement for a second tier plan, but there is no guarantee. If successful, this may help to spur the other groups to agree as well and allow the County to move forward with implementation.

Also, since the County contracts with CalPERS for the pension plan benefits provided to its employees, any second tier plan that offers reduced benefits are limited to the plan options currently available through CalPERS.

Recommendation 2B: For Gilroy, Los Gatos, Milpitas and Palo Alto, which have not implemented second tier plans for Misc and Public Safety second tier plans should be implemented for both plans.

County Response: *Not applicable*

Recommendation 2C: All Cities' new tier of plans should close the unfunded liability burden they have pushed to future generations. The new tier should include raising the retirement age, increasing employee contributions, and adopting pension plan caps that ensure pensions do not exceed salary at retirement.

County Response: *Agree as to Finding 2. However, the recommendation requires further analysis and discussion between County Administration and the Board of Supervisors as such changes like raising the retirement age (through switching to a less generous benefit plan formula) would be subject to successful collective bargaining with the County's employee organization groups and would require that these groups all agree to such a change within their respective CalPERS membership category (Miscellaneous or Safety). (See County Response on 2A).*

Other changes like increasing employee contributions are not limited to second tier plans and to new hired employees only. In fact, during the recent round of collective bargaining for Fiscal Year 2011-2012, the County was successful in negotiating with a majority of its bargaining groups increased employee contributions for existing and new hired employees toward the County's employer cost share portion of pension contributions. Additional negotiations with the remaining bargaining groups are underway and the County expects to get similar agreement for increased employee contributions from all employee groups over the course of the next year as each bargaining group contract comes up for renegotiation.

Regarding adoption of pension plan caps that ensure pensions do not exceed salary at retirement, it is important to note that the County does not have the ability to implement such caps since the County contracts with CalPERS for its retirement pension plan and are bound by the CalPERS rules that are currently in place. So unless CalPERS changes these rules, the County cannot implement this part of the recommendation even if its bargaining groups agreed to it.

Finding 3: Retroactive Benefit enhancements were enacted by Cities using overly optimistic ROI and actuarial assumptions without adequate funding in place to pay for them.

Recommendation 3: The Cities should adopt policies that do not permit Benefit enhancements unless sufficient monies are deposited, such as in an irrevocable trust concurrent with enacting the enhancement, to prevent an increase in unfunded liability.

County Response: *Disagree partially with Finding 3. The County agreed to benefit enhancements based on the best actuarial cost information that was provided by*

CalPERS to the County at the time enhancements were being considered and negotiated with the bargaining groups. The County relied on those CalPERS actuarial estimates as the required contribution amounts that the County's employees would have to pay in order to cover the cost of the benefit enhancements. In hindsight, the ROI and the actuarial assumptions provided from CalPERS have turned out to be overly optimistic particularly as a result of the economic downturn and the huge stock market losses during the past decade. But neither CalPERS nor the County would have predicted the extreme volatility of the ROI during this period at the time the benefit enhancements were added. Furthermore, under CalPERS rules, any benefit enhancements that were to be added were required to be applied retroactively to the employees' total service with the County including all service time prior to the benefit change.

The recommendation to adopt policies that do not permit future benefit enhancements unless sufficient monies are deposited in an irrevocable trust, concurrent with enacting the enhancement to prevent an increase in unfunded liability, makes sense. In fact, the current legislation requires that the future annual costs of any benefit changes and the impacts of such changes on future unfunded liability be presented in a public meeting before any benefit changes can be adopted. Furthermore, an enrolled actuary must be present at the public meeting where the benefit changes are to be considered to provide information as necessary. Adopting a policy which requires that adequate funds are set aside to prevent an increase in unfunded liability for any benefit enhancements is consistent with the accountability and transparency requirements of the current legislation. The preparation of the policies for adoption has not yet been implemented, but is expected to be implemented within the next 6 months.

Finding 4: The Cities are making an overly generous contribution toward the cost of providing Benefits.

Recommendation 4A: The Cities should require all employees to pay the maximum employee contribution rate of a given plan.

County Response: *Agree as to Finding 4. However, the recommendation requires further analysis and discussion between County Administration and the Board of Supervisors as such a change would be subject to successful collective bargaining with each of the County's employee organization groups and would require that these groups all agree to such a change.*

Additionally, as noted earlier, potential pension plan changes like increasing employee contributions to the maximum member rate of a given plan must be considered together with other possible benefit changes and negotiable terms; therefore a full discussion of the various options and alternatives needs to occur before direction and priority for bargaining can be provided. It is expected that this discussion will occur within the next six months as negotiations with bargaining groups will begin shortly after the start of the new calendar year.

Recommendation 4B: The Cities should require employees to pay some portion of the Past Service Cost associated with the unfunded liability, in proportion to the Benefits being offered.

> **County Response:** *Agree as to Finding 4. However, the recommendation requires further analysis and discussion between County Administration and the Board of Supervisors as such a change would be subject to successful collective bargaining with each of the County's employee organization groups and would require that these groups all agree to such a change.*
>
> *It is uncertain though whether CalPERS would be able to readily calculate what portion of the past service cost associated with the unfunded liability was derived from the benefit enhancements that were added over the past 10+ years. Furthermore, employees have been making additional employee contributions that were negotiated at the time of the enhancements to pay for these added benefits based on the earlier CalPERS actuarial estimates.*
>
> *As noted earlier, any additional employee contributions required must be considered together with other possible benefit changes and negotiable terms; therefore a full discussion of the various options and alternatives needs to occur before direction and priority for bargaining can be provided. It is expected that this discussion will occur within the next six months as negotiations with bargaining groups will begin shortly after the start of the new calendar year.*

Finding 5: The Cities are not fully funding OPEB benefits as evidenced by large unfunded liabilities and small funded ratios.

Recommendation 5: The Cities should immediately work toward implementing policy changes and adopting measures at making full OPEB ARC payments as soon as possible.

> **County Response:** *Partially agree as to Finding 5. Prior to this recommendation, the County had previously set aside funding from about 1999 to 2006 to be used toward prefunding OPEB liabilities. In 2008, the County contracted with the California Employers Retirement Benefit Trust (CERBT) which was administered by CalPERS and began making full OPEB ARC payments for the first year and a half following the establishment of the CERBT. Unfortunately, as a result of the economic downturn and recession that followed over the next few years, the County was faced with significant budget deficits and could not continue to make full OPEB ARC payments to the CERBT. The County is trying to move back toward making full ARC payments. However, achieving full ARC payments will require a significant increase in funding and/or major changes to retiree medical plan design and employee contribution requirements to help reduce the ARC. In addition, such a policy change will need to be considered together with prioritization of available long-term resources and maintaining critical services to the community. It is expected that this*

discussion will occur within the next six months as budget preparation and negotiations with the majority of the bargaining groups are expected to begin again shortly after the start of the new calendar year.

Finding 6: The City of San Jose permits the transfer of pension trust fund money, when ROI exceeds expectations, to the SRBR, despite the fact that the pension trust funds are underfunded.

Recommendation 6: The City of San Jose should eliminate the SRBR program or amend the SRBR program to prevent withdrawal of pension trust money whenever the pension-funded ratio is less than 100%.

County Response: *Not Applicable*

Finding 7: The Cities defined benefit pension plan costs are volatile. Defined contribution plan costs are predictable and therefore more manageable by the Cities.

Recommendation 7: The Cities should transition from defined benefit plans to defined contribution plans as the tier plans are implemented.

County Response: *Agree as to Finding 7. However, the recommendation will not be implemented because it is not warranted or reasonable to abandon the defined benefit plan for a defined contribution plan without further attempts to negotiate and make any number of pension reform changes that could help to stabilize and sustain the defined benefit plan over the long term. Many of these changes are either already under consideration as part of the Governor's 12 Point Pension Reform Plan and/or potentially to be included as part of the County's next round of collective bargaining priorities.*

Defined contribution plans have been negatively affected (just as defined benefit plans have) by the same market forces over the past few years that have placed many employees and retirees in financial jeopardy. While it is critical that the risk of these losses is not borne solely on the employer and ultimately to the taxpayer, there are options and alternatives to reducing the risk and they should be fully explored before considering making a change to a defined contribution plan.

Defined benefit plans play an important role in providing a certain level of retirement security for not only public sector employees but also for private sector employees. They are an essential benefit to recruiting and retaining quality employees particularly for the public sector.

c: Jeff Smith, County Executive

County of Santa Clara
Office of the County Executive

ATTACHMENT 2

68014

DATE: June 21, 2013

TO: Board of Supervisors

FROM: Jeffrey V. Smith, County Executive

SUBJECT: Proposed modifications to the County Executive's Fiscal Year 2014 Recommended Budget (2)

RECOMMENDED ACTION

Adopt Resolution establishing a policy regarding the use of new revenues from the dissolution of redevelopment agencies. (Roll Call Vote)

LINKS:

- Linked From: 67808 : Approve the County Executive's Fiscal Year 2014 Recommended Budget as modified by the final tabulation of expenses and revenues relating to the County Executive's Fiscal Year 2014 Recommended Budget and the Fiscal Year 2014 Inventory as contained in the joint memorandum from the President of the Board of Supervisors and the County Executive.
- Linked From: 67850 : Consider recommendations relating to a policy regarding the use of new revenues from the dissolution of redevelopment agencies.

ATTACHMENTS:

- 2013 Resolution establishing Policy for Budgeting Use of New Revenues from Redevelopment Dissolution (PDF)

RESOLUTION NO. BOS-2013-92

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ESTABLISHING A POLICY FOR BUDGETING THE USE OF NEW REVENUES FROM REDEVELOPMENT DISSOLUTION

Adopted: 06/21/2013

WHEREAS, on December 29, 2011, the California Supreme Court upheld the constitutionality of the legislative dissolution of redevelopment agencies (RDAs) under AB1X 26 and, as a result, RDAs in California were dissolved effective February 1, 2012; and

WHEREAS, the dissolution of RDAs over time returns to affected taxing entities, including the County, the property tax revenues that were previously diverted for redevelopment purposes in the same allocation as all other property tax is distributed; and

WHEREAS, funds that formerly would have been distributed to the RDAs as tax increment are deposited into a redevelopment property tax trust fund (RPTTF) for each former agency and, after deducting county auditor-controller administrative costs, are used first to pay for pre-existing passthrough commitments to affected taxing entities, second to pay pre-existing obligations of the former RDA, and third to pay for certain capped administrative costs of successor agencies; and

WHEREAS, any remaining funds in the RPTTFs are distributed to affected taxing entities as "residual" in the same manner as property tax is normally distributed (Health & Saf. Code §§ 34183(a)(4), 34188); and

WHEREAS, neither the passthrough payments to affected taxing entities such as the County nor the County Auditor-Controller's administrative costs represent new revenues within the scope of this Resolution; and

WHEREAS, the residual receipts that the County will receive are new unrestricted general fund monies, subject to expenditure as determined by the Board of Supervisors in the same manner as all other general fund monies; and

WHEREAS, the Legislature in adopting ABX1 26 specifically stated that the "assets and revenues [of redevelopment agencies] that are not needed to pay for enforceable obligations may be used by local governments to fund core governmental services including police and fire protection services and schools" (Health & Saf. Code § 34167(a)); and

WHEREAS, the Legislature has directed that all assets of former RDAs not needed to fulfill pre-existing enforceable obligations of the former RDAs, except certain non-cash low and moderate income housing assets, shall be distributed to the affected taxing entities through various mechanisms, including but not limited to the "due diligence reviews" under Health and Safety Code sections 34179.5 and 34179.6; and

68014

JUN 21 2013

WHEREAS, all such one-time distributions also represent new unrestricted general fund monies, subject to expenditure as determined by the Board of Supervisors; and

WHEREAS, the County Retirement Levy, a special tax that is subject to certain Constitutional and statutory restrictions on its use, also receives certain distributions from the dissolution of RDAs that are not unrestricted general fund monies; and

WHEREAS, the County faces a significant long-term liability in its retiree health program, which if not funded will continue to exponentially grow and greatly reduce the County's ability to meet community needs and provide core governmental services; and

WHEREAS, the Board of Supervisors wishes to dedicate a portion of the unrestricted new revenues received from the redevelopment dissolution process to affordable housing purposes in a manner that leverages community resources and inculcates shared responsibility with the cities to maximize the resources available to meet critical affordable housing needs; and

WHEREAS, the Board of Supervisors wishes to make allocations of new revenues from the dissolution of former RDAs based on the aforementioned policy considerations;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Santa Clara, State of California, as follows:

<u>Section 1. Allocation of Residual Received from Redevelopment Property Tax Trust Funds.</u>

Beginning in Fiscal Year 2014, the County Executive shall annually include in his Recommended Budget an allocation of new revenue received by the County pursuant to Health and Safety Code section 34183(a)(4) in amounts above those received from distributions in Fiscal Year 2013 as follows:

a. <u>Affordable Housing:</u> Up to twenty percent (20%) towards affordable housing purposes based on the percentage commitment by cities to similarly allocate the residual funds they receive from each of the Redevelopment Property Tax Trust Funds (RPTTFs) on an annual basis. Funds shall be reserved and tracked by RPTTF.

b. <u>Retiree Health:</u> Sixty percent (60%) towards the County's share of retiree health costs, which shall be placed into the irrevocable Retiree Health Trust Fund.

c. <u>General Purposes:</u> The remainder for general fund purposes.

<u>Section 2. Low and Moderate Income Housing One-Time Funds.</u>

Up to one-hundred percent (100%) of one time funds received by the County from former Low and Moderate Income Housing Funds distributed pursuant to Health and Safety Code section 34179.6 shall be dedicated for affordable housing purposes based on the percentage commitment by cities within one (1) year of the effective date of this Resolution to similarly allocate the funds they receive from such distributions. This dedication shall be retroactive to include all such funds received since RDA dissolution. Funds shall be tracked by successor agency.

Section 3. All Other One-Time Funds.

All one-time funds received as a direct result of the dissolution of RDAs not specifically dedicated by Section 2, including but not limited to asset sales and the Other Funds and Accounts Due Diligence Reviews pursuant to Health and Safety Code section 34179.6, shall be dedicated towards the County's share of retiree health costs, with such funds being placed into the irrevocable Retiree Health Trust Fund.

Section 4. Allocation of Funds Attributable to the County Retirement Levy.

Notwithstanding any provision of this Resolution, any and all funds received that are attributable to the County Retirement Levy shall be dedicated to, and used solely for, the purposes of that special tax levy in accordance with all applicable Constitutional and statutory provisions governing the use of special tax proceeds.

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Section 5. Modification.

The County Executive may propose the suspension or modification of these allocations in any recommended budget presented to the Board.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on JUN 2 1 2013, 2013, by the following vote:

AYES: CORTESE, [redacted], SIMITIAN, WASSERMAN, YEAGER
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Ken Yeager

KEN YEAGER, President
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.
ATTEST:

Lynn Regadanz

LYNN REGADANZ
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

O. P. K

ORRY P. KORB
County Counsel

Adopted: 09/10/2013

ORDINANCE NO. NS-300.866

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ADDING SECTION A7-15 OF DIVISION A7 OF THE SANTA CLARA COUNTY ORDINANCE CODE RELATING TO FULLY FUNDING THE COUNTY COST OF PROVIDING RETIREE BENEFITS

Summary

This Ordinance requires annual deposits into the CalPERS Employers Retiree Benefits Trust in amounts sufficient to fully fund by Fiscal Year 2018, the annual required contribution necessary to pay the entire cost of benefits for retired County employees within 30 years.

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ORDAINS AS FOLLOWS:

<u>SECTION 1.</u> Division A7 of the Ordinance Code of the County of Santa Clara relating to budgets is hereby amended by adding a new Section to be numbered and titled and to read as follows:

Sec. A7-15. Deposits to CalPERS Employers Retiree Benefits Trust.

(a) Funds shall be deposited each year into the CalPERS Employers Retiree Benefits Trust or "CERBT" in amounts sufficient to meet an annual required contribution or "ARC" by Fiscal Year 2018.

(b) The ARC is the total annual payment of principal and interest due on the County's outstanding retiree benefit debt necessary to fully fund the costs of retiree benefits within 30 years from July 1, 2017.

(c) The annual deposit amounts necessary to meet the ARC by Fiscal Year 2018, as well as each ARC thereafter, shall be determined by an actuarial analysis completed or otherwise obtained each year by the County.

(d) The annual allocation to the CERBT between Fiscal Years 2014 and 2017 shall be determined by an actuarial analysis completed or otherwise obtained each year by the County. The total minimum contribution for Fiscal 2014 shall be $119.9 million.

(e) Annual allocations to the CERBT are to be made from any County funds legally available for this purpose at any time prior to the end of that fiscal year.

(f) The provisions of this Section are not intended to limit the budgetary discretion of the Board of Supervisors to allocate funds in amounts that either exceed or are less than the amounts described in subsections (a) through (e) above should the Board determine that it is in the best interests of the County to do so.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on SEP 10 2013 by the following vote:

AYES: CHAVEZ, CORTESE, SIMITIAN, WASSERMAN, YEAGER

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

Ken Yeager

KEN YEAGER, President
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the Chair, Board of Supervisors.

ATTEST:

Lynn Regadanz

LYNN REGADANZ
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

O.P.K.

ORRY P. KORB
County Counsel

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