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## THE BOARD OF SUPERVISORS OF MARIN COUNTY

July 26, 2005

Honorable Terrence R. Boren  
Presiding Judge  
Marin County Superior Court  
3501 Civic Center Drive  
San Rafael, CA 94903

Dear Judge Boren:

Forwarded herewith is the Board of Supervisors' response to the 2004-05 Grand Jury Report "*Bloated Retirement Plans of Marin County, Its Cities and Towns.*" The Board of Supervisors' response addresses all Findings and Recommendations for which a response was requested from the Board of Supervisors.

Respectfully submitted,

Hal Brown  
President, Board of Supervisors

cc: Civil Grand Jury ✓

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COUNTY OF MARIN  
OFFICE OF THE ADMINISTRATOR

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Matthew H. Hymel  
County Administrator

July 26, 2005

Board of Supervisors  
Marin County Civic Center  
3501 Civic Center Drive  
San Rafael, California 94903

**SUBJECT:** Response to 2004 - 2005 Grand Jury Report "Bloated Retirement Plans of Marin County, Its Cities and Towns." (May 9, 2005)

Dear Board Members:

**RECOMMENDATION:** Concur in and adopt the attached proposed response to the 2004-2005 Grand Jury report on the County and local agency retirement plans and authorize the Board President to forward the response to the Presiding Judge of the Marin County Superior Court.

**SUMMARY:** The 2004-2005 Civil Grand Jury published a report on May 9, 2005, entitled "Bloated Retirement Plans of Marin County, Its Cities and Towns." The report included a request for response from your Board. The County Administrator has consulted with the Acting Administrator for the Marin County Employee's Retirement Association (MCERA), the Treasurer-Tax-Collector, the Director of Human Resources and County Counsel in preparing the proposed response from your Board. Attached for your consideration, in accordance with §933 of the California Penal Code, is a proposed response. A copy of the Grand Jury report is also attached for your information.

**FISCAL IMPACT:** None.

**ALTERNATIVE:** The Board may amend any suggested response.

**REVIEWED BY:**

<input checked="" type="checkbox"/>	County Counsel	<input type="checkbox"/>	N/A
<input checked="" type="checkbox"/>	Human Resources	<input type="checkbox"/>	N/A
<input type="checkbox"/>	Auditor-Controller	<input checked="" type="checkbox"/>	N/A

Respectfully submitted,

  
Matthew H. Hymel  
County Administrator

cc: County Counsel

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## RESPONSE TO GRAND JURY REPORT FORM

**Report Title:** Bloated Retirement Plans of Marin County, Its Cities and Towns

**Report Date:** May 9, 2005

**Response by:** Marin County Board of Supervisors


### FINDINGS

- We agree with the findings numbered: F8, F9 and F10.
- We disagree wholly or partially with the findings numbered: F1, F2, F3, F4, F5, F6, F7 and F11.

### RECOMMENDATIONS

- Recommendations numbered R3, R4, R6, R7, R8, and R10 have been implemented.
- Recommendation numbered R9 have not yet been implemented, but will be implemented in the future.
- Recommendations numbered R2 and R5 will not be implemented because it is not warranted or is not reasonable.
- Recommendation numbered R1 requires further analysis.

(Explanations attached.)

Date: 7/26/05 Signed: 

Number of pages attached 6

**MARIN COUNTY BOARD OF SUPERVISORS**  
Response to Findings and Recommendations from Grand Jury Report  
Bloated Retirement Plans of Marin County, Its Cities and Towns, May 9, 2005

**FINDINGS**

- F1 Public sector pensions are substantially more valuable than private sector pensions. For Miscellaneous employees in Marin, pensions are 2 to 3¼ times as valuable as private sector pensions; for safety employees, they are 2½ to 4½ times as valuable.**

Response: Disagree. As the report noted, a direct comparison of public and private sector pensions is a difficult task. The public and private sectors represent two distinctly different employment markets. Perquisites common in the private sector are nonexistent in the public sector. Large bonuses, stock options, and profit-sharing, for example, are frequently components of compensation in the private sector that are not available in the public sector. Furthermore, the County employs a more occupationally diverse workforce than does the average private sector organization. For example, the County workforce includes social workers, planners, tax and property assessment experts, maintenance workers, building trades and crafts workers, financial analysts, nurses, psychiatrists, custodians, deputy sheriffs, and firefighters. Successfully recruiting for and retaining such a diverse workforce is challenging. Nevertheless, even taking into account the differences between the public and private sector employment markets, we do not agree that the value of the average County pension is 2 -3.25 times the average private sector plan. Taking into account that most private sector pensions are in addition to Social Security, whereas the County's is in lieu of Social Security, we estimate that the average County pension is approximately 22% higher than the average private pension (using the Grand Jury's example).

- F2. Most public sector employees in Marin do not participate in Social Security and thus contribute less (no Social Security taxes) to their retirement than do employees in the private sector.**

Response: Disagree. Most County employees pay a higher rate than the 6.2% social security portion of FICA. Employee contribution rates to the retirement system are variable, based on the age of the employee at time of entry to the system, date of entry to the system and safety classification.

For the County retirement plan to which most current employees and all new (non-safety) employees belong, the employee contribution rate ranges from 7.22% to 10.73%. For Safety employees the range is 12.42% to 16.91%.<sup>1</sup>

- F3. The employers' costs for public sector pensions in Marin are extremely volatile, causing financial stress to the County and its Municipalities. Average pension costs for miscellaneous plans for the County and its Municipalities increased from 2% of miscellaneous payroll in FY2002-2003 to 15% in FY2005-2006. For safety plans, the increase was from 5% of safety payroll in FY 2002-2003 to 30% in FY 2005-2006.**

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<sup>1</sup> Contribution percentages based on the County Miscellaneous Tier III and Safety Tier II plans, and include the Basic, Cost of Living and Benefit Cost Sharing portions.

Response: Partially disagree. Although we agree that contributions in recent years have been volatile due to the unique circumstances of the equities market, over the longer term these costs have generally been more stable. The contribution rates in 2002 and 2003 were lower than normal because of the extraordinary gains of the equities market in the late 1990's. In contrast, the downturn in the equities market in recent years has resulted in increased contributions to the pension fund. However, reviewed over a longer-term period, the County's pension system costs have been relatively stable. For the past nine years County pension system costs have remained in the 7%-10% range of total payroll costs.<sup>2</sup> It is important to note that the County's Retirement Board averages earnings/losses over a 5-year period to reduce volatility in contribution rates.

- F4. The County issued a Pension Obligation Bond (POB) to transfer the unfunded liability of its pension plan (about \$110 million) off the pension books at the end of FY2003-2004. For future years, this reduced the County's contribution to its pension plan; however, to make a fair evaluation of County pension costs, the cost of debt service of the POB (about 3% of payroll) should be counted.**

Response: Partially disagree. The County did issue a Pension Obligation Bond because the bond market was favorable at the time and it was fiscally prudent to do so. The Bond liability correctly does not reside with MCERA, but with the County. The County does attribute the debt service payments on the POB issuance as a cost of the County's pension system.

- F5. Despite extremely high pension levels and the financial stress that increases in pension costs bring upon public sector budgets, there is continuous pressure to increase public sector pensions. Unions apply this pressure on the legislature which then enacts legislation enabling pension increases to proliferate throughout the state.**

Response: Partially disagree. The County does not have extremely high pension levels. Marin County's pension levels are not high relative to neighboring cities and counties. The County retirement system is in-lieu of Social Security and the average retiree receives \$22,060 per year from the pension system. For Marin County, the financial stress of increases in pension costs is not as severe as for many other counties or other public agencies. The problem of financial stress caused by pension costs is a national problem for both the public and private sectors. There are demographic, economic, and public policy considerations involved in the complex issue. Marin County has a good record of managing its pension costs. Regarding whether unions apply certain pressures on the legislature, it would be speculative on our part to either agree or disagree on this finding.

- F6. Once pension increases are adopted by a public sector employer, they cannot be rescinded without a bargained compensatory improvement in some other element of compensation. This contrasts vividly to the private sector wherein reductions in the future promises, in either pensions or Social Security, are common.**

Response: Partially disagree. The assertion that reductions in pensions in the private sector and Social Security are common is questionable. Reductions in Social Security

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<sup>2</sup> Based on Fiscal Year Actual contributions and payrolls from FY 1996-97 through FY 2005-06; includes expenses for POB debt service payment in FY 2003-04 and FY 2004-05.

benefits are certainly not common. Some reductions in the private sector are highly publicized because of the controversial nature of an organization taking such an action; the case of United Airlines, for example, generated tremendous media attention. We believe it is very unfortunate for United employees and their families and, in the long run, for our society that workers' pensions are being dramatically reduced. The cost for the pension reductions will be partially borne by government, not only through the Federal Pension Benefits Guarantee Corporation, but also through increased aid in social and health services. Marin County is committed to providing reasonable and fair pension benefits for its retirees. Changes in pension benefits in the public sector are a complex legal matter that has to be addressed on a case-by-case basis pertaining to the particular changes being proposed and how they would be implemented.

- F7. Unless systemic (i.e., statewide) changes are made, the employers' abilities to attract and retain good employees would be undermined. Extremely large pensions, coupled with allegedly lower salary levels, impact hiring and retention. However, changing the mix, to increase salaries while decreasing pensions, would be harmful to public sector employers.**

Response: Partially disagree. We agree that pension reforms need to be addressed at a statewide level. The Board of Supervisors has endorsed California State Association of Counties' (CSAC) pension reform principles. However, these reforms must allow Marin County to attract and retain good employees to provide excellent public services to Marin County residents. The remainder of the finding is overly broad and speculative; therefore, we cannot agree or disagree with it.

- F8. A number of reasonable pension reform proposals have been developed, and/or are being developed, to deal with the problems of public sector pensions.**

Response: Agree. As previously stated, the Board of Supervisors has endorsed the CSAC principles for pension reform. These principles include support for reforms such as establishment of a formula cap on benefits, requiring final compensations to be calculated based on a three-year average as opposed to a single highest year of salary, and utilization of rate-stabilization best practices to reduce rate volatility.

- F9. In addition to pensions, the County and its Municipalities maintain retiree healthcare plans for their employees. Although these plans share many characteristics with pensions, unlike the case with pensions, neither the County nor any of its Municipalities have been required to include retiree healthcare obligations on their financial statements.**

Response: Agree. It is important to note, however, that the actual cost of retiree health care payments from the prior year is factored into the actuarial valuation and becomes a part of the County's liability and contribution rate.

- F10. Imminent changes required by GASB will require that public sector entities include retiree healthcare obligations on their books. In the private sector, similar Financial Accounting Standards already have caused many employers to discover substantial unknown obligations and, in many cases, to reduce those obligations by cutting retiree healthcare benefits.**

Response: Agree.

**F11. Neither the County nor its Municipalities have any idea of the size of its retiree healthcare obligations. The Grand Jury has roughly estimated the County's obligations as ranging from \$150 million to \$300 million.**

Response: Partially disagree. It is an overstatement to say the County does not "have any idea of the size of its retiree healthcare obligations." The County contracted for and received an actuarial evaluation of healthcare benefits in 1998 and will retain an actuary in the current fiscal year to estimate the County's retiree healthcare obligations in preparation for the new GASB requirements.

## **RECOMMENDATIONS**

**The 2004-2005 Grand Jury recommends that the County and its Municipalities take the following actions:**

**R1. Sponsor pension reforms, including rolling back pension levels to historical, lower levels for new hires.**

Response: Requires further analysis. The Board of Supervisors has adopted CSAC's Guiding Principles for Pension Reform. These principles include support for reforms such as:

- Establishing a cap on benefits
- Requiring final compensations be calculated on a three-year average as opposed to single highest year of earnings
- Utilizing rate-stabilization best practices to reduce rate volatility.

However, the ultimate level of public pensions will have to be determined by statewide policy considerations as to what is appropriate in the future.

**R2. Provide lower level pensions in favor of forms of compensation whose employer costs are less volatile.**

Response: Will not be implemented as it is not warranted or is not reasonable. As mentioned previously and in the Grand Jury report, successful pension reform must occur in a systemic way on a statewide basis, and the County is committed to evaluating and supporting reasonable reforms. We do not think it is appropriate to implement lower pension levels at the County level absent statewide reform because of the implications it would have on attracting and retaining staff to deliver excellent services to Marin County residents.

**R3. Work with plan administrators, in most cases CalPERS, to establish more stable funding models for pensions.**

Response: Has been implemented; will continue to be implemented. MCERA is charged with maintaining the investment portfolio of the County pension system and has a strong portfolio earnings history. The nine member Board of MCERA includes three members appointed by the Board of Supervisors. The County Treasurer additionally serves on the

MCERA Board as an ex-officio member. Through this representation the County advocates for fiscal stability of the investment portfolio and pension system. In addition the County works closely with the MCERA Administrator to understand and manage benefit and assumption changes that may affect employer contribution levels. The Retirement Board has already implemented a five-year smoothing methodology that will help stabilize funding.

**R4. Stop spending found money, which is temporary, on recurring obligations.**

Response: Has been implemented. The County has projected and managed pension system costs and has not had to rely on "found" or one-time funds to support increasing costs. Recent increases in pension benefits have not been funded using one-time sources and the costs have been shared equally by the County and its employees. Because Marin's pension fund is conservatively managed, costs are lower than most surrounding counties. Marin County retirement costs account for approximately 7% of the County's budget. Additionally, the County maintains a rate stabilization account to be used to mitigate future increases in pension costs.

**R5. Lobby the unions to act responsibly and lobby the legislature to stop legislating plans that undermine public employers' abilities to control the structure of compensation.**

Response: Will not be implemented because it is not warranted. The County has worked cooperatively with unions on this and all other employment issues. In addition, the County will remain active in current reform efforts at the state level.

**R6. Rethink compensation strategy with a goal of sponsoring systemic (i.e., statewide) changes (including changes in disability retirement).**

Response: Has been implemented. The Board of Supervisors, County Administrator, Human Resources staff, and department managers are continuously considering compensation strategy. The County remains active in State pension reform discussions and believes there are opportunities for systemic reform, including the area of disability retirement. As reform occurs, compensation strategy will be considered accordingly.

**R7. Sponsor programs to help employees understand their retirement, so they can take an active role in their retirement planning.**

Response: Has been implemented. The County maintains an optional 457 Deferred Compensation plan for employees to further plan for their future. While there is no employer match, employees are able to make pre-tax deductions to the plan, and can access personal account information through the County website. In coordination with Nationwide Retirement Solutions, which administers the deferred compensation plan, the Human Resources department sponsors a series of financial workshops throughout the year to help employees plan for retirement and understand their investment options and potential needs.

Classes Offered through Human Resources

- Retirement 101: Understanding the County Plan
- Invest in Your Future with Deferred Compensation
- Investment Option Basics
- Am I Saving Enough-Closing the Retirement Gap

- At Retirement: How to Make Your Assets Last
- Clear Future for Your Retirement
- Estate Planning
- How to Manage Your Investment Risk
- How to Use Asset Allocation.

**R8. Request that CalPERS' actuaries (and, in the case of the County and the City of San Rafael, the MCERA actuary) do a more thorough job of explaining pension and retiree healthcare changes and issues to policymakers. Make sure that the explanations of costs of any changes in either of these areas, include both sensitivity analysis (i.e., cost ranges that show what happens if either favorable or unfavorable experience is obtained prospectively) and forecasting (i.e., long-term, rather than single-year, cost estimates).**

Response: Has been implemented. The County works closely with MCERA staff to understand changes and the potential impacts that decisions may have on costs. Additionally, the County contracts with an independent actuary, who performs an analysis of the MCERA actuarial report and its implications for the County budget.

**R9. Perform retiree healthcare valuations in the near future to ascertain the financial impact of the impending GASB standards.**

Response: Will be implemented. The County will be conducting an actuarial study of retiree healthcare benefits in FY 2005-06.

**R10. Make knowledgeable decisions, sooner rather than later, about retiree healthcare promises.**

Response: Has been implemented. The Board of Supervisors, County Administrator, MCERA Administrator, Human Resources Director, County Counsel, Treasurer-Tax Collector, and Auditor-Controller collaborate in decision-making regarding the County's retirement system; we do make knowledgeable decisions. For example, in 1993 the County enacted a benefits plan that provides prorated health benefits to employees with up to 20 years of County service, in contrast to some other jurisdictions that provide full benefits after only 5 or 10 years of service. The Board of Supervisors has also endorsed single-payer health care which would provide reliable health care for all and dramatically reduce the administrative costs of health care. The County will continue to explore ways to be fiscally responsible while honoring its commitment to employees after years of dedicated service to the community. The above-referenced actuarial study will further inform the County's decision-making.