

SONOMA COUNTY PENSION INCREASES IN 2002 - LEGAL OR NOT?

SUMMARY

The current formula used to determine the pensions of Sonoma County employees was voted into place ten years ago. The Board of Supervisors approved the increase in 2002. The California Employees Retirement Law of 1937 (CERL) specifies required procedures for counties to use when approving a pension increase. The 2011-2012 Grand Jury received a citizen complaint alleging that the required legal procedures were not followed in 2002. The Grand Jury launched an investigation.

We examined procedural issues required by CERL including: two-week advance public notification of the meeting when the vote is to be held; placing the action item on the agenda; review of actuarial reports; and the presence of an actuary at the Board of Supervisors meeting when the pension increase is on the agenda.

A public notice is required to be published two weeks prior to a Board of Supervisors meeting at which a pension increase is to be discussed and voted on. This notice could not be found in The Press Democrat archives. The CERL requires that the pension increase action item be listed on the regular meeting agenda. It is our understanding that it was placed on the consent calendar instead. A consent calendar or consent agenda is a practice by which the mundane and non-controversial board action items are organized apart from the rest of the calendar and approved as a group. The CERL requires actuarial reports from two different actuaries: one hired by the Board of Supervisors and one hired by the Sonoma County Employees Retirement Association. We could not find evidence of the separate actuarial report required of the Board of Supervisors. Attendance of an actuary to answer questions and to explain the changes that might occur as a result of the vote is another requirement of CERL. We found that no actuary attended the Board of Supervisors meeting when the vote to increase the pensions occurred.

The Grand Jury was unable to complete its investigation due to time constraints and the difficulty of locating the necessary documents and people to verify whether or not proper procedures were followed in 2002. However, due to current public interest in the important issue of pensions, the Grand Jury is reporting what has been uncovered to date. It is our hope that the citizens, media, and the next year's Grand Jury might continue this investigation. We recommend that the Board of Supervisors examine the possible failure to comply with the California Employees Retirement Law and determine the possible legal impact of the results.

APPROACH

The Grand Jury conducted interviews with the complainant, county employees, Sonoma County Employees Retirement Association employees, and various elected officials. We reviewed a large number of documents including Board of Supervisors agendas and minutes, newspapers, and actuarial reports. See the complete list in the Bibliography.

FINDINGS

F1. The California Employees Retirement Law requirements for approving the county pension in 2002 do not appear to have been followed.

RECOMMENDATIONS

R1. The Board of Supervisors examine the procedures and actions taken when the pension increase was approved in 2002 to determine if the required procedures were followed.

R2. The Board of Supervisors obtain legal advice on how to proceed regarding current pensions if legal procedures were not followed in 2002.

REQUIRED RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requires responses from the following:

- Sonoma County Board of Supervisors - R1 and R2

The governing body indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

DISCLAIMER

This report was issued by the Grand Jury with the exception of two members of the jury who recused themselves. These jurors were excluded from all parts of the investigation, including interviews, deliberations, and the writing and acceptance of the report.

BIBLIOGRAPHY

- The California Employees Retirement Law of 1937
- California Government Code Sections 23000-23027, 31515-31517, 54950-54963, 7507
- Agendas, minutes, and resolutions of the Sonoma County Board of Supervisors
- Agendas and minutes of the Retirement Board of the Sonoma County Employees Retirement Association
- Letters and actuarial studies from Gabriel, Roeder, Smith and Company (actuaries) to the Sonoma County Employees Retirement Association
- 2002-2008 Memorandum of Understanding between County of Sonoma and Service Employees International Union, Local 707

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.