Marin County Council of Mayors and Councilmembers:

Marin County Local Government Reform of Pensions and Other Post-Employment Benefits

Defining the Problem & Scope of Local Solutions

June 20, 2011

Introduction:

In response to mounting public concerns about rising pension costs burdening cities, and the need for residents – and elected officials – to be more informed and versed on the issues, on October 27, 2010 at the Regular meeting of the Marin County Council of Mayors and Councilmembers (MCCMC), the membership approved a recommendation of the Mayors Select Committee to form an ad-hoc committee ("Committee") to study reforms in pensions and other post-employment benefits (OPEB). Transparency in Government, uniformity in approach to common issues, and the development of "best practices" to address the issues were all foundational policies leading to such approval.

The purpose of the Committee was also to provide a convenient public forum for the sharing of information and the exchange of ideas. The Committee was specifically provided (and tasked with) the following foundational facts and deliverables:

- Recognition and acceptance that the current system structure is unsustainable;
- Recognition and acceptance that an actuarial analysis is only one view, that it has the potential to produce understated liabilities, and that a blending of such views with traditional economic approaches should be considered[1]
- Include a study of OPEBs, which includes health care, life insurance, and other forms of deferred compensation;
- Estimate an accurate and independent calculation of member agency unfunded liabilities;
- Create a list of suggested solutions / tools within the control of local agencies to help set policy and direction designed to achieve reductions in costs and mitigate the risks of adequate funding associated with public retirement benefits;
- Create a suggested set of policy statements that can be used to support these and other proposed solutions, even if some proposed solutions will require a significant time frame to become effective.

The formation of this Committee and the scope of its work are consistent with all six of the stated purposes in the bylaws of the MCCMC[2] and the responsibilities of its members as elected representative to their respective agencies and constituents.

---

[1] Discussion of an independent study is in the Next Steps section and the scope of the study in Appendix H.

[2] On the home page of the MCCMC's web site at www.mccmc.org.

Composition of the Committee:

At the first meeting of the Committee, it was quickly accepted that an inclusive approach and breadth of membership was important. Each member city/town of the MCCMC appointed a representative and alternate(s). Other entities with pension and OPEB liabilities were encouraged to join. The Committee's formation and work was widely publicized. There were no specific criteria for selection other than a sincere willingness to look at the issues with an open mind, and to the extent possible, designate appointees with a financial or investment background in order to minimize the amount of meeting time spent on learning basic concepts.

The Committee representatives / alternates from the cities/towns included:

- Belvedere – John Telischak / Sandy Donnell
- Corte Madera – Bob Ravasio / Alexandra Cock
- Fairfax – David Weinsoff
- Larkspur – Larry Chu / Len Rifkind
- Mill Valley – Andy Berman / Stephanie Moulton-Peters
- Novato – Jeanne MacLeamy / Denise Athas
- Ross – Scot Hunter
- San Anselmo – Ford Greene / Tom McInerney & Barbara Thornton
- San Rafael – Marc Levine / Al Boro
- Sausalito – Mike Kelly / Jonathan Leone
- Tiburon – Emmett O'Donnell / Jeff Slavitz

The committee representatives / alternates from the special districts included:

- Marin Municipal Water District – David Behar / Larry Russell
- Novato Sanitary District – Bill Long / Mike DiGiorgio

Larry Chu, the current Mayor of Larkspur and a past President of the MCCMC, was selected by the Mayors Select Committee to chair the Committee.

The Marin Managers Association was invited to participate on an ex-officio basis. Its role was to provide staff support in explaining the various elements within the system and how it works.

The MMA's designated representative is Dan Schwarz (Larkspur) and the alternate is Jim Schutz (San Rafael).

Alternates were encouraged to participate in the discussion irrespective of the presence of the primary representative so long as there was not a quorum of any single agency.

Scope of the Committee's Work:

Open Meetings:

The Committee was not covered by the Brown Act. However, to provide full transparency of the process and to allow for the inclusiveness of all stakeholders in the discussion, the Committee operated as if the Brown Act applied.

Meeting agendas were distributed at least 72 hours in advance to all city/town clerks, the County Clerk, the local media (Marin Independent Journal, Marin Scope Newspapers, The Patch), and to a distribution list of interested parties. The agendas, meeting materials, and summary minutes have been posted on the MCCMC's web site at www.mccmc.org/pension.html. Copies of the audio recordings of the meetings are available upon request. The public has been allowed to make general comments at the beginning of each meeting and on the various agenda items throughout the meeting. Member Agency delegates have been regularly reporting back to their respective Boards and Councils. Chairman Chu also updated the MCCMC at its regular meetings. Committee members regularly updated their colleagues and Staff.

Approach & Process:

The Committee approached the issue of retirement benefits from the perspective of how potential shortfalls impact municipal and local governmental agency financial planning. The objective was to evaluate the costs and risks associated with providing retirement benefits against (1) the impacts to programs and services and (2) the inherent balance needed in budgeting and managing cash flow – an issue of particular concern given the current macroeconomic conditions.

The initial step was to conduct a survey of every jurisdiction's employee benefits by each of its employee groups, including the retirement formula, employer and member contributions, and maximum benefits allowed at retirement[3]. From this compilation, the Committee began to develop a comprehensive list of proposed solutions with anticipated impacts upon other stakeholders (employers, employees, pension plans, and taxpayers), the dependencies in which the solutions become feasible, and the time frame in which the benefit of implementation can be realized. This became the "Toolkit."

The Toolkit is designed to outline a range of suggested strategies within the control of local officials to address potential shortfalls without being politically affected by how

[3] Pension benefits are summarized in Appendix E.

stakeholders will be impacted. If a local agency does not favor a particular solution, it can evaluate other alternatives. Although local agencies have many similar characteristics, the financial circumstances and policies for each agency are quite unique. Accordingly, each agency will have to independently evaluate its own situation and implement its own set of solutions. That said, it is anticipated that the Toolkit will provide some uniformity in approach across the County.

Several related and ancillary issues, such as the appropriate discount rate, forecasting when the economy will recover, and the value of public employees' work efforts, will not be discussed by the Committee. These polarizing issues may be relevant in some discussions of pension or OPEB reform. However, even if some general consensus could be achieved, none solves the cash flow and budgeting problems that local agencies have that are attributable to post-employment benefits. In the end, the Committee saw them as beyond the scope of our work.[4]

The goal of the Committee is to provide more information so its members can conduct strategic planning sessions. No one can predict what will happen in the financial markets, but each agency can – with the modeling in hand and the Toolkit solutions – conduct its own risk assessment until asset levels and investment returns are sufficient to eliminate the actuarial accrued liability.

Of paramount importance is the recognition that reducing the level of retirement benefits and respect for public employees are not opposite sides of the same coin. Like any other organization, the cost of human resources for a public agency is the single biggest expense. The Committee has not been tasked with studying the work ethic of public employees and the value they have to their respective communities. We make no judgments in this regard. Our work is driven simply from a request for assistance in managing the inflating costs and risks associated with running a local agency, and being well informed on issues of public importance.

[4] There has been much debate about the appropriate discount rate to use. That will be left to the actuaries and academics. The fact remains that regardless of what rate is used, pension obligations are severely underfunded. For the employers, an overstated discount rate will understate the unfunded liability if the asset base and investment returns are inadequate. Unfortunately, reducing the discount rate for actuarial purposes will result in increasing the annual contributions by the employer. So, local agencies will favor accepting the current discount rate for current fiscal year considerations, but in the long run may likely face a significant underfunding of pensions and OPEB. The higher annual payments into the system may result in a less funding of various governmental services and programs. Refer to the Toolkit section below for further discussion.

Unsustainable System:

The current formula and level of public employee retirement benefits can be attributed primarily to two pieces of legislation. The first, Senate Bill 400 (SB400) in 1999, was legislation sponsored by the California Public Employees Retirement System (CalPERS) and several employee and retiree groups[5]. CalPERS successfully argued that its members and retirees had not been benefiting from the high returns that had been generated throughout the dot-com economy in the 1990's[6]. Two notable changes under SB400 were (1) new formulae were applied to both past and future service and (2) the elimination of an inferior second tier that was created in 1991.

The increase in the liability for these benefits was stated to have no immediate cost to employers. The funding gap would be closed by excess assets that had accumulated through higher investment returns. In addition, accounting changes were made so that (1) a higher percentage of assets would be allowed in the total valuation, and (2) the number of years for the amortization of the excess assets would be shorter.

SB400 received legislative approval so quickly that a detailed and independent financial analysis by the Legislative Analyst's Office (LAO) was not completed. The LAO report was released nearly three months after the passage of the bill. In the report, it was estimated there would be $400 million in additional cost just in the fiscal year 2001-02 alone[7].

Two years later, the Service Employees International Union (SEIU) and the American Federation of State, County and Municipal Employees (AFSCME) sponsored Assembly Bill 616 (AB616). Supporters of this bill contended that improving the retirement formulae was necessary to attract and retain a qualified and experienced labor force in public service at a time when the labor market in California had become more competitive[8].

In 2004, the LAO issued another report that recognized an accumulation of an unfunded liability and subsequently recommended a restructuring of retirement benefits. The most

[5] Senate Floor Analysis of Senate Bill 400 (9/7/99) names CalPERS, the California State Employees' Association, the California Department of Forestry Retirees, and the California School Employees Association as co-sponsors of the legislation along with 14 other employees unions representing public safety, teachers, judges, and various professions disciplines listed in support.

[6] SB400 Senate Floor Analysis (9-28-99).

[7] State Employee Compensation: The Recently Approved Package (Legislative Analyst's Office – 12/6/99).

[8] AB616 Assembly Floor Analysis (4-4-01).

prominent issues causing the unfunded liability were (1) lower than expected stock market returns, and (2) the enhancements made to retirement benefits under SB400[9].

In retrospect, it is clear that the system created by SB 400, and later enhanced by AB 616, was unsustainable from the start for three primary reasons.

- Financial assumptions for the growth of the fund were unrealistic;
- Changing demographics;
- Pension funds bear little of the risk for sub-par performance, essentially passing on the losses to the employer.

Unrealistic Financial Assumptions:

The economy goes through periods of ups and downs. Past performance is not an indication of future returns. To sustain the investment returns at the 7.75% discount rate adopted in 2003 (originally 8.25% under SB400), a pension system would need to grow its assets by 211% in every decade thereafter. Before the bull market that started in the early 1980s and peaked out in 1999, the stock market was flat from the mid-60’s on a nominal basis.

If broad market indices like the Dow Jones Industrial, Standard and Poor’s 500, or the NASDAQ Composite were used for illustrative purposes, pension systems would need a 18.5%, 21.1%, or 25.4% (respectively) compounded annual return[10] by the beginning of 2020 to be at the funding level that was projected when SB400 took effect.

Such returns are not realistic. Even with a return of 12.5% (as reported by CalPERS in 2010), it will still require a higher performance year after year for the rest of this decade to get back on track.

The type of returns generated in the 1990’s is also unlikely. The stock market was primarily fueled by the speculation that dot-com companies who were making large capital investments and operating at a significant loss would eventually be profitable on an internal rate of return basis. Price appreciation was not the result of sound investment fundamentals.

[9] Alternative Retirement Benefit Programs (Legislative Analyst’s Office – 2/18/04).

[10] As of the close of the market on 6/17/11.

Changing Demographics:

In a perfect world, the actuarial parameters would remain static over time. However, there are a number of factors that have continued to put upward pressure on future obligations since SB400:

- The proportion of retirees to workers is growing, especially with the first of the Baby Boom generation turning 65 this year.
- People are living longer and retiring earlier.
- Public sector salaries increased at a rate greater than inflation.
- There are more people employed in the public sector.

Decision Making With Little Risk:

The pension systems must contend with investment risks, but bear none of the risks associated with understated actuarial analyses or inadequate returns on investments. When there are losses (realized or unrealized) or inadequate funding, the employers (i.e. the taxpayers) are responsible for any revenue shortfalls and have to make up the difference with higher contribution rates.

With combined impact of excess revenues used to fund increases in benefits under SB400, the change in demographics, and the failure of the credit markets in 2007, CalPERS has chased returns by changing policy to allow for more speculative and questionable investments – those lacking a commensurate risk-adjusted rate of return.

Even if some of the investments eventually yield sizable returns at some point in the future, there will be a high degree of volatility which undoubtedly will result in no asset growth or losses in the early stages. And when there is an excess of assets or available earnings, there is the constant pressure to increase the level of benefits and/or to lower retirement age.[11]

Complicating this issue are the unintentional but inherent financial conflicts of interest. The majority of the members on pension system boards are eligible to receive benefits or are already receiving benefits. Whether voting or ex-officio members, they discuss and set policies on benefits and the investment of the assets. Benefit levels are approved by the State Legislature. Implementation, strategic thinking, and labor negotiations are done at the local level. These decisions are being made by elected and

[11] A healthy plan is one that is at least 80% funded. At this point, a pension system may elect to increase benefits if there are adequate earnings and available earnings. Ideally, the funded status should be 100% before enhancing current benefits.

appointed officials who are also eligible to receive or are already receiving benefits. The other key stakeholders (employers and the public) are left with the financial responsibility to keep the system funded and yet do not have a proportionate voice or adequate independent checks and balances.

Conclusion:

It is convenient to place the blame for the current unfunded liability on a bad economy. All a bad economy did was to unveil a succession of questionable policy and investment decisions starting with the introduction of SB400. The debate can continue as to whether the current pension system is sustainable or not.

From the standpoint of a local agency, however, it is unsustainable.

Local agencies are responsible for providing programs and services to their constituents. With a finite number of dollars, it is a zero-sum game. For each additional dollar that needs to go into funding post-employment benefits, that is one less dollar that could have been used for programs and services.

It takes years for local agencies to build a successful operation for the delivery of programs and services. A reduction in workforce results in a loss of institutional knowledge and will take additional money and time to rebuild if local agencies are fortunate to enough have such an opportunity.

Even if the pension systems return to the point of being fully funded, the uncertainty and volatility of the annual payments under the current financial environment will result in no foreseeable relief to the long-term cash flow and budgeting issues.

Drawing upon unrestricted reserves and/or taking out debt to make payments for post-employment benefits could lower credit ratings. Whatever the case, it results in a lower debt capacity and opportunity cost since the funding could have been used for a capital project or infrastructure improvement.

Consequently, absent significant changes to the status quo, local agencies could be left severely distressed (if not insolvent) long before the pensions systems become fully funded.

Toolkit:

Before the end of his tenure, Governor Arnold Schwarzenegger was able to get two piece of pension reform legislation implemented. The first one, SBX6 22[12], established a new compensation tier that now applies to all State employees hired on or after January 15, 2011[13]. This new tier both adopts the benefit levels that existed before SB 400 and changes the current highest one-year compensation formula for calculating retirement benefits to the highest annual average compensation earned in a designated three-year period. However, no changes were made in defining what goes into compensable earnings. The Governor was also able to get a new agreement with State labor groups whereby employees would make a higher contribution towards their own retirement benefits.

While these actions provide for some minor cost savings measures in the short-term, the benefits of implementing a new tier will not be realized for years or even decades. Shifting the financial risk away from the employers to the employees and/or the pension systems has still not been addressed.

Pensions remain a highly charged political and philosophical issue at every level of government. Governor Jerry Brown made pension reform a campaign issue in the November 2010 election. In March 2011, he released a 12-point pension reform plan that was quickly rejected by Democrats as being too extreme and by Republicans as not being enough.

Since the current system and the elements associated with providing and managing post-retirement benefits are defined in the State Constitution[14], legislation[15], or labor contracts, it is clear that any significant reform will not come out of Sacramento anytime soon. Wholesale changes to the system are needed, but the Legislature has not shown they can reach a consensus that will provide any meaningful reform.

Smaller local governments have typically been reluctant to act alone or regionally, preferring to defer to the State for leadership on reform. The concern has been the consequence of being placed at a competitive disadvantage for hiring and retaining

---

[12] Senate Bill 22 (6th Extended Session).

[13] The second piece of legislation was the passage of Senate Bill 867. This provides statutory requirements to increase transparency. A public employee retirement system Board of Administration must now provide an actuarial report containing investment returns, amortization period, and discount rates using specific analytical guidelines to the Legislature, the Governor, and the Treasurer any time new contribution rates are adopted.

[14] Article 16, Section 17 (Public Pension or Retirement System; Permissible Stock Subscriptions and Investments).

[15] California Government Code Title 1, Division 7 (Miscellaneous), Title 2, Division 5 (Legislative Department), Title 2 Division 7 (Personnel), Title 8, Chapter 2 (Judicial Council); California Code of Regulations Chapter 2 (Board of Administration of CalPERS).

quality employees. For this to be a valid argument, one has to follow the belief that public employees will move towards the agencies that have the best benefits packages and that vacancies will exists at those who have more inferior offerings.

However, pay and benefits are only one factor in determining an employee's job satisfaction. Community culture, workplace relationships, status, working conditions, and work-life balance are examples of other factors considered.

Workers may become dissatisfied with their employment situation when any of these factors are lacking, and seldom accept such deficiencies for very long unless regular improvements are made. Employees are more likely to gravitate to organizations that provide interesting work, recognition for achievements, responsibility that is directly tied to the outcome, and professional and/or personal growth.[16]

It is therefore incumbent that local governments provide leadership and immediately consider and implement monetary measures that are within their control even if it appears to be marginal or not having any immediate impact. Further delay simply prolongs the stress on local finances and continues to shift a greater financial burden to future generations. While it may appear to be 'clipping at the edges', maintaining the status quo is not a provident option.

Unfortunately, the set of solutions available to local government is rather limited. Most are not significantly different than what has already been proposed or implemented for State employees. Needless to say, any cost savings achieved by the employer is either a reduction in benefits and/or an increase in risk to the employee.

The benefits accrued by public employees for work performed under their current contracts are protected. Up to now, the courts have continued to legally uphold these as vested rights. Current benefits are tied to existing contracts and must be renegotiated with the labor groups, either when the agreements expire or sooner if there is willingness on the part of employees[17]. The implementation of some solutions may also result in cost-neutral or additional expenses for the employer in the short-term.

[16] Frederick Herzberg's motivation-hygiene Two-Factor Theory of job satisfaction.

[17] If an employer does not have binding arbitration, it should evaluate if this is to their benefit or not. If binding arbitration does not exist, an employer can make a decision on contract terms to protect its interests without being forced to reach a mutual agreement Also, refer the section on Legal Remedies for some additional comments pertaining to the definition of vested rights.

Increasing the contribution an employee makes towards their own benefits:

The Employer Paid Member Contribution (EPMC) is the employee portion of the benefits made by the employer on behalf of the employee. The EPMC dates back to 1981, and its origin and purpose are unclear.

As it exists today, it is an employer paid benefit that can be included as compensable earnings for the purposes of calculating the final retirement benefits which adds to the employer's pension liability[18].

Eliminating the EPMC also provide greater transparency. Since the EPMC is not part of the take-home pay to the employee, the reporting of salaries is understated by the EPMC.

In a flat or down economy, local government revenues are insufficient to cover the cost of the current level of salary and benefits. In the private sector, employers and employees have grappled with the decision to cut jobs or to spread the reduction in compensation among all employees. This must be realized in the public sector now that salaries and benefits have become a larger proportion of the General Fund's expenses and the normal cost of benefits exceeds the return on investment.

This sharing of risk with employees is necessary to prevent local agencies from becoming financially insolvent. Reducing or eliminating the EPMC may still take several years if it is accomplished in incremental reductions to make the financial impact on employees more gradual. Each jurisdiction will have to decide for itself the pace of EPMC reductions to match financial realities.

Within certain limits, a local agency can also enter into an agreement whereby employees will pay for some percentage of the employer's portion for optional benefits. For example, this would not apply to optional benefits granted before 1979 and only the amount over and above normal contributions would be eligible for consideration[19].

Eliminate EPMC as compensable earnings:

If the EPMC is retained or until it can be eliminated, a cost reduction can also be realized by not counting the EPMC as compensable earnings. CalPERS has 7%, 8%, and 9% EMPC benefit levels depending on the plan. This is an optional benefit. The elimination of EPMC as compensable earnings would reduce the surcharge in the range

[18] See Appendix D for examples what is compensable under CalPERS and what is not.

[19] Section 20516 of the California Government Code.

of 0.8% to 1.2% depending on the formula and the benefit level for a Miscellaneous plan. For a Safety plan, the savings would be 1.4% to 2.4% depending on the formula and the benefit level[20].

Change the formula:

Retirement benefits are calculated based on the number of years of service, the retirement age, and all compensable earnings for the single highest year or highest annual average in a designated 3-year period. Reducing the percentage for each year of credited service applied to the final compensation amount and/or extending the retirement age are two of the three key components in changing the benefits formula.

The minimum retirement age is 50 years. A Miscellaneous plan formula stated as 2.5% at 55 years (2.5% @ 55) means that an employee who retires at 55 years old will have a benefit factor of 2.5% for each year of service applied to the compensable earnings. Retiring earlier will have a lower benefit factor. The same applies for the 2.7% @ 55 and 3% @ 60 Miscellaneous plans, and the 3% @ 50, 3% @ 55, and 2% @ 55 Safety plans .

However, the 2% @ 55 and 2% @ 60 Miscellaneous plans have increasing benefit factors if an employee retires at an older age than the plan age. The benefit factor will increase in nearly a linear progression to 2.418% for any employee retiring at 63 years or older. The 2% @ 50 Safety plan is similar with an increasing benefit factor going to 2.7% if retiring at 55 years or older[21].

The following three scenarios for a miscellaneous plan can illustrate the reduction of the normal cost as a percentage of payroll costs[22] (with the percentage reduction of the normal cost in parenthesis):

[20] Refer to Cost of Optional Benefits in Appendix A.

[21] Refer to charts in the Risk Pool Benefit Factors in Appendix B and the Percentage of Compensation by Retirement Age in Appendix C.

[22] CalPERS base employer rate estimates for the fiscal year ending June 30, 2011.

Benefits and Costs
Miscellaneous Plans

Plan Formula	Benefit (% of Final Compensation) * Retire at Age 55	Benefit (% of Final Compensation) * Retire at Age 60	Cost ** As % of Payroll
2% at 60	43.8%	70.0%	6.8%
2% at 55	60.0%	79.2%	8.5%
2.5% at 55	75.0%	87.5%	9.7%
2.7% at 55	81.0%	94.5%	11.2%
3% at 60	62.5%	105.0%	12.1%

* Assumes employee hired at age 25

** Annual Employer Costs are for Normal Costs and do not include costs for amortization of side funds or amortization of Unfunded Liabilities

- Reduce percentage for each year of service from 2.5% at 55 years to 2% at 55 years – Normal cost declines from 9.7% to 8.5% (-12.4%)
- Extend the retirement age from 2% at 55 years to 2% at 60 years – Normal cost declines from 8.5% to 6.8% (-24.1%)
- Combination of both from 2.5% at 55 years to 2% at 60 years – Normal cost declines from 9.7% to 6.8% (-30.9%)

The following are the same three scenarios for a public safety plan[23] (with the percentage reduction of the normal cost in parenthesis):

Benefits and Costs
Safety Plans

Plan Formula	Benefit (% of Final Compensation) * Retire at Age 55	Benefit (% of Final Compensation) * Retire at Age 60	Cost ** As % of Payroll
2% at 55	60.0%	70.0%	11.6%
2% at 50	81.0%	90.0%	13.4%
3% at 55	90.0%	90.0%	15.6%
3% at 50	90.0%	90.0%	18.2%

* Assumes employee hired at age 25

** Annual Employer Costs are for Normal Costs and do not include costs for amortization of side funds or amortization of Unfunded Liabilities

- Reduce percentage for each year of service from 3% at 50 years to 2% at 50 years – Normal cost declines from 18.2% to 13.4% (-26.4%)

[23] CalPERS base employer rate estimates for the fiscal year ending June 30, 2011.

- Extend the retirement age from 3% at 50 years to 3% at 55 years – Normal cost declines from 18.2% to 15.6% (-14.3%)
- Combination of both from 3% at 50 years to 2% at 55 years – Normal cost declines from 18.2% to 11.6% (-18.7%)

Another consideration for reducing the normal cost is to place a cap on the maximum cumulative percentage applied to the final compensation amount. Many plans are capped at 90% and 100% for public safety and miscellaneous, respectively. However, some local agencies do not have a cap on some of their plans.

Extend the number of years used to determine the final compensation for calculating pension benefits:

Using the highest annual average compensation in a designated period of several years instead of the highest single year's compensation is generally seen as a means to reduce the abuses associated with pension spiking[24]. Absent any abuses, there is still a cost saving to be realized. By using the highest annual average in a designated three-year period, the surcharge for the highest single year can be eliminated. This represents a cost savings to the employer in the range of 0.5% to 0.7% of payroll cost depending on the Miscellaneous plan formula. For a Safety plan, the savings would be 0.8% to 1.0% depending on the formula[25].

These are currently the only two options offered by CalPERS. The greater the number of years used in the annual averaging, the greater the cost savings. At some point in the future, employers may want to consider incorporating a method whereby the formula for the final compensation is the average of each year of service.

Using defined contribution plans:

Since the early 1980's, the private sector has predominately shifted from defined benefit plans to defined contribution plans. Employers recognized that the normal cost of maintaining defined benefit plans was too expensive and unsustainable. To eliminate a potentially huge future liability, employers elected to pay annual contributions to the employees. These contributions were guaranteed, but the future benefits were not. The risk and responsibility of investing for retirement savings was shifted to the employee.

Even if public employees were to agree to convert the defined benefit plans to defined contribution plans, it would not be financially feasible for the employers. While the

[24] Pension spiking occurs when benefits are increased by inflating the last year's compensation before an employee retires.

[25] Refer to Cost of Optional Benefits in Appendix A.

private sector was able to pay the present value of the pension accounts to the employees, CalPERS would require the buyout calculated on the accrued and existing liabilities for the benefits (which includes a contingency for mortality fluctuations) of every employee and retiree over their actuarial life. The amount of cash the employer would have to raise would not make this a feasible alternative[26].

To transfer some of the risk from the employer to employees, local agencies may want to explore creating a hybrid plan. Local agencies would continue to have a defined benefit plan, but at a lower percentage for each year of service. The employer would also pay into a defined contribution plan with a possible matching amount tied to economic conditions. Even if a cost-neutral scenario were to be used (i.e. no cost savings to the employer), it still reduces the impacts of market volatility on the employer by providing a mechanism which reduces the funding requirements and a higher liability in a bad or stagnant economic climate. In more prosperous economic times, the employee would also have a greater share of the rewards.

Changes in other benefits:

The ceiling on the cost of living adjustment (COLA) can be 2% to 5% in 1% increments. This is set by CalPERS and cannot go below 2%. A COLA above 2% is an optional benefit and there is a surcharge. If a plan had a maximum COLA of 2%, eliminating the surcharge would be a cost savings of 1.0% to 1.5% of the payroll cost depending on the Miscellaneous plan formula. For a Safety plan, the savings would be 1.8% to 2.6% depending on the formula[27].

The Post-Retirement Survivorship Allowance (PRSA) is another optional benefit. An employer can elect to provide a surviving spouse or domestic partner a lifetime monthly allowance of 25% or 50% of the employee's Unmodified Allowance amount[28]. Eliminating surcharge for PRSA would represent a savings of 0.7% to 1.0% of the payroll cost depending on the Miscellaneous plan formula. For a Safety plan, the savings would be 1.2% to 1.7% depending on the formula[29].

The Internal Revenue Service (IRS) has a $195,000 contribution limit into a defined benefit plan. An employer may want to consider placing the cap lower than the IRS limit on compensation used in the formula.

---

[26] For the City of Sausalito, CalPERS calculated that a payment of $40,244,944 would need to be made immediately upon termination from the system.

[27] Refer to Cost of Optional Benefits in Appendix A.

[28] The highest monthly amount the employee can receive.

[29] Refer to Cost of Optional Benefits in Appendix A.

Create a new tier:

Many agencies seek to lower their overall cost to fund pensions through "tiering." With tiering, an agency establishes a new, lower level of pension benefit for all employees hired after a certain date. This new level is commonly called a "tier." Employees who are active at the time a new tier is established retain their benefit level in an older, closed tier. Employer contribution rates are calculated separately for each tier. The contribution rates for new tiers are typically much lower than older tiers.

While there is no immediate savings for an agency when a new tier is established, tiering can be an important component of a long-term strategy to lower the costs pension obligations. There are many actuary firms that can assist an agency in calculating the savings created by tiering over various time periods[30].

Financial adjustments:

In 2003, employers with fewer than 100 active employees were forced to consolidate their plan assets and liabilities into one of nine CalPERS risk pools. This was done to reduce the volatility in the employer's contribution rate. However, the employer is required to pay the difference in the unfunded liability between the old plans and these new risk pools. This can be done in an annual lump-sum payment or financed through a Side Fund.

Employers with a Side Fund financed by CalPERS may want to consider refinancing this obligation. CalPERS charges the assumed investment return of 7.75%. A local agency with a favorable credit rating and good financial ratios may want to consider reducing its cost of capital by paying off the Side Fund with a pension obligation bond with a lower interest rate.

A local agency would have to ascertain the risk associated with turning an actuarial estimated liability (unsecured debt) into an actual fixed debt against your general fund (secured debt). The factors to consider are how long the side fund is expected to be underfunded and the probability of declaring bankruptcy.

By all indications, local governments will be in financial distress into the foreseeable future. It has been previously illustrated how it will take many years to reduce the unfunded pension liability to the point that the plans are fully funded again, if ever.

[30] Several local agencies have already created additional tiers. Also, note that there has been some debate as to whether inequities between tiers would create an employee morale problem.

Anytime the plans are superfunded, more fiscal discipline is needed. Rather than to take contribution “holidays”, the difference between the normal cost and the required funding should be put into a pension reserve fund. This reserve should be used offset the amount in excess of the normal cost the next time the system is underfunded. While a pension reserve fund may still not be adequate in more severe economic times, it will still dampen the impact of being underfunded.

Restructuring workforce to reduce salary and benefits:

Since salary and benefits are an organization’s single largest expense, restructuring the workforce should be considered. Providing an incentive for early retirement will keep the final basis for the retirement benefits from getting higher, either by more years of service and/or higher compensable earnings to be used in the formula. Even if there is succession planning, the tradeoff is still in the loss of institutional knowledge and experience.

As a workforce reduction measure, evaluate functions that are not a core competency of government and look at outsourcing, joint power authorities, shared services, and consolidation as options. When the hourly cost of a public employee (which should include the present value of the actuarial cost of a lifetime of benefits) is compared with hourly rate of a contractor in the private sector, it may be possible to get a comparable resource for a lower cost. In addition, public agencies should look at where they can achieve larger economies of scale.

Legal remedies:

Public agencies are turning more to the courts to interpret where there may be possible avenues for relieving the financial distress associated with the escalating costs and risks of post-employment benefits. The nature of these challenges would likely come from Charter Cities[31] rather than General Law Cities[32] by the very nature that their charter may have different definitions for employee compensation and benefits than what is written in California Public Employees’ Retirement Law.

The key arguments arising from current and prospective challenges center around how vested rights are defined, whether these vested rights exist in perpetuity, whether retirement benefits can be reduced if they are a vested right, and how these issues will

[31] A Charter City forms its own government and laws under Article XI of the California Constitution. San Rafael is the only Charter City in Marin.

[32] A General Law City operates under the general laws of the State of California regardless of whether the subject concerns a municipal issue or not.

be interpreted[33]. Although the United States and California Constitutions prohibit government from enacting legislation that impairs contracts, courts have also long recognized that this prohibition is subservient to government's power "to protect the lives, health, morals, comfort and general welfare of the public"[34].

Some examples of recent legal cases involving pension reform can be found in Appendix F. While the Committee does not exclude the possibility of legal remedies, it would be highly improbable for any local agency in Marin to pursue as a course of action given the tremendous associated legal cost (potentially millions of dollars) that would be incurred to explore any of these options.

[33] Federal Government Code, California Government Code, or local Memorandum of Understanding.

[34] Declaration of a Fiscal Emergency: A Resurging Option for Public Entities Attempting to Deal with the Current Economic Climate (By Jonathon V. Holtzman, K. Scott Dickey, and Steve Cikes) – The Public Law Journal, Vol. 34, No.1, Winter 2011

Next Steps:

Any solution impacting compensable earnings or the level of benefits cannot be achieved without negotiation with employee labor groups, but the alternatives in the Toolkit can be implemented within the control of each local agency.

If a local agency wants to formally acknowledge its commitment to reducing the costs and risks associated with post-employment benefits, the Committee has drafted a generic resolution which summarizes the solutions in the Toolkit in general terms stated as guiding principles. This is a template that can be modified to reflect each individual agency's current circumstance and financial objectives.

Statewide reforms:

The Committee has acknowledged and recognized that the more significant reforms will have to occur through legislation at the State level or through the process of a statewide ballot initiative. In addition, one of the stated goals of the Mayors Select Committee was to have the Committee create an initial set of policy and reform recommendations for the Legislative Committee to serve as a basis for discussion on any statewide proposals.

The sample resolution[35] lists the following legislative policy and reform recommendations to be considered:

- Create a hybrid pension system to include the development of revised formulae that would alter the retirement percentages and extend the maximum payout age under an adopted formula.
- Establish a maximum benefit cap of 80% for miscellaneous employees and 80% to 90% for safety employees.
- Establish a maximum allowable Cost of Living Adjustment to pension programs.

This is not an exhaustive list of possible solutions. The explicit mention of only these legislative proposals does not mean that the Committee does not favor other pending or future ideas. In addition, the Committee's inclusion of a small sample of proposals that address some of the cost and risk impacts does not prelude the MCCMC (or any of its members) from taking a position on any discussions for reform to other issues associated with the governance of pension systems such as, but not limited to, reporting

[35] A sample resolution is in Appendix G.

requirements, transparency, actuarial valuation, investment policies, and the composition of the governing board.

In any case, additional work on the very important issue of post-employment benefits is still needed. Going forward, the MCCMC has several options:

- Reconvene the Committee for the purpose of studying and evaluating new legislative proposals, ballot initiatives, and legal challenges to the existing system.
- Roll any continuing efforts on these topics over to the Legislative Committee, since its normal activities include the monitoring and review of pending legislation.
- Have three to five members of the Committee serve as a subcommittee of the Legislative Committee – and in this way, retain the knowledge compiled by the Committee while minimizing the additional workload placed on the Legislative Committee.

Benefits study:

Separate from the work of the Committee, there is one unresolved issue for agencies in the CalPERS system. The Committee reached no clear consensus on whether there would be benefit in having an actuarial study performed by a third-party who is independent of CalPERS. There are several issues:

- The Actuarial Valuation Report provided by CalPERS is typically published in October for a fiscal year that ended 14 months prior to that. From a budgeting and cash management perspective, a local agency is not getting timely information.
- Since the local agencies are part of a larger risk pool, the Actuarial Valuation Report provided by CalPERS has the unfunded liability as an aggregate, but this information is not specific to the local agencies in the risk pool[36].
- The analyses provided in the Actuarial Valuation Report are estimates of the future employer contribution rates and the potential impact due to any volatility in the contribution rates. These estimates for the next fiscal year are based on a snapshot in time from data that will be two years old by the time the next fiscal year begins.

For financial planning purposes, an independent report should not replicate the actuarial analysis of CalPERS, but to go further and provide more detail in the funded status by analyzing the sensitivity of investment returns using more current data on the economic

[36] CalPers will calculate the unfunded liability if they are notified by the employer of an intent to terminate. It was conservatively estimated by the City of Sausalito that it would cost $35,000 to get a precise calculation.

and market conditions. The analysis should look at the sensitivity based on the deviation of a range of returns and not just a single set of stated assumptions. Projections should go out five years and an analytical tool should be included to re-run the model under different budgeting scenarios.

The Committee started with the initial assumption that there would be economies of scale by participating jointly in a study. Since the data is specific and unique to each agency (even those in the same risk pool), it was discovered there would be very little sharing of costs.

San Rafael, Sausalito, and Novato have already completed an independent analysis. Some of the remaining local agencies still see tremendous value in having a study done. Others are more ambivalent. As with the Toolkit, governing body of each local agency will have to evaluate the cost-benefit based on their own set of circumstances[37].

[37] Bartel Associates has provided an outline for a study that meets the objectives of the Committee. A sample resolution and the scope of a study are in Appendix H.

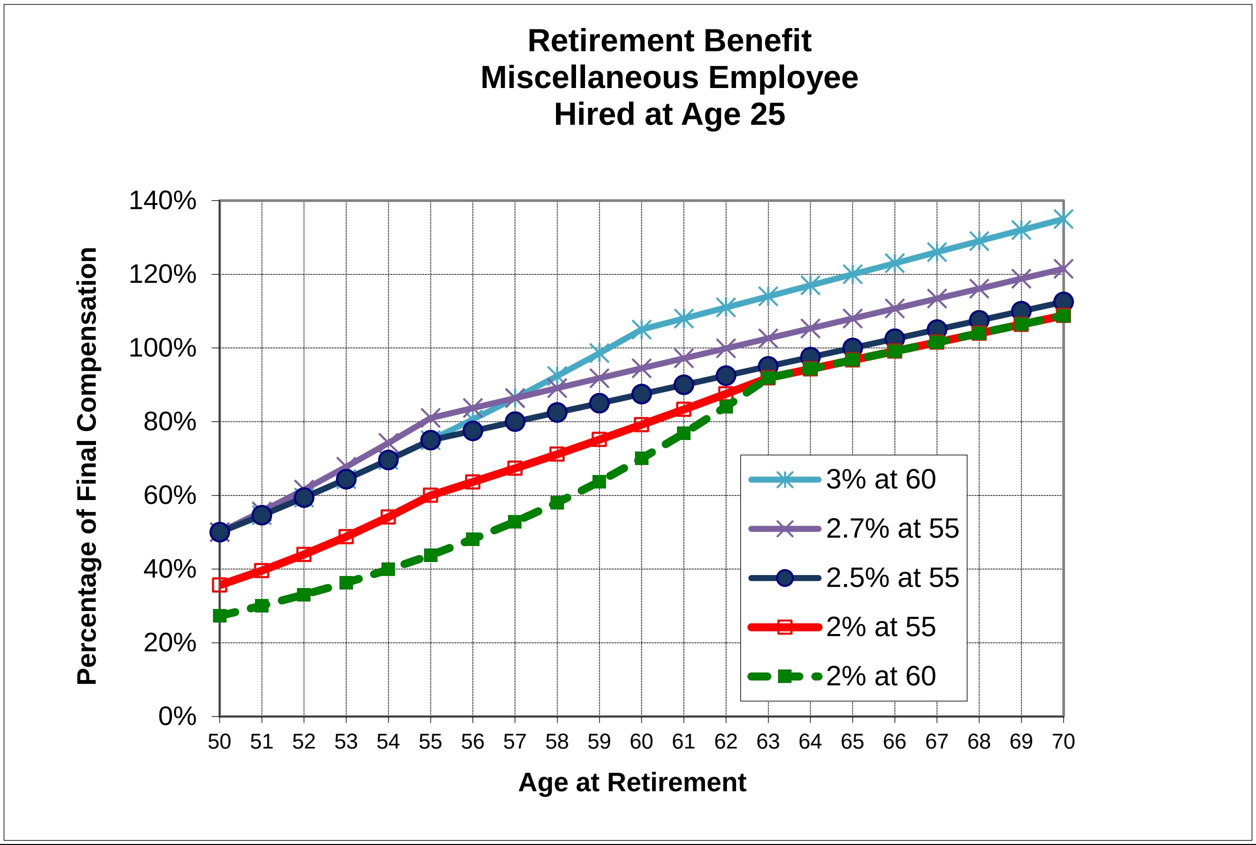
Appendix A
COST OF OPTIONAL BENEFITS
(as a percentage of payroll cost)

	Surcharges for optional Benefits					
Formula	One-Year Final Compensation	7% EPMC	8% EPMC	9% EPMC	25% or 50% PRSA	3%, 4%, or 5% COLA
Miscellaneous						
2% @ 60	0.5%	0.8%	- - -	- - -	0.7%	1.0%
2% @ 55	0.5%	0.9%	- - -	- - -	0.8%	1.1%
2.5% @ 55	0.6%	1.1%	1.2%	- - -	0.9%	1.4%
2.7% @ 55	0.6%	1.2%	1.3%	- - -	1.0%	1.5%
3% @ 60	0.7%	1.2%	1.4%	- - -	1.0%	1.5%
Safety						
2% @ 55	0.8%	1.4%	- - -	- - -	1.2%	1.8%
2% @ 50	0.9%	1.6%	1.8%	2.0%	1.3%	2.1%
3% @ 55	0.9%	1.7%	2.0%	2.2%	1.8%	2.4%
3% @ 50	1.0%	1.8%	2.1%	2.4%	1.7%	2.6%

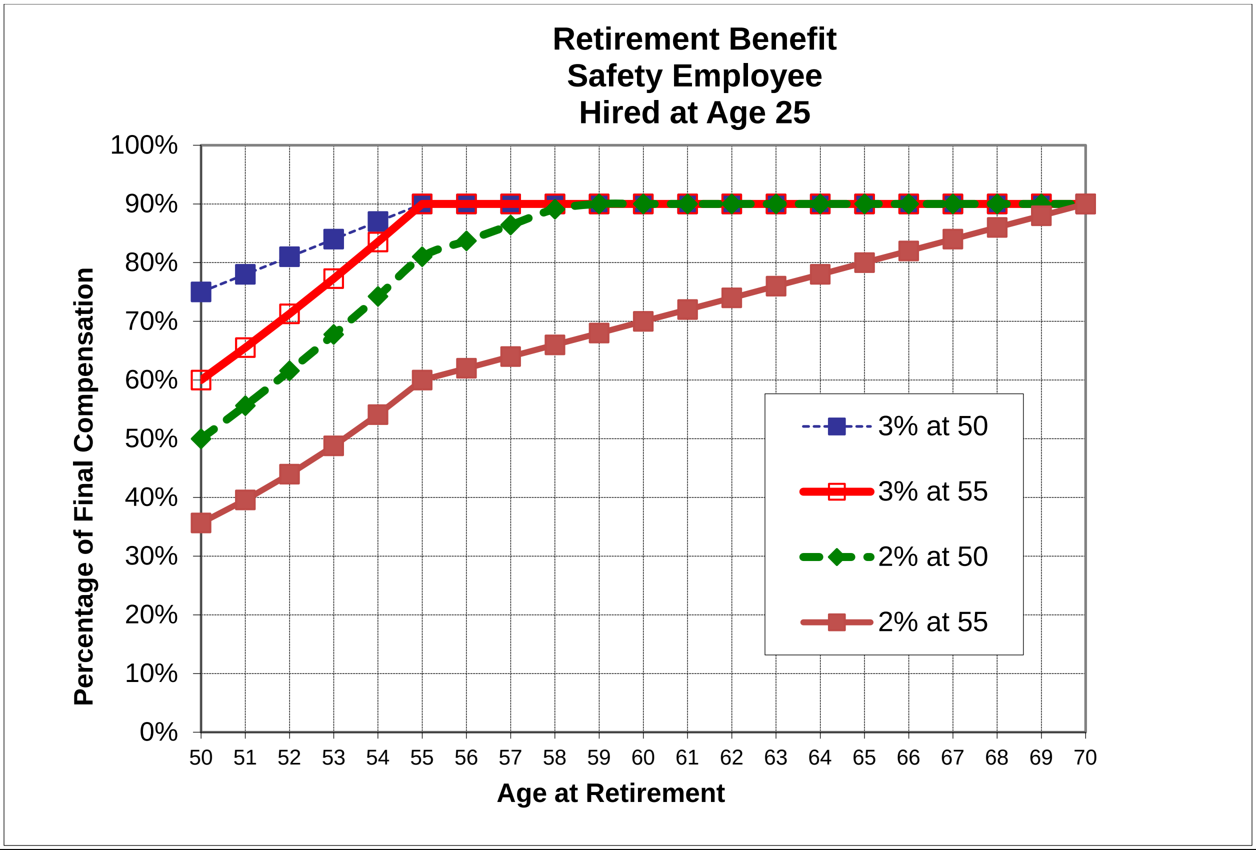
* Source: CalPERS risk pool annual valuations for fiscal year ending June 30, 2009.

Appendix B

RISK POOL BENEFIT FACTORS



* Source: Derived from CalPERS Local Members Benefit Formula Charts



* Source: Derived from CalPERS Local Members Benefit Formula Charts

Appendix C

PERCENTAGE OF FINAL COMPENSATION BY RETIREMENT AGE

Miscelaneous Employees
Hired at age 25

	Percentage of Final Compensation				
Retire at Age	2% at 60	2% at 55	2.5% at 55	2.7% at 55	3% at 60
50	27.30%	35.65%	50.00%	50.00%	50.00%
51	30.06%	39.57%	54.60%	55.64%	54.60%
52	33.05%	43.96%	59.40%	61.56%	59.40%
53	36.29%	48.78%	64.40%	67.76%	64.40%
54	39.90%	54.11%	69.60%	74.24%	69.60%
55	43.80%	60.00%	75.00%	81.00%	75.00%
56	48.11%	63.61%	77.50%	83.70%	80.60%
57	52.80%	67.33%	80.00%	86.40%	86.40%
58	58.01%	71.15%	82.50%	89.10%	92.40%
59	63.72%	75.14%	85.00%	91.80%	98.60%
60	70.00%	79.17%	87.50%	94.50%	105.00%
61	76.82%	83.30%	90.00%	97.20%	108.00%
62	84.06%	87.54%	92.50%	99.90%	111.00%
63	91.88%	91.88%	95.00%	102.60%	114.00%
64	94.30%	94.30%	97.50%	105.30%	117.00%
65	96.72%	96.72%	100.00%	108.00%	120.00%
66	99.13%	99.13%	102.50%	110.70%	123.00%
67	101.55%	101.55%	105.00%	113.40%	126.00%
68	103.97%	103.97%	107.50%	116.10%	129.00%
69	106.39%	106.39%	110.00%	118.80%	132.00%
70	108.81%	108.81%	112.50%	121.50%	135.00%

* Source: Derived from CalPERS Local Members Benefit Formula Charts

Safety Employees
Hired at age 25

	Percentage of Final Compensation			
Retire at Age	2% at 55	2% at 50	3% at 55	3% at 50
50	35.65%	50.00%	60.00%	75.00%
51	39.57%	55.64%	65.52%	78.00%
52	43.96%	61.56%	71.28%	81.00%
53	48.78%	67.76%	77.28%	84.00%
54	54.11%	74.24%	83.52%	87.00%
55	60.00%	81.00%	90.00%	90.00%
56	62.00%	83.70%	90.00%	90.00%
57	64.00%	86.40%	90.00%	90.00%
58	66.00%	89.10%	90.00%	90.00%
59	68.00%	90.00%	90.00%	90.00%
60	70.00%	90.00%	90.00%	90.00%
61	72.00%	90.00%	90.00%	90.00%
62	74.00%	90.00%	90.00%	90.00%
63	76.00%	90.00%	90.00%	90.00%
64	78.00%	90.00%	90.00%	90.00%
65	80.00%	90.00%	90.00%	90.00%
66	82.00%	90.00%	90.00%	90.00%
67	84.00%	90.00%	90.00%	90.00%
68	86.00%	90.00%	90.00%	90.00%
69	88.00%	90.00%	90.00%	90.00%
70	90.00%	90.00%	90.00%	90.00%

* Source: Derived from CalPERS Local Members Benefit Formula Charts

Appendix D

EXAMPLES OF CalPERS COMPENSABLE EARNINGS

Reportable *	Non-Reportable
Salary or payrate	Fringe benefit contribution
Holiday pay	Automobile allowance
Vacation, sick leave, and administrative leave used in lieu of hours worked	Overtime
Temporary upgrade pay	Cash out of compensatory time
Bonuses	Redemption of vacation and administrative leave
Education incentive (including Peace Officers Standards & Training)	
Shift differential	
Uniform allowance	
Value of Employer Paid Member Contribution (EPMC)	
Bilingual pay	
Longevity Pay	
Premium pay (Police specialty assignments)	
Field Training Officer	
Investigator	
Traffic Officer	
School Resources Officer	
Canine Officer	

* Guidelines for defining compensation, compensation earnable, payrate and special compensation are listed in the California Government Code Section 20630 and Section 20636.

Appendix E

MARIN PENSION SURVEY
AS OF MAY 20, 2011

Member Type	Employee Group	Pension Agency	Retirement Formula	Formula Effective Date	Final Average Compensation Period	Maximum COLA	2011 - 2012 Employer Contribution	Employee Paid Member Contribution	Employer Paid Member Contribution (EPMC)	EPMC Considered Special Contribution	Maximum Pension	Participate In Social Security	Side Fund Obligation	Funds Set Aside	Bonds Issued (dollars)	Comments
BELVEDERE																
Safety	Police	PERS	2% @ 50	4/1/1975	Highest 3 yrs	2.0%	30.678%	1.0%	8.0%	No	90%	No	$ 439,254			
Misc.	All Non-Safety	PERS	2% @ 55	2/1/2001	Single highest	2.0%	14.379%	0.0%	7.0%	Yes	100%	No	$ 550,438			
CORTE MADERA																
Safety	Fire - Battalion Chiefs	PERS	3.0% @ 50	1/6/2003	Single highest	2.0%	40.194%	0.0%	9.00%	Yes	90%	No	$ 1,695,000			6 years left on side fund
Safety	Fire - CMFA	PERS	3.0% @ 50	1/6/2003	Single highest	2.0%	40.194%	9%	0%	No	90%	No				
Misc.	SEIU	PERS	2.5% @ 55	7/18/2005	Single highest	2.0%	20.673%	8	0	No	100%	No	$ 1,411,000			9 years left on side fund
Misc.	Other	PERS	2.5% @ 55	7/18/2005	Single highest	2.0%	20.673%	0.0%	8.00%	Yes	100%	No				
COUNTY OF MARIN													$384.3 million		$112.8 million	Issued in 2003
Safety Tier 1	All Safety (Sheriff, Fire, Probation) hired before 7/1/1980 who did not opt to transfer to Tier 1A on 1/2/2005	MCERA	3% at 55	Before 7/1/1980	Single highest	4.0%	**0.00%***	**13.73%-18.35%** depending upon age at entry**	n/a		100%	No				1
Safety Tier 1A	All Safety (Sheriff, Fire, Probation) hired before 7/1/1980 who transferred to Tier 1A on 1/2/2005	MCERA	3% at 50	1/2/2005*	Single highest	4.0%	**0.00%***	**13.73%-18.35%** depending upon age at entry**	n/a		100%	No				1A
Safety Tier 2	All Safety (Sheriff, Fire, Probation) hired 7/1/1980 or later who did not opt to transfer to Tier 2B on 1/2/2005	MCERA	3% at 55	7/1/1980	Highest 3 yrs	2.0%	**32.61%***	**11.74%-18.35%** depending upon age at entry**	n/a		100%	No				2
Safety Tier 2B	All Safety (Sheriff, Fire, Probation) hired 7/1/1980 or later who transferred to Tier 2B on 1/2/2005	MCERA	3% at 50	1/2/2005*	Highest 3 yrs	2.0%	**29.86%***	**11.74%-18.35%** depending upon age at entry**	n/a		100%	No				2B
Misc Tier 1	All Mgmt and non-safety	MCERA	2% at 55.5	Before 7/1/1980	Single highest	4.0%	**32.49%***	**6.25% - 10.25%** depending upon age at entry**	n/a		100%	No				1
Misc Tier 2	All Tier 2 Mgmt and non-safety who opted out of Tier 3 on 7/8/2002	MCERA	2% at 61	7/1/1980	Highest 3 yrs	2.0%	**19.89%***	**4.98% - 9.98%** depending upon age at entry**	n/a		100%	No				2

Misc Tier 3	All Tier 2 Mgmt and non-safety who did not opt out of Tier 3 on 7/8/2002, plus new hires after that date	MCERA	2% at 55	7/8/2002	Highest 3 yrs	2.0%	**19.59%***	**6.19% - 11.11%** depending upon age at entry**	n/a		100%	No				3
FAIRFAX																
Safety - Tier 1	Sworn	PERS	3%@50	7/1/2002	Highest 3 yrs	3.0%	48.940%	0.0%	9.0%	No	100%	No	$ 1,985,571			
Safety - Tier 2	Sworn	PERS	3%@55	7/1/2009	Highest 3 yrs	3.0%	22.060%	0.0%	8.0%	No	100%	No				
Misc. Tier 1	Dispatch & CSO	PERS	2.5%@55	7/1/2002	Highest 3 yrs	3.0%	16.310%	0.0%	8.0%	No	100%	No				
Misc. Tier 1	Management	PERS	2.5%@55	7/1/2005	Highest 3 yrs	3.0%	16.310%	0.0%	8.0%	No	100%	No	$ 286,968			
Misc. Tier 1	Public Works	PERS	2.5%@55	7/1/2003	Highest 3 yrs	3.0%	16.310%	0.0%	8.0%	No	100%	No				
Misc. Tier 2	Dispatch & CSO	PERS	2%@55	1/1/2010	Highest 3 yrs	3.0%	10.340%	0.0%	8.0%	No	100%	No				
Misc. Tier 2	Management	PERS	2%@55	1/1/2010	Highest 3 yrs	3.0%	10.340%	0.0%	8.0%	No	100%	No				
Misc. Tier 2	Public Works	PERS	2%@55	1/1/2010	Highest 3 yrs	3.0%	10.340%	0.0%	8.0%	No	100%	No				
LARKSPUR																
Safety	Fire	PERS	3%@55	12/1/2000	Single highest	2.0%	40.274%	0.0%	9.0%	Yes	90%	No	$ 2,258,140	0	0	
Misc.	All Non-Safety	PERS	2.5@55	8/1/2009	Single highest	2.0%	18.071%	1.0%	7.0%	Yes	100%	No	$ 1,267,956	0	0	
MILL VALLEY																
Safety - Tier 1	Police	PERS	3%@55	7/8/1972	Single highest	2.0%	21.252%	0.0%	9.0%	No	90%	No	$ -	$ -	$ 2,470,787	T-1 POB for Tier 1 Police & Fire
Safety - Tier II	Police	PERS	3%@55	7/19/1986	Highest 3 yrs	2.0%	20.308%	0.0%	9.0%	No	90%	No	$ -	$ -	$ 782,676	T-II POB for Tier 1 Police & Fire
Safety-Tier Iia	Police	PERS	3%@55	7/1/2010	Highest 3 yrs	2.0%	20.308%	3	6	No	90	No	$ -	$ -	$ -	
Safety - Tier 1	Fire	PERS	3%@55	7/8/1972	Single highest	2.0%	21.252%	3.0%	6.0%	No	90%	No	$ -	$ -	$ -	see T-1 above
Safety - Tier II	Fire	PERS	3%@55	7/19/1986	Highest 3 yrs	2.0%	20.308%	3.0%	6.0%	No	90%	No	$ -	$ -	$ -	see T-II above
Safety - Tier 1	Fire Chiefs	PERS	3%@55	7/8/1972	Single highest	2.0%	21.252%	0.0%	9.0%	No	90%	No	$ -	$ -	$ -	
Safety - Tier II	Fire Chiefs	PERS	3%@55	7/19/1986	Highest 3 yrs	2.0%	20.308%	0.0%	9.0%	No	90%	No	$ -	$ -	$ -	
Misc - Tier I	Management	PERS	2.5%@55	5/3/2003	Single highest	2.0%	14.256%	0.0%	9.0%	No	100%	No	$ -	$ -	$ 3,396,687	Total for all miscellaneous employees
Misc - Tier II	Management	PERS	2%@55	2/26/11 est,	Highest 3 yrs	2.0%	(1) 9.359%	0.0%	8.0%	No	100%	No	$ -	$ -	$ -	Effective 3/26/11
Misc - Tier I	AFSCME	PERS	2.5%@55	5/3/2003	Single highest	2.0%	14.256%	2.0%	6.0%	No	100%	No	$ -	$ -	$ -	Included in Management POB

Misc - Tier II	AFSCME	PERS	2%@55	2/26/11 est,	Highest 3 yrs	2.0%	(1) 9.359%	2%	5.0%	No	100	No	$ -	$ -	$ -	Effective 3/26/11
MMWD																
Misc.	All represented employees	PERS	2.7% @ 55	7/1/2003	Highest 3 yrs	3.0%	18.145%	5.0%	3.0%	Yes	No cap	Yes	0	$ -	$ -	
NOVATO														$ 1,345		
Safety	Police Tier 1	PERS	3% @ 55	7/1/2001	Single highest	2.0%	21.407%	1.0%	8.0%	Yes	90%	No	yes		$9.8 million	issued in 2006
Safety	Police Tier 2	PERS	3% @ 55	7/1/2001	Highest 3 yrs	2.0%	21.407%	1.0%	8.0%	No	90%	No	yes			
Misc.	All Mgmt and non-safety teir 1	PERS	2% @ 55	7/1/2000	Single highest	2.0%	10.975%	1.0%	6.0%	Yes	No cap	No	n/a		$8.0 million	Benefit factor 2.418% @ age 63+. No limit on years of service.
Misc.	All Mgmt and non-safety teir 2	PERS	2% @ 55	7/1/2000	Highest 3 yrs	2.0%	10.975%	1.0%	6.0%	Yes	Y	No	n/a			
NOVATO SANITARY DISTRICT																
Misc.	All represented employees	PERS	2%@55	Before 2000	Single highest	2.0%	14.028%	0.0%	7.0%	Yes	No cap	No	$ 1,254,401	$ -	$ -	
ROSS																
Safety	Police	PERS	3%@55	6/30/2003	Single highest	2.0%	30.433%	0.0%	9.0%	No	90%	Yes	$ 1,525,324	$ -	$ -	Police Chief pays member contribution. Fire & Police total.
Safety	Fire	PERS	3%@55	6/30/2003	Single highest	2.0%	30.433%	0.0%	9.0%	Yes	90%	Yes				
Misc.	All Mgmt and non-safety	PERS	2% @ 55	6/30/2003	Highest 3 yrs	2.0%	11.164%	0.0%	7.0%	No	No cap	Yes	$ 107,927	$ -	$ -	PW Director to pay member contribution.
SAN ANSELMO																
Safety - Tier 1	Sworn Police	PERS	3% @ 50	11/1/1966	Single highest	2.0%	42.60%	0.0%	9.0%	No	90%	Yes	$ 2,028,645	$ -	$ -	
Safety - Tier II	Sworn Police	PERS	3% @ 55	2/1/2007	Single highest	2.0%	21.30%	0.0%	9.0%	No	90%	Yes	$ -	$ -	$ -	
Misc. - Tier I	All others incl non-sworn police	PERS	2.7%@55	7/1/2004	Single highest	2.0%	25.98%	0.0%	8.0%	No	No cap	Yes	$ 2,018,593	$ -	$ -	
Misc. - Tier II	All others incl non-sworn police	PERS	2% @ 55	2/1/2007	Single highest	2.0%	10.06%	0.0%	7.0%	No	No cap	Yes	$ -	$ -	$ -	
SAN RAFAEL														~ $2.5M	~ $4.2M	Financed one year of "normal cost"
Safety	Police	MCERA	3%@55	7/1/2004	Single highest	3.0%	53.76%	6.99-17.64%	0.0%	No	100%	No	No			
Safety	Fire	MCERA	3%@55	7/1/2006	Single highest	3.0%	68.77%	6.99-17.64%	0.0%	No	100%	No	No			
Misc.	All Mgmt and non-safety	MCERA	2.7%@55	7/1/2004	Single highest	3.0%	40.78%	6.29-13.72%	0.0%	No	100%	No	No			
SAUSALITO																
Safety	Police	PERS	2.40% - 3.0% @ 55	6/1/2000	Single highest	2.0%	38.533%	9.0%	0.0%	Yes	90%	No	$3,000,000	$0		See below
Safety	Fire	PERS	2.40% - 3.0% @ 55	6/2/2000	Single highest	2.0%	31.548%	0.0%	9.0%	No	90%	No	$1,400,000	$0		See below
Misc.	All non safety employees	PERS	2.0% - 2.5% @ 55	7/1/2003	Single highest	2.0%	15.595%	8.0%	0.0%	Yes	No cap	No	$430,000	$0		See below

																Effective 7/1/2003, the City adopted the provisions of IRS Code Section 414(h)(2) on behalf of if its miscellaneous and police personnel. Base salaries are grossed up 8% and 9% respectively so that employees may pay their own PERS contributions out of pre-tax compensation. The City continues to pick up the tax deferred contributions on behalf of fire.
TIBURON																
Safety	Police	PERS	3% @ 55	6/1/2004	Highest 3 yrs	2.0%	23.995%	9.0%	0.0%	No	90%	No	$ 298,573	$ -	$ -	6 years left on amortization
Miscellaneous	All Non-Safety	PERS	2% @ 55	7/1/2001	Single highest	2.0%	11.775%	7.0%	0.0%	No	100%	No	$ 427,716	$ -	$ -	14 years left on amortization
TWIN CITIES POLICE AUTHORITY																
Safety - Tier 1	Police	PERS	2%@50	Pre 1/1/2003	Highest 3 yrs	2.0%	77.221%	0.0%	9.0%	Y	90%	No	$ 2,755,505			3 employees left in this tier
Safety - Tier 2	Police	PERS	3%@55	1/1/2003	Single highest	2.0%	25.357%	0.0%	9.0%	Y	90%	No	$ 666,949			
Misc. Tier 1	All Non-Safety	PERS	2%@60	Pre 7/1/2002	Highest 3 yrs	2.0%	54.381%	3.50%	4.50%	Y	100%	No	$ 318,629			0 employees left in this tier
Misc. Tier 2	All Non-Safety	PERS	2%@55	7/1/2002 thru 6/30/08	Single highest	2.0%	17.280%	3.50%	4.50%	Y	100%	No	$ 229,085			

* 2010-2011 Employer Contribution
** 2010-2011 Employee Paid Member Contribution

Vested Employee Right

Negotiable with Current Employees

Appendix F

SUMMARY OF CURRENT AND RECENT LEGAL CASES INVOLVING PENSION REFORM

Legal Issue	Key Aspects Relating to Pension Reform	Status
Vallejo Bankruptcy	When Vallejo filed bankruptcy, the list of creditors holding the "20 largest unsecured claims" issued by the City was topped by the California Public Employees Retirement System — $135 million for retiree health care and $84 million for pensions. An early ruling of the bankruptcy court allowed Vallejo to nullify its contracts and agreements with existing labor groups. The City did so and, in the process, used language in those agreements to reduce retiree medical benefits by as much as 80% for some retirees. Estimates of the changes place the savings at $50 million. The City Council ultimately elected not to use bankruptcy to test its ability to lower pensions for retirees, opting instead to implement lower pension packages for new hires.	A hearing on Vallejo's exit strategy is scheduled for June 2011. Retired employees are challenging the City's right to lower their medical benefits. Estimates of the cost of bankruptcy vary widely, but a recent Wall Street Journal article cited a figure of $9 million in legal fees.

Legal Issue	Key Aspects Relating to Pension Reform	Status
County of Orange v Association of Orange County Sheriff's Deputies	Led by Supervisor John Moorlach, the Orange County Board of Supervisors sought to overturn a 2001 agreement to enhance its 1937 Act pension plan for Sherriff's deputies to "3% at 50." Two novel arguments were included in the points presented to the Court. First, it was argued that the retroactive application of the enhancement was, in effect, an increase in compensation for work already performed – essentially a gift of public funds. (Violating the State Constitution.) Second, it was argued that the enhanced pension plan produced an unfunded liability in excess of the State's debt limit. It should be noted that, reportedly, the County solicited advice from three outside legal firms before proceeding with this case. All three firms advised that the case could not be won. The County tried the case using Moorlach's former aide as chief counsel.	In January 2011, a California appeals court, in a unanimous decision, rejected the County's argument that the enhanced plan represented extra compensation or a gift of public funds. By rejecting this argument, the Court rendered other points raised by the County as moot. However, the Court did note that the act of enhancing a defined benefit does not, in and of itself, create an unfunded liability. In April 2011, the California Supreme Court chose not to hear the County's appeal of the lower court ruling. Lawyers for the Sheriff's Deputies are seeking fees in the amount of $5 million. The County reportedly spent more than $3 million on this lawsuit.

Legal Issue	Key Aspects Relating to Pension Reform	Status
City of San Diego v San Diego City Employees Retirement System	City of San Diego employees vest to the San Diego City Employees Retirement System (SDCERS). The City is suing SDCERS, arguing that the methodology SDCERS uses to calculate employer and employee contributions to pension funding violates the City Charter. The City Charter calls for substantially equal payments by employer and employee. The San Diego City Charter states "the city shall contribute annually an amount substantially equal to that required of the employees for normal retirement allowances, as certified by the actuary, but shall not be required to contribute in excess of that amount, except in the case of financial liabilities accruing under any new retirement plan or revised retirement plan because of past services of the employees." Historically, employee contributions have been modeled in a fashion similar to CalPERS and 1937 Act counties, with the City picking up most or all of the employee contribution. In 2010, City Attorney Jan Goldsmith requested that the SDCERS Board adhere to the substantially equal clause and charge each employee one-half of the funding requirement. The Board refused, resulting in the lawsuit.	SDCERS recently requested and was granted a change of venue to Los Angeles County. The case was scheduled to begin on April 29, 2011, but pre-trial motions have delayed the start.

Legal Issue	Key Aspects Relating to Pension Reform	Status
Pacific Grove Police Officers' Association versus City of Pacific Grove	In November 2010, Pacific Grove voters approved an initiative amending the City Charter to cap the City's overall contribution to an employee's pension costs at 10% of salary. Pacific Grove employees are part of CalPERS. Currently, the employer rate for Pacific Grove Miscellaneous Employees is 9.629%; they have not been affected by the change. The employer rate for safety (meaning police, as the City does not provide fire protection) is 19.894%; with implementation of the Charter amendment, the City began charging safety employees for the 9.894% above the cap. The Pacific Grove Police Officers' Association (POA) has sued the City, claiming the City is violating its current labor agreement. The agreement runs through December 2012. The agreement states that POA members are only responsible for the employee's share of the CalPERS charge.	The matter sits with the California Public Employees Relations Board, which recently ordered mediation. With the City's hands tied by the Charter amendment, it is unlikely that a settlement can be reached. The POA could then request a hearing before an administrative judge.

Appendix G

SAMPLE RESOLUTION IN SUPPORT OF PENSION REFORM EFFORTS

***CITY/(TOWN)* OF**

RESOLUTION NO. 2011-###

A RESOLUTION OF
THE *CITY/(TOWN)* COUNCIL OF THE *CITY/(TOWN)* OF
IN SUPPORT OF PENSION REFORM EFFORTS

WHEREAS, local government pension reform has been at the forefront of public debate across the nation; and

WHEREAS, addressing long-term pension liability is a primary concern to local agencies across the State; and

WHEREAS, due to limited options via the State Legislature, many agencies have adopted tiered pension systems in an attempt to reduce long-term pension liability; and

WHEREAS, the *City/(Town)* Council believes it would be appropriate to create and adopt a set of guiding principles for the *City/(Town)* with respect to its local pension systems.

NOW, THEREFORE, BE IT RESOLVED that the *City/(Town)* Council of the *City/(Town)* of __________does hereby confirm, acknowledge, and agree to abide by the following guiding principles and practices:

1. Public Disclosure – Transparency is paramount. All public pension actuary reports shall be made accessible to the public via the public counter and the *City/(Town)* website.

2. Principles Against Pension Spiking – Pension spiking is a process whereby compensation to an employee is significantly inflated in the time period immediately preceding an expected or known retirement in order to provide a larger pension than one would otherwise be entitled to receive.

    a. Encourage the use of formulae using the "average of the highest three years" for determination of final compensation.

    b. Consider the development of a "maximum allowable increase" in compensable earnings policy for any employee for which the agency knows of a pending retirement, to be waived only by the *City/(Town) Council* at a public meeting.

c. Work with and support all CalPERS laws and policies related to curbing pension spiking, to include the support of employer audits to work with agencies to resolve compensation audit findings.

3. Principles for Risk/Reward Sharing

    a. To the extent possible, consider the adoption of policies and support of legislation to share the risk and reward associated with investment rate volatility and other pension system elements between the *City/(Town)* and the employee.

4. Rate Surplus Contributions

    a. Consider the adoption of a policy prohibiting the use of the *City/(Town)* "pension surplus" to defray the annual net normal cost of the *City's/(Town's)* pension system, except in the event of a declared *City/(Town)* fiscal emergency.

5. Economies of Scale and Workforce Restructuring

    a. Consider policies that to the extent possible, structure the workforce to achieve larger economies of scale, consideration of consolidation of services where financially and politically feasible, and continued evaluation of private versus public sector service provision.

6. Employee and Employer Rate Contributions

    a. Over time and through meet and confer, establish employee rate contributions as 100% employee cost.

7. Support for Statewide Legislation and Reform

    a. Consider support for Statewide legislative changes designed to create hybrid pension systems for public employees, to include the development of revised formulae altering retirement percentages and extending the maximum payout age under adopted formula.

    b. Consider support for Statewide legislative changes designed to allow for the establishment of a maximum benefit cap of 80% for miscellaneous employees and 80% to 90% for safety employees.

    c. Consider support for Statewide legislative changes that establishes a maximum allowable cost of living adjustments to pension programs.

PASSED AND ADOPTED at a regular meeting of the ___________ *City/(Town)* Council held on _________, 2011, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

____

ATTEST: _______________, Mayor

____

_________________, City Clerk

Appendix H

SAMPLE RESOLUTION IN SUPPORT OF A STUDY TO IDENTIFY THE FISCAL IMPACT OF PENSION BENEFITS

***CITY/(TOWN)* OF**

RESOLUTION NO. 2011-###

A RESOLUTION OF
THE *CITY/(TOWN)* COUNCIL OF THE *CITY/(TOWN)* OF
APPROVING THE EXPENDITURE NOT TO EXCEED [DOLLAR AMOUNT] TO PARTICIPATE IN A STUDY CONDUCTED BY BARTEL ASSOCIATES, LLC TO IDENTIFY THE FISCAL IMPACT OF PENSION BENEFITS

WHEREAS, the [GOVERNING BODY] has been concerned about the rising costs and risks of post-employment benefits, and

WHEREAS, the [JURISDICTION] has been participating on an ad hoc committee formed by Marin County Council of Mayors and Councilmembers to study reforms in post-employment benefits, and

WHEREAS, the escalating cost of pension benefits has become unaffordable and the insufficient return on the assets managed by the California Public Employees' Retirement System has resulted in a significant unsustainable unfunded liability; and

WHEREAS, the financial risks associated with any unfunded liability falls upon the [JURISDICTION] and not the California Public Employees' Retirement System; and

WHEREAS, the estimate for the required contribution into the California Public Employees' Retirement System is based on actuarial data that is two years old by the time that fiscal year begins; and

WHEREAS, the Annual Valuation Report provided by the California Public Employees' Retirement System contains aggregate data for a risk pool and does not provide actuarial data specific to the [JURISDICTION]; and

WHEREAS, the actuarial analysis provided by the California Public Employees' Retirement System does not consider the impacts on cash flow which leaves policy makers in a position of not having sufficient information for budgeting and planning purposes.

NOW, THEREFORE, BE IT RESOLVED, that the [GOVERNING BODY] authorize its [EXECUTIVE OFFICER] to enter into a contract with Bartel Associates, LLC in an amount not to exceed [DOLLAR AMOUNT] for a study as defined in Attachment 1.

BE IT FURTHER RESOLVED, that the foregoing resolution was adopted by the [GOVERNING BODY] of the [JURISDUCTION] at a [REGULAR/SPECIAL] meeting held on the [DATE] by the following vote, to wit:

PASSED AND ADOPTED at a regular meeting of the ___________ *City/(Town)* Council held on _________, 2011, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

____

ATTEST: ______________, Mayor

____

_________________, City Clerk

ATTACHMENT 1

1.1 Review historical information.

1.2 Project contribution rates through 2016/17 fiscal year. Projection includes contribution rate sensitivity.

1.3 Meet with staff to review results, review includes:

  1.3.1 Side fund analysis for plans in a risk pool.

  1.3.2 Historical comparison of demographic, liability, asset, funded status and contribution rates for plans that are not in a risk pool

2.1 Second tier analysis.

2.2 Meet with Council/Board to go over results.

3.1 Executive Summary, usually provided to Council/Board in advance of meeting.

3.2 Longer contribution rate projections.

NOTE: The following information needs to be submitted to Bartel Associates, LLC in order to receive a bid:

1. How many plans does the agency contract with CalPERS? What are they (i.e. Miscellaneous, Safety Police or Safety Fire)?
2. Are any of these plans pooled?
3. Did the agency issue a pension obligation bond (POB) in the past to pay off a portion of the CalPERS unfunded liability? If yes, is the agency still paying the debt service for the POB?
4. Does the agency want to project contribution rates through fiscal year 2016-17? Does the agency need a longer term?
5. Does the agency need second tier analysis? If yes, what other formula(s) does the agency want analyzed?
6. Does the agency have Employer Paid Member Contribution? If yes, is the EPMC included in the compensable earnings reported to CalPERS?
7. How many total meetings would the agency want for reviewing with management, Council, and/or bargaining units?
8. Does the agency need an executive summary? The executive summary usually is provided to Council/Board in advance of meeting.
9. Submit a copy of the June 30, 2009 CalPERS valuation report

Appendix I

OTHER RECENT REPORTS

Marin County Civil Grand Jury
Public Sector Pensions: A Perspective
http://www.co.marin.ca.us/depts/GJ/main/cvgrjr/2010gj/public_sector_pensions.pdf
(5/31/11)

Contra Costa Civil Grand Jury
County Pension Reform – Time to Stop Kicking the Can
http://www.cc-courts.org/_data/n_0038/resources/live/rpt1107.pdf
(5/27/11)

Little Hoover Commission
Public Pensions for Retirement Security
http://www.lhc.ca.gov/studies/204/Report204.pdf
(2/24/11)

Appendix J

CalPERS REFERENCE INFORMATION

Local Members Benefit Formula Charts
http://www.calpers.ca.gov/index.jsp?bc=/member/retirement/service-retire/benefit-charts/localformulacharts.xml
(9/17/09)

Highlights and Executive Summary for Each Risk Pool
http://www.calpers.ca.gov/index.jsp?bc=/employer/actuarial-gasb/risk-pooling/highlights-exec-sum.xml
(12/28/10)

List of Available Pools
http://www.calpers.ca.gov/index.jsp?bc=/employer/actuarial-gasb/risk-pooling/list-avail-pools.xml
(6/30/09)

Risk Pooling Mandated Benefits
http://www.calpers.ca.gov/index.jsp?bc=/employer/actuarial-gasb/risk-pooling/mandated-benefits.xml
(9/12/06)

Classification of Optional Benefits
http://www.calpers.ca.gov/index.jsp?bc=/employer/actuarial-gasb/risk-pooling/class-opt-bens.xml
(8/16/06)

Class 1 Benefits & Surcharges
http://www.calpers.ca.gov/index.jsp?bc=/employer/actuarial-gasb/risk-pooling/benefits-surcharges.xml
(12/29/10)

Risk Pool Annual Valuation Reports
http://www.calpers.ca.gov/index.jsp?bc=/employer/actuarial-gasb/risk-pooling/valuation-reports.xml
(12/29/10)

Acknowledgements:

Throughout the process, the Committee has communicated with the representatives of labor groups, the managers and line staff of local agencies, other publicly elected officials from other local agencies, managers from the pension systems, and organizations or individuals who have a general interest in fiscal reforms in the public sector.

In particular, the Committee would like to recognize and thank the following individuals for their work on elements of this report:

- Gary Broad, Town Manager, Town of Ross
- Tom MacDonald, Citizens' Budget Committee, City of Novato
- Linda Pfeifer, Councilmember, City if Sausalito
- George Rodericks, City Manager, City of Belvedere

This MCCMC would like to acknowledge and thank the City of Mill Valley, the Town of Corte Madera, and the City of Larkspur for the use of their facilities and the staff time involved in preparing the meeting space for use by this committee. Given the current state of municipal finances, it is noteworthy to state that the three meetings at the Mill Valley Community Center and the one meeting at the Corte Madera Recreation Center represent an opportunity cost to the City and Town since these venues are generally rental facilities.