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**TO:** **General Government Standing Committee**

**FROM:** **Katharine L. Elliott, County Counsel**

**DATE:** **July 10, 2017**

**SUBJECT:** **Review of Actions Taken by the County Board of Supervisors and the Mendocino County Employees Retirement Association ("MCERA") That Increased Retirement Plan Costs**

As requested, I initially gathered, organized, and reviewed all Board of Supervisors' actions and all actions of MCERA dating back to 1947.[1] I compared the attached history (see Exhibit A) to the following relevant law and it does not appear that either board failed to follow any state mandates.

Further, since my previous report to this Committee, MCERA has created a document entitled "A Historical Review and Analysis of the Mendocino County Employees Retirement Association Unfunded Actuarial Accrued Liability" (provided with this memo) which appears to address some of the same issues and shows the history regarding the actuarial services and reports.

The relevant law relating to the retirement process is as follows:

> **Gov't Code §7504** requires public retirement systems to secure the services of an enrolled actuary not less than triennially. (Operative Jan 1, 1978.)
>
> **Gov't Code §7507**: Actuarial evaluations of future annual costs (Operative Jan 1, 2009.)
>
> **Gov't Code § 23026**: In any county which has established a county employees' retirement system pursuant to the County Employees Retirement Law of 1937…, the board of supervisors shall make public, at a regularly scheduled meeting of the board, all salary and benefit increases that affect either or both

[1] It does not appear that I have a complete history.

represented employees and non-represented employees. Notice of any salary or benefit increase shall be included on the agenda for the meeting as an item of business in compliance with the requirements of Section 54954.2. Notice shall occur prior to the adoption of the salary or benefit increase, and shall include an explanation of the financial impact that the proposed benefit change or salary increase will have on the funding status of the county employees' retirement system.

The board of retirement, or board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, is authorized, consistent with its fiduciary duties, to have an enrolled actuary prepare an estimate of the actuarial impact of the salary or benefit increase. The actuarial data shall be reported to the board of supervisors.

Nothing in this section shall be construed to limit or lessen the requirement imposed by Section 7507 that the costs associated with increases in public retirement plan benefits be determined by an enrolled actuary and publicly disclosed two weeks prior to an adoption of the increase in public retirement plan benefits. (1992)

**Gov't Code § 31515.5**: The board of supervisors, in compliance with Section 23026, shall make public, at a regularly scheduled meeting of the board, all salary and benefit increases that affect either or both represented employees and non-represented employees. Notice of any salary or benefit increase shall be included on the agenda for the meeting as an item of business in compliance with the requirements of Section 54954.2. Notice shall occur prior to the adoption of the salary or benefit increase, and shall include an explanation of the financial impact that the proposed benefit change or salary increase will have on the funding status of the county employees' retirement system. (1995)

The board of retirement, or board of investments in a county in which a board of investments has been established pursuant to Section 31520.2, is authorized, consistent with its fiduciary duties, to have an enrolled actuary prepare an estimate of the actuarial impact of the salary or benefit increase. The actuarial data shall be reported to the board of supervisors.

Nothing in this section shall be construed to limit or lessen the requirement imposed by Section 7507 that the costs associated with increases in benefits be determined by an enrolled actuary and publicly disclosed two weeks prior to an adoption of the increase in benefits.

**Gov't Code § 31516**: The board of supervisors, in compliance with Section 7507, shall secure the services of an enrolled actuary to provide a statement of the actuarial impact upon future annual costs before authorizing increases in benefits. An "enrolled actuary" means an actuary enrolled under Sections 1241 and 1242 of Title 29 of the United States Code and "future annual costs" shall include, but not be limited to, annual dollar increases or the total dollar increases involved when available.

**The future annual costs as determined by the actuary shall be made public at a public meeting at least two weeks prior to the adoption of any increases in benefits.[2] (1995)**

**Gov't Code § 31453**:

- (a) An actuarial valuation shall be made within one year after the date on which any system established under this chapter becomes effective, and thereafter at intervals not to exceed three years. The valuation shall be conducted under the supervision of an actuary and shall cover the mortality, service, and compensation experience of the members and beneficiaries, and shall evaluate the assets and liabilities of the retirement fund. Upon the basis of the investigation, valuation, and recommendation of the actuary, the board shall, at least 45 days prior to the beginning of the succeeding fiscal year, recommend to the board of supervisors the changes in the rates of interest, in the rates of contributions of members, and in county and district appropriations as are necessary. With respect to the rates of interest to be credited to members and to the county or district, the board may, in its sound discretion, recommend a rate that is higher or lower than the interest assumption rate established by the actuarial survey. No adjustment shall be included in the new rates for time prior to the effective date of the revision.

- (b) (1) Upon the basis of the investigation, valuation, and recommendation of the actuary, the board shall, at least 45 days prior to the beginning of the succeeding fiscal year, recommend to the governing body of a district within the county system that is not governed by the board of supervisors the changes in the rates of contributions of district members and in district appropriations as are necessary.

  (2) **This subdivision shall not be operative in any county until the board of supervisors, by resolution adopted by majority vote, makes the provision applicable in that county**. (1947)[3]

[2] I have not looked into whether this section was complied with and I am not sure that history is available.
[3] Mendocino History obtained dates back only to 1958 so cannot determine if this was ever adopted.

**Conclusion:** After further review, it still appears that state-mandated procedures were followed. However, some of the supporting documents have not been located. Also, I have not determined whether the Board of Supervisors gave two (2) weeks prior notice before authorizing an increase in retirement benefits as required by Gov't Code §31516.

**Note**: Each year MCERA has an actuarial report prepared which establishes recommended contribution rates for the following year.  This study includes projections for compensation increases based on the County's prior history and local government trends.  These projections are entirely independent of any on-going negotiations that the County may be involved in with employee unions. The practice of the current administration during negotiations is to verify with the MCERA actuary that the Board of Supervisor's compensation adjustment proposal is consistent with the projections made in the most recent report.  If they are consistent, there is no anticipated negative impact to the unfunded pension liability.  If the Board choses to offer a compensation package that exceeded the actuarial assumptions, further analysis to determine any impacts could be necessary.