

MENDOCINO COUNTY BOARD OF SUPERVISORS' RESPONSE TO GRAND JURY REPORT TITLED:

HOW TAX DOLLARS PAY FOR SERVICES

Discussion

The Board of Supervisors welcomes this opportunity to respond to the Grand Jury report titled "How Tax Dollars Pay for Services". The Grand Jury correctly states that the Teeter Plan was enacted by the California State Legislature in 1949 and that the County of Mendocino adopted the Teeter Plan in 1993. However, the Grand Jury has incorrectly stated a number of pertinent facts regarding the history and operation of the Teeter Plan.

The purpose of the Teeter Plan is to assure budgetary certainty for Special Districts, School Districts and Cities. Counties that participate in the Teeter Plan pay out 100% of the property taxes, fees and assessments due to the other taxing entities, including the amounts due from tax delinquent properties whose owners have not paid on time. In return, the County retains the payments made on tax delinquent properties, including for penalties and interest. Tax delinquent properties can eventually be sold at auction to recover the amount due.

Teeter Plan revenue and expense varies on an annual basis depending on the amount of payments received for past due taxes, penalties and interest and the amount of taxes paid out on tax delinquent properties. Over time, the County receives a net benefit which provides additional discretionary revenue which can be used for public safety, roads or any other General Fund purpose.

The initial Teeter Plan "investment" of \$5,426,949 was borrowed by the County from the County Pooled Treasury and paid out to the other taxing entities. The initial cost was offset by \$2,000,000 which was paid to the County by the State as an incentive to adopt the Teeter Plan. The County made five annual payments of \$1,080,000 to the County Pooled Treasury that were intended to pay off the initial Teeter Plan debt. However, the County neglected to pay the additional sum needed on an annual basis to offset the cost incurred for amounts paid out on tax delinquent properties.

When the annual amount paid to the County Pooled Treasury was less than the amount of taxes paid out, the Teeter Plan debt increased. When the annual amount paid to the County Pooled Treasury was more than the amount of taxes paid out, the Teeter Plan debt was reduced. More often than not, the amount of taxes paid out exceeded the amount paid annually to the County Pooled Treasury. The result was that the initial debt (which should have been paid off in five years) more than doubled to a total of \$11,243,824 as of June 30, 2008.

In 2009, the Board of Supervisors directed that all Teeter Plan revenue be recorded in a separate account instead of being deposited into the General Fund where it had been treated as any other discretionary revenue. The Board further directed that the Teeter Plan debt be paid off according to an amortization schedule. Amortization payments

were made from the County General Fund. The Board and County Administration further determined that Teeter Plan revenue could only be used to pay Teeter Plan debt until the debt was retired in full. As a result of these measures, the Teeter Plan debt was fully paid off in Fiscal Year 2016.

The Teeter Plan continues to be managed through the County budget process, with all Teeter Plan revenue recorded in a separate account. Funds are only credited to the County General Fund if all current year tax delinquencies have been paid in full.

In 2012, it became apparent that a significant number of owners of vacant lots in Brooktrails were not redeeming their property prior to it being offered for sale at auction and that many tax delinquent properties were not selling at auction. As a result, the County was not able to recover the full amount of taxes, fees and assessments paid out on those properties or the penalties and interest due from them.

In 2013, upon recommendation of the Investment Review Committee (Debt Committee), the Board of Supervisors de-Teetered the Direct Assessments and Fees that had previously been collected on behalf of Brooktrails. It was recommended by the Auditor-Controller that de-Teetering the ad-valorem taxes would not be economically feasible due to the low value of the affected parcels (and correspondingly low amounts of taxes paid out) and the estimated burden on staff time to perform the necessary calculations on an initial and on-going basis and to administer two separate property tax systems.

Given that the Teeter Plan debt was retired in 2016, there has been no reason for the Debt Committee to oversee the Teeter Plan which is effectively managed through the annual budget process. However, as a new property tax system is brought online, it may be appropriate to revisit the feasibility of de-Teetering ad-valorem taxes in areas, if any, where the amount of delinquent taxes paid out exceeds the amount of taxes, penalties and interest recovered.

In conclusion, the Board of Supervisors wishes to correct the record regarding some of the more glaring mis-statements of fact by the Grand Jury:

1. Special Districts will not “cost Mendocino County millions of dollars”. The County pays out to the Special Districts only those taxes, fees and assessments to which they are entitled. These amounts are recovered by the County from the payment of taxes due. Delinquent property taxes must be paid back with penalties and interest. Failure to pay will eventually result in the property being sold at auction. The small amount of delinquent taxes not recovered is far outweighed by the revenue received from payment of penalties and interest.
2. The Teeter Plan debt was not created by “budgeting with money that [had] not been collected” but by failing to pay off the original Teeter Plan investment and current annual delinquencies before transferring Teeter Plan revenue to the County General Fund. This oversight was corrected in 2009.
3. The Board of Supervisors did not implement a repayment plan for the Teeter

Plan debt in 2015, as stated by the Grand Jury, but in 2009. The Teeter Plan debt was fully paid off in Fiscal Year 2016.

4. The County is not “fast approaching either a break-even point, or a point of insufficient money coming in from the property taxes, which means that funding for Special Districts will come out of the General Fund.” As explained in the Discussion section and in the response to finding F4, Teeter Plan revenue fluctuates on an annual basis but over time results in a net contribution to discretionary revenue and the County General Fund. The Special Districts are only paid the amount of taxes, fees and assessments to which they are entitled.
5. The Grand Jury “found no plans to prevent a duplication of the 2012 deficit should a recession occur” which seems to ignore the fact that a plan was adopted in 2009 to pay off the Teeter Plan debt; the debt was fully paid off in Fiscal Year 2016; the Teeter Plan is appropriately and effectively managed on an ongoing basis through the annual County budget process.

Pursuant to the request of the Grand Jury, the Board is responding to the following:

- F1. SDs are part of the County’s method or providing necessary services to the residents.

The Board of Supervisors agrees with this finding with the clarification that Independent Special Districts are formed and managed by and on behalf of local residents.

- F2. Over the past few years, TP difference between projected revenue and actual revenue collected has been increasing.

The Board of Supervisors agrees with this finding with the clarification that the difference between projected revenue and actual revenue collected varies from year to year and is dependent on the outstanding balance of prior year delinquencies and current payments received.

- F3. The County is responsible for 100% payment to SDs of the projected revenue despite collected taxes.

The Board of Supervisors agrees with this finding.

- F4. The County’s fiscal responsibility for the TP account could impact law enforcement, labor and County services.

The Board of Supervisors agrees with this finding with the explanation that when payments for past delinquent taxes, penalties and interest received by the County in any fiscal year exceed the amount of current delinquencies and interest paid out there is more discretionary revenue in the County budget to be

used for law enforcement, employee compensation and all other County services. Conversely, when payments for current delinquencies and interest paid out exceed payments received, there is correspondingly less discretionary revenue available for services in that fiscal year. As noted by the Auditor-Controller, the County maintains a Tax Loss Reserve of \$1,262,715 and a separate Teeter Plan Designated Reserve of \$648,302 to help cover temporary Teeter Plan shortfalls that may occur. Despite annual fluctuations, over time the Teeter Plan returns more money to the County than is paid out, resulting in a net increase in discretionary revenue that is available to pay for services.

- F5. An Investment Review Committee (aka Debt Committee) was established to provide direction on the impact of the TP on the County budget. TP performance was found to be normal and required no specific oversight at this time.

The Board of Supervisors agrees with this finding.

- F6. The GJ found no current strategic plan to protect County residential services, such as public works, health and human services, law enforcement, should a recession occur.

The Board of Supervisors agrees with this finding with the explanation that while there is no document entitled specific plan, the annual County budget, which is founded on principles of economic sustainability supported by significant financial reserves, acts as the functional equivalent of a strategic plan to protect the ability of the County to deliver services, even in a recession. For this reason, in contrast to other jurisdictions, the Board of Supervisors is not considering employee layoffs and is standing by our commitment to honor current labor agreements. As noted by the Auditor-Controller, the County has approximately \$40 million combined in General Reserves and Designated Reserves that can be used to mitigate the impacts of a recession.

- F7. In the event of a decrease in income from property assessed taxes, the SD obligation of 100% could create a deficit in the County budget.

The Board of Supervisors disagrees with this finding. The County pays out to the Special Districts only those taxes, fees and assessments to which they are entitled. As noted in the response to F4, fluctuations in Teeter Plan payments may result in incremental increases or decreases to the County's discretionary revenue. However, the County budget is made up of many revenue streams so a temporary deficit in the Teeter Plan will not result in a County budget deficit.

Response to Recommendations:

- R1. The County provide management/oversight of the TP account. (F1-F7).

This recommendation has been implemented. The County has provided appropriate management/oversight of the Teeter Plan since 2009 and continues

to do so.

- R2. The BOS terminate from the TP, SDs which no longer contribute their full amount in taxes to the County. (CRTC §4702.7) (F1-F7).

The Board of Supervisors has implemented this recommendation to the extent that it is feasible to do so. In 2013, the County Board of Supervisors de-Teetered the Direct Assessments and Fees associated with Brooktrails. The Auditor-Controller determined at that time that it was not economically feasible to de-Teeter the ad-valorem taxes due to the low value of the affected parcels (and correspondingly low amounts of taxes paid out) and the estimated burden on staff time to perform the necessary calculations on an initial and on-going basis and to administer two separate property tax systems. This determination can be re-evaluated as the new property tax system is brought on-line.

- R3. The BOS considers discontinuing the TP for Mendocino County. Discontinuation requires only a BOS Resolution; CRTC allows the BOS by resolution to opt out of the TP in any fiscal year. (F1-F7).

The Board of Supervisors will not implement this recommendation as it is not warranted or reasonable. Mismanagement of the Teeter Plan was corrected in 2009. The Teeter Plan debt was paid off and the Teeter Plan currently functions as it was designed. The Teeter Plan provides budgetary certainty to Special Districts and an additional discretionary revenue source to the County.