A Sampling of Board of Supervisors Actions
Re Responsibility to Protect County Finances
Most Recent Update – 4/24/2011

Consider this chronology of actions by the Mendocino County Board of Supervisors and other County officials responsible for the County's finances. There are many more examples than this:

December 1996 – Mendocino County's Pension Fund develops a $45 million deficit. A Pension Fund "deficit" or "unfunded pensions" exists when an Actuary determines the Fund doesn't have enough money to pay the part of all future pension payments that have already been earned. Board of Supervisors borrows $30 million in first Pension Obligation Bond (POB) sale. The process the County uses to prepare and sell these POB's avoids a vote of the people that is usually required to incur that much debt. According to Pension Funding Plan there should never be a Pension deficit.

1998 – County (actually the County's real estate corporation – wholly controlled by the County) sells $8.6 million of "Certificates of Participation" (COP) to finance real estate purchases and/or improvements. COP's are also designed to avoid a vote of the people.

September 1998 – Board of Supervisors terminates retiree healthcare benefits for employees hired after that date, but says it will continue to provide it for anyone hired before then. The main source of funding will be "Pension Fund Excess Earnings"[1]. If there are no Excess Earnings then the County will pay half the cost out of its general fund. County continues to not set aside any funding to pay for future healthcare payments and never reports the yearly expense or its accruing debt to the people.

2000 –Board of Supervisors directs staff to sell $22.5 million of Certificates of Participation (COP) to finance real estate purchases and/or improvements – and to refinance some of the 1998 COPs. COP's are designed to avoid a vote of the people.

2001 - Board of Supervisors directs staff to sell $8 million of Certificates of Participation (COP) to finance real estate purchases and/or improvements. COP's are designed to avoid a vote of the people.

1997 through 2003 – County increases total salaries at a rate twice as fast as the rate it tells the Pension Fund Actuary to use to calculate the amount the County needs to contribute each year to the Pension Fund - thereby significantly increasing Pension Debt.

December 2002 –Pension Fund develops a new $85 million deficit despite the County having borrowed $30 million six years before. Board of Supervisors takes three actions:

- Directs County staff to borrow a net of another $80 Million by selling the County's second series of Pension Obligation Bonds - again done in a way to avoid a vote of the people. As part of this action the Board of Supervisors approves the "Official Statement" for the new POBs – the document provided to potential buyers of the Bonds that is supposed to include all required financial disclosures about the County. A provision in the Official statement states that if a Pension Fund Deficit develops that is more than 10% of the amount the Fund is supposed to have before the last Bonds are paid in 2027 the County will eliminate that Deficit within 15 years.

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[1] "Excess Earnings" is defined in the County Retirement Act as any amount earned in any single year above the Pension Fund's long-term target rate of return, which has been 8% for well over a decade. The problem is – if you take anything over the target rate out of the Fund, how can it ever average its target rate – it can't. It's doomed to be underfunded.

- Enters into a "Funding Agreement" with the Retirement Association (separate body that controls the Pension Fund) that is supposed to extend to 2027. County states "it is the intent and objective of the County to avoid the creation of Excess UAAL (Unfunded Pensions) over the term of this agreement (through 2027). Some provisions –
    - Every year the Retirement Association will estimate projected Pension deficits through 2027 – purpose is to look ahead to prevent such deficits. This appears to have never been done.
    - Explicitly confirms that "Pension Fund Excess Earnings" will be used to pay retiree healthcare.
- Supervisors create "Board Policy 40" that states

    With the goals of (i) maintaining the highest possible credit rating and reputation for prudent financial management in the market place; and (ii) providing assurance to the County's taxpayers that the County is well managed and financially sound, the County will endeavor to avoid the creation of additional UAL (Unfunded Pension Liabilities) in the future.

    Specific objectives in support of this policy shall include: ... <u>Careful Consideration of Future Actions</u>. The County will endeavor to carefully consider all proposed actions, including future retirement plan enhancements that might impact the determination of the UAL (Unfunded Pension Liabilities) and/or result in funding requirements by the County ...

<u>2004</u> – Board of Supervisors retroactively increases pension benefits to about 50 employees without funding the immediate increase of Unfunded Pension Liabilities or reporting the retroactive increase in expenses to the people. This appears to be a direct violation of Board Policy 40.

<u>2004</u> –Government Accounting Standards Board (GASB) passes new standards that will require the County to report the financial condition of the County's Retiree Healthcare Benefits in its June 2008 financial statements. County does nothing for nearly 5 years to find out what the impact will be.

<u>2004 through 2006</u> - Retirement Association diverts $6.1 million out of County's contributions to Pension Fund to pay Retiree Healthcare - in apparent violation of the 1937 County Employee Retirement Act. County appears to accept the diversion - also in apparent violation of the Act.

<u>2006</u> – I (John Dickerson of YourPublicMoney.com) address a joint meeting of the Board of Supervisors and Retirement Board and urge them to hire and Actuary to calculate what their unfunded retiree healthcare obligation is. I stated we all know that no one knows how much it is, yet everyone is afraid it's a big number. I urged them to find out the number as soon as possible to allow them and their retirees to come up with a plan for what to do. Nothing is done.

<u>April 2008</u> - Amends Funding Agreement with Retirement Association to establish target of fully funded Pension Fund by 2018.

<u>August 2008</u> – County receives actuarial report about the financial status of the County's retiree healthcare benefit that contains the information the County must report in its June 30, 2008 financial statements. County receives this report 2 months after that date. Report states Unfunded Retiree Healthcare Liability is about $136 Million. County did nothing in the 5 years since GASB announced new requirements to prepare a plan for retiree healthcare.

<u>April 2009</u> –Pension Fund Actuary reports that the Pension Fund's deficit has grown to $41 million as of June 2008 (based on the actual market value of its investments). The County's payments to Pension Fund will increase to $66.8 million over 8 years under the terms of the existing Funding Agreement with the Retirement Association.

<u>August 2009</u> – Retirement Association changes Pension Fund policies to allow the County to take 30 years to pay off the newly developed Pension deficit. This is a direct violation of a provision in the 2002 POB Official Statement. The Official Statement is the contract between the County and the buyers of those bonds. According to the Official Statement the County should eliminate the newly developed Pension Fund Deficit within 15 years – this action of the Retirement Association and subsequent acceptance by the County appears to constitute a violation of that provision of the Official Statement.

Further – the Association allows the County to pay considerably smaller yearly payments for the first number of years than would otherwise have been the case – so small that the payments don't cover the interest expense on the Deficit for the first 12 years of payments.

The Association also reports to County Board of Supervisors that only 18 months of "Pension Fund Excess Earnings" remains to pay retiree healthcare.

<u>September 2009</u> –

- County Supervisors amend the Board's action taken in September 1998 regarding retiree healthcare by terminating the County's responsibility to provide funds for retiree healthcare out of the General Fund in the event there are no Pension Fund Excess Earnings. This action does not stop the use of Excess Earnings to pay this benefit.
- I (John Dickerson of YourPublicMoney.com) state to the Board of Supervisors in open session that my analysis of the Retirement Association's financial statements show that there weren't enough Pension Fund "Excess Earnings" over the past 10 years to completely fund the amount the Retirement Association paid for retiree healthcare over that time – and recommend the Board of Supervisors require a report be produced showing how the Retirement Association funding retiree healthcare. The Supervisors do nothing about that recommendation.

<u>November 2009</u> – Board of Supervisors and Retirement Association terminate the 2002 Funding Agreement as amended in 2008, among other things eliminating the goal of 100% Funded Pension Plan by 2018. This appears to violate the assurance provided to purchasers of the Pension Obligation Bonds in 2002 (see the second December 2002 item above.)

<u>January 2010</u> -

- I (John Dickerson of YourPublicMoney.com) meet with County Supervisors Carre Brown and John McCowen and tell them about how the County of Stanislaus and its Retirement Association found out over a year before that the current Actuary for our County's Pension Fund had made a number of serious "mistakes" for a number of years that forced that County's payments to the Pension Fund to nearly double. I provide them with copies of clippings from the <u>Modesto Bee</u> about this. Supervisor McCowen says he's never heard of this; Supervisor Brown has heard something about this problem in Stanislaus County but nothing in particular has been done here that she knows of.
- Pension Fund Actuary reports the Pension Fund deficit as of June 2009 has jumped to $132 million based on market value of assets – County's payments to the Pension Fund must increase from $7.3 million to $9.6 million.

<u>February 2010</u> – I tell the full Board of Supervisors about what happened in Stanislaus County regarding Buck, the mistakes they made, and the very significant increases in the County's debt and payments to the Pension Fund that resulted. Supervisor Kendall Smith responded in open session stating in very positive terms that Buck did not make those same mistakes in Mendocino County. Smith's defense of Buck contained very specific information that neither Supervisor McCowen or Brown had ever heard.

<u>March 2010</u> – Members of the Retirement Board demand a report be given showing how retiree healthcare was paid for over the past decade. (They did this on their own – not at the prodding of members of the County Board of Supervisors.) Former County Treasurer and Retirement Administrator Tim Knudsen gave the report. Based on facts he presented in this report the Retirement Association diverted over $6 million from the County's payments to the Pension Fund to pay retiree healthcare. This appears to be a direct violation of California Government Code Section 31587 that requires the entire amount paid by the County for its annual Pension Fund payment to go into and be retained in the pension Fund.

<u>May 2010</u> – Retirement Board directs its Administrator to hire another Actuarial firm to conduct an "Actuarial Audit" of Buck Consulting's work for the Pension Fund.

<u>July 2010</u> – Retirement Board writes off a $9.6 million asset titled "Accrued Actuarial Value of Unrecorded Earnings". This asset was established in 2006 when the Retirement Board learned that it was probably violating the law by diverting some of the County's payments to the Pension Fund to pay retiree healthcare. My analysis is that this asset was a "fake" asset. There was no value in that asset – it was neither a real asset nor a claim on a real asset. It was essentially a claim against future Pension Fund Excess Earnings if and when they may ever once again occur.

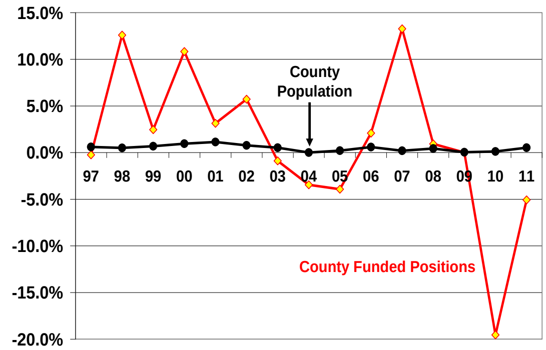
<u>January 2011</u> – Pension Fund Actuary (Buck Consultants) reports the pension Fund deficit as of June 2010 was $135 million based on the market value of its investments. Actuary also admits it made the same mistakes it made in Stanislaus County mentioned above and as a result County payments must increase from what the Actuary thought was the actual payment in the current year of $9 million to $13 million.

The Pension Fund should have had $435 million. It was $135 million short. In addition the county still owed nearly $90 million debt for Pension Obligation Bonds. The funding goal of the County's Pension Fund should be 100% funding. The County should never have to pay any more into the Pension Fund other than its normal yearly payments on behalf of employees working that year. But Mendocino County's Pension Fund achieved less than half its funding goal over the previous 20 years.

<u>February 2011</u> – Another Actuary issues its "Actuarial Audit" of the Pension Fund's Actuary and reports Buck made substantially more errors than it disclosed in the previous month. If this report's findings were used to determine the County's pension payments for the next fiscal year they would increase from $9.1 million to $17 million, not the $13 million the County will actually pay. However, if the replacement for Buck confirms the Actuarial Audit we can expect the following year's payments to be at or above $17 million.

<u>May-June 2011</u> – The final balance that had been set aside as Pension Fund "Excess Earnings" in the Retirement Association will be expended to pay retiree healthcare benefits. The Retirement Association paid out about $40 million for retiree healthcare benefits from these "Excess Earnings" over the past 20 years. But since the Pension Fund was underfunded during that entire time, every dime directly increased the County's long-term debt.

This shows the yearly percentage change in Mendocino County's population growth compared to the yearly change in the numbers of the County's employees. The number of employees expanded rapidly when the County had money and contracted rapidly when it didn't.



County officials never noticed that the Mendocino County Employees Retirement Association was the worst performing County Retirement System in the State during this entire time - in essence never seriously questioning why the County was going deeper and deeper in debt

County officials never required a report be presented that accurately told them why Mendocino County keeps going deeper and deeper into debt.