

Marin grand jury flays pension benefit secrecy



Matthew Hymel, 2009. (Frankie Frost - IJ archive)

By [Nels Johnson](#), Marin Independent Journal

Posted: 04/17/15, 3:25 PM PDT | Updated: on 04/17/2015

[50 Comments](#)

Marin officials repeatedly broke the government code by approving pension benefits without public notice, ballooning liability for taxpayers and raising questions about the legal standing of the benefits involved, the civil grand jury disclosed Friday.

“The citizens of Marin County were never given proper notice about pension increases that are now costing them millions of dollars,” the jury asserted.

The jury found that elected officials for the four key agencies enrolled in the county pension program “granted no less than 38 pension enhancements from 2001 to 2006, each of which appears to have violated disclosure requirements and fiscal responsibility requirements of the California Government Code.”

At issue are actions by the Board of Supervisors, San Rafael City Council, and Novato and Southern Marin fire district boards that violated public right to know rules spelled out in the government code — transgressions raising questions about whether valid contracts have been created and whether retirement benefits have vested, the jury reported.

“These are legal questions beyond the scope of the grand jury’s review,” the panel contended, adding that the statutory violations “may require the employers to reconsider” the validity of the benefits.

92 county board violations

Of 107 violations unearthed by the jury, 92 were attributed to county supervisors.

The jury investigation, “Pension Enhancements: A Case of Government Code Violations and A Lack of Transparency,” mirrored a 2012 probe by Sonoma County grand jurors who issued similar findings. Authorities there later indicated there was no legal problem.

Marin County Administrator Matthew Hymel noted the jury report will be carefully reviewed. “It appears that the grand jury has focused on procedural issues with the implementation of collective bargaining agreements that were entered into 13 years ago,” he said. “In Sonoma, these issues were reviewed and the new (benefit) tiers were determined to be valid and vested,” he said.

Hymel added the county has been “open and transparent about our unfunded retiree liabilities,” with reports posted on the county website.

County Counsel Stephen Woodside said procedural shortcomings occurring many years ago do not trump promised pension benefits. “I do not believe there can be a legal challenge,” he said, adding he expects to provide county supervisors with a detailed legal analysis as well as a primer on public right to know issues.

Business as usual

Over at pension headquarters, where officials collect pension payment contributions from public agencies but have nothing to do with approving the benefits involved, pension chief Jeff Wickman said he will proceed with business as usual. “We will continue to operate the plan based on the understanding that the benefits adopted by the employers were legally authorized,” Wickman said.

Advertisement

The jury noted the government code requires public agencies to provide notice of pension increases on a board meeting agenda, obtain an actuarial report on the costs involved for public presentation two weeks before the benefit increase is approved, and explain the impact of the increase on the pension system's financial health.

"The grand jury found that the public employers appear to have violated these requirements in a variety of ways — providing little, if any, notice to the citizens of Marin County that they would be responsible in the future for hundreds of millions of dollars in pension costs," the report said. "Not only were no public meetings noticed two weeks prior to approval, those meetings were never held," the jury reported. "Most of the pension increases were approved through a consent agenda item."

What's more, the panel asserted, "the public employers commissioned a single generalized actuarial study" and used it to handle diverse bargaining groups for several years.

Taxpayers get booted

Taxpayers who had no opportunity to comment on the benefit increases before they were approved now face huge unfunded pension liabilities, the jury noted. Citizens "essentially had little or no notice of the pension enhancements, little or no opportunity to give input...little or no information about the financial impact," the jury observed.

"One result of these pension enhancements is that they contributed to the increase of the unfunded pension liability of the Marin County Employees Retirement Association from a surplus of \$26.5 million in 2000 to a deficit of \$536.8 million in 2013," the jury said. "This increase may expose the citizens of Marin County to additional tax burdens to cover the unfunded costs."

The jury recommended adoption of policies and procedures, including staff training, to ensure the government code is followed when pension benefits are at issue. It called for better public disclosure of pension costs and an employer's ability to pay based on cash flow, and urged an oversight advisory panel be created by each employer or agency. A "Citizens Pension Oversight Committee" could review pension funding levels, proposals to change benefits, compliance with government code, and issue a quarterly report, the jury said.

Although the report created a stir at the Civic Center, a key union leader was not impressed. Roland Katz, head of the Marin Association of Public Employees, downplayed the grand jury's work as "another in the regular attacks on pensions." He suggested the jury "report on the declining standard of living for working people including Marin County employees and other government workers."

Katz added that the pacts "labor and the county reached on the pension benefits were part of collective bargaining agreements that were lawfully adopted by the Board of Supervisors."

But Bob Stephens, a member of Marin's Citizens for Sustainable Pension Plans, called the report a bombshell.

"This new grand jury report is nothing short of an expose of the violations of the California Government Code by the County of Marin, City of San Rafael, Novato Fire Protection District and the Southern Marin Fire Protection District beginning in 2001," he noted. "The grand jury was very thorough and even consulted actuaries and independent court-appointed lawyers before arriving at its incredible findings."

Stephens, saying that "some legal action should be taken," added it was "astounding that all of this illegal activity has gone on for so long."

The report indicated there was some debate about propriety of the panel concluding laws had been broken, so it instead focused on government code violations. Even so, the report circulated for weeks among insiders and was reviewed in an editing process apparently so intensive its public release was delayed until Friday.

About the Author



Reach the author at njohnson@marinij.com or follow Nels on Twitter: [@NelsJohnsonNews](https://twitter.com/NelsJohnsonNews).

- [Full bio and more articles by Nels Johnson](#)
- [Back to top](#)

Top Stories



[San Rafael teen who was hit by minivan dies from her injuries](#)



[Mill Valley home burglary sets off pursuit, crash and manhunt](#)



< >

Join the Conversation

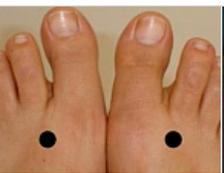
[View comments](#)

Offers and articles from around the Web

ADVERTISEMENT



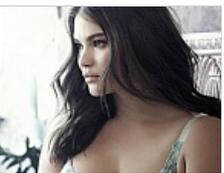
Find out how Wells Fargo Advisors work with you to help you reach your goals.



Here's the ugly truth about blood pressure medication your doctor will never tell you.



Calculate your payments now. No credit check required to get started!



Maybe these models were "plus size," but that took nothing away from their overall beauty.