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Starting in the late 1990s, local community groups started to advocate for control over the growth of port activities. In 2001 and 2002, advocacy was given structure with the advent of PCAC and City sponsored Neighborhood Councils. This culminated in a 2004 court settlement over the construction of a new container terminal for China Shipping next to San Pedro. As a result of this settlement, the role of PCAC in reviewing Port capital projects, environmental reviews and mitigation projects was formalized. In recent years, however, this role has been diminished and PCAC itself has had organizational challenges.

Community Input Mandates and Level of Compliance

The primary mandate for obtaining community input on Port projects is CEQA (Public Resources Code 21000 et seq.). CEQA mandates that a project owner prepare and file an environmental impact report (EIR) to describe a project's potential impact on the environment for various categories of impact such as air pollution, noise and traffic. The EIR also includes project alternatives that compare each alternative's benefits with the expected impact, a preferred alternative, and mitigation measures to decrease the project's potential impacts. If a proposed project is deemed to have no potential impacts, a Negative Declaration is filed instead of an EIR. Both of these documents are subject to public noticing requirements so that impacted property owners can review the documents and provide their input through organized methods. The public can also challenge the findings of these documents in court and request relief in the form of more mitigation, a reconfigured project or outright rejection of the project in question. The Port files several CEQA documents each year for its various projects and complies with the public noticing requirements.

As mentioned in the Background section, BOHC passed Resolution Number 6039 on September 26, 2001 creating PCAC as a standing committee of BOHC. PCAC was designed to provide a more structured and continuous method of collecting, assimilating, organizing and reporting public input regarding Port projects and operations. PCAC is composed of twenty-eight (28) members that are appointed by twenty-two (22) constituent organizations plus eight (8) additional at-large members. These organizations include Neighborhood Councils sanctioned by the City's Department of Neighborhoods, economic development agencies, business and labor organizations, educational institutions, and homeowner groups and associations. PCAC also includes four (4) active sub-committees assigned to the topic areas of a steering committee, Wilmington waterfront, San Pedro planning and EIR and aesthetic mitigation. PCAC and its sub-committees meet monthly. Motions that are approved by PCAC are forwarded to BOHC at one of its regular meetings.

Resolution 6039 is advisory in nature rather than a true legal mandate, but it does contain directions for both PCAC and BOHC. Resolution 6039 requests that PCAC assess the impacts of Port projects and develop mitigation measures, provide a public forum and take a leadership role in creating balanced communities in the surrounding areas. It named a BOHC member as Co-Chair of PCAC with responsibility for reporting back to BOHC on PCAC recommendations.

A third mandate for the Port with regard to public input is a true legal mandate: the Amended Stipulated Judgment (ASJ), Modification of Stay, and Order Thereon settling case number BS 070017 in Los Angeles County Superior Court between the Port, BOHC and the City and a group of plaintiffs led by the Natural Resources Defense Council. The ASJ, filed on June 14, 2004, ended three (3) years of litigation over a Coastal Development Permit issued by the Port for constructing the China Shipping container terminal in the west basin area of the port. This was the first significant instance where the surrounding communities were able to effect a significant change in a Port project.

Articles IX and X of the ASJ require that the Port provide for the continued existence of PCAC under the governance of BOHC, consider all PCAC resolutions in a timely manner, provide written reasoning for rejected resolutions, and provide a monthly notice to PCAC for all proposed projects. The following Table 1 shows the level of compliance with each element of the Resolution and ASJ.

Table 1. Comparison of PCAC-Related Mandates and BOHC/Port Compliance

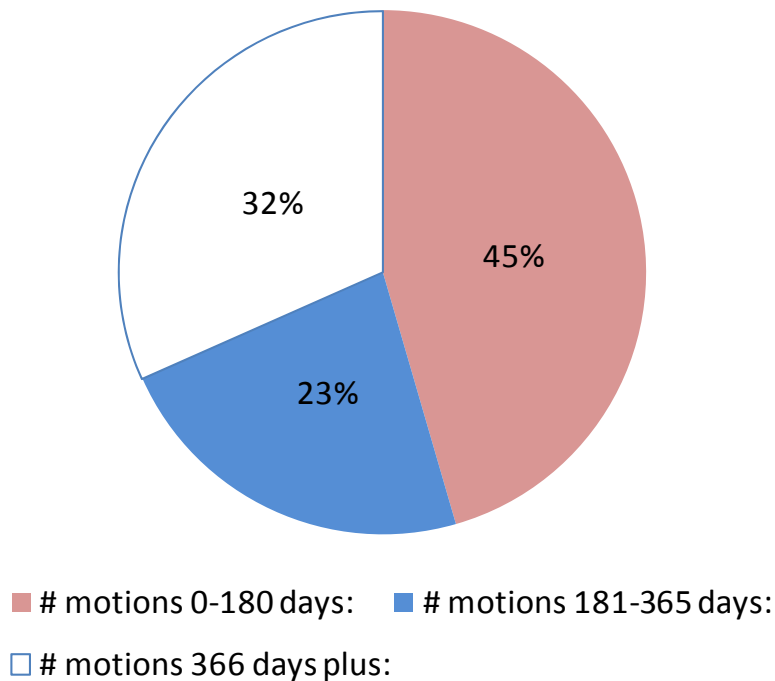
Reqt #	Source	Requirement	Action taken	Compliance status
1	Resolution 6039, Sec 1	BOHC establish PCAC	PCAC formed on October 10, 2001	Requirement met
2	Resolution 6039, Sec 2	PCAC assess impacts, provide public forum, review environmental documents	Meetings held since 2001	Requirement met
3	Resolution 6039, Sec 3	Commissioner Townsend-Kocol serve as PCAC Co-Chair	Townsend-Kocol served until replaced as a Commissioner in 2005. Co-Chair position has been unfilled since that time.	Requirement met
4	ASJ, Article IX-A	BOHC adopt resolution providing for continued existence of PCAC	Resolution 6170 passed on 2/26/03	Requirement met
5	ASJ, Article IX-A	BOHC adopt resolution providing for PCAC to operate under BOHC governance	Resolution 6170 passed on 2/26/03	Requirement met
6	ASJ, Article IX-B	BOHC adopt resolution stating that BOHC will consider all PCAC resolutions in a timely manner	No resolution passed	Requirement not met
7	ASJ, Article IX-B	BOHC adopt resolution stating that BOHC will issue written reasoning for PCAC resolutions that are rejected	No resolution passed	Requirement not met
8	ASJ, Article X	Port will provide monthly notice for proposed projects to the PCAC and local Neighborhood Councils	Notices issued regularly	Requirement met

Areas of non-compliance with these requirements are discussed in the following paragraphs.

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ASJ Article IX-B requires that BOHC adopt a resolution providing that, “the Board will consider all resolutions adopted by PCAC in an expeditious and timely manner.” As indicated in the matrix, this BOHC resolution was never adopted. In addition, BOHC has not always been in material compliance by considering PCAC resolutions in a timely manner. The following chart shows the timeliness with which these resolutions have been considered (as defined by the date that a staff report has been submitted to BOHC). As seen in the chart, 45% of PCAC resolutions have been considered fully within 180 days. Thirty-two percent (32%) have taken longer than a year. Included in this last group of untimely decisions are three (3) resolutions (71, 83 and 84) that date to 2007 and 2008 and have yet to be decided. These three resolutions all address proposed changes to PCAC bylaws. As will be discussed later, this is an area where BOHC has been deficient.

Figure 1. Elapsed Time to Respond to PCAC Motions



ASJ article IX-A requires BOHC to adopt a resolution providing for “the PCAC to operate under the continued governance of the Board.” While this resolution was passed, BOHC has not complied with the spirit of ASJ. PCAC is a standing committee of BOHC yet no member of BOHC has been appointed a member of PCAC since ex-Commissioner Camilla Townsend-Kocol left BOHC in July 2005. (She was replaced upon the election of current mayor Antonio Villaraigosa.) Ex-Commissioner Townsend-Kocol was the Co-Chair of PCAC in accordance with Resolution 6039 in order to provide a measure of Board governance, a role that has been missing for the last six (6) years. PCAC bylaws also provide for a Commissioner to serve as the Co-Chair of PCAC. Again, this has not been done since 2005.

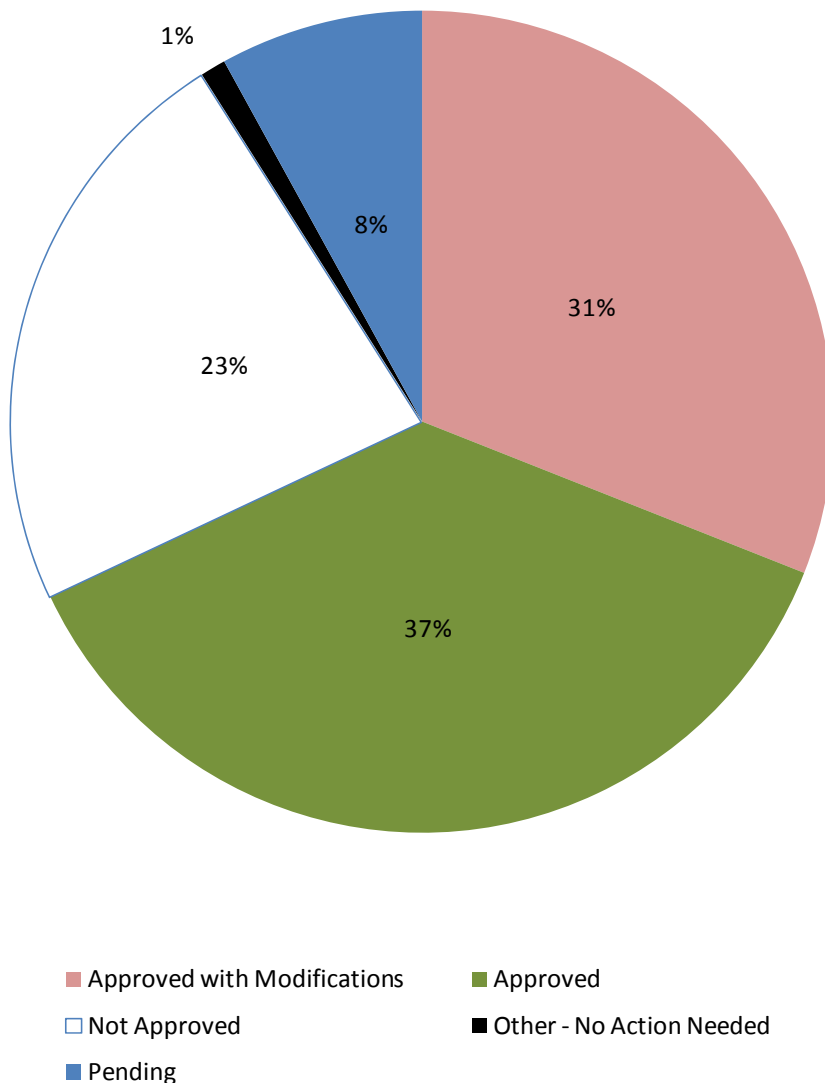
PCAC has adopted and forwarded resolutions seeking to amend the Committee’s bylaws. These amendments must be approved by BOHC. These resolutions were intended to address organizational issues that had been reducing the effectiveness of PCAC. The resolutions (71, 83 and 84) were forwarded to BOHC for action in 2007 and 2008. To date, no action has been taken on these resolutions. Port staff submitted a staff response to the resolutions in May 2010,

two (2) to three (3) years after the resolutions were first forwarded to BOHC. In recent months, the President of BOHC has sought a meeting with PCAC and Port leadership to discuss the resolutions and how PCAC could better serve BOHC. This lack of a timely response also demonstrates deficient governance of PCAC, contrary to the requirements of ASJ. This deficiency is also contrary to ASJ article IX-B that requires timely response to PCAC resolutions.

ASJ article IX-B requires BOHC to adopt a resolution providing that the Board “shall issue a written statement of reasons and appropriate findings for any PCAC resolution rejected by the Board.” Though this BOHC resolution was never adopted, BOHC has been in material compliance providing written notice and reason for rejected PCAC resolutions.

PCAC has been successful in achieving approval of motions that it presents to BOHC. The following chart shows the final disposition of all motions forwarded to BOHC for consideration since inception. As seen in the chart, 68% of all motions forwarded to BOHC have eventually been approved to some extent. Twenty-three percent (23%) have been rejected. It should be noted that many rejected PCAC resolutions pertain to properties that are outside the Port (which has a strictly defined district boundary) and, therefore, outside the jurisdiction of BOHC. Furthermore, the terms of the Tidelands Trust Agreement between the City and the State of California prohibit the use of Port resources for anything outside the Port District.

Figure 2. Final disposition of PCAC motions to BOHC



Existing Community Concerns

A key source of community input to PCAC, the Port and BOHC are the Neighborhood Councils established pursuant to Article IX of the Los Angeles City Charter. Four (4) Neighborhood Councils adjoin the Port of Los Angeles:

1. Northwest San Pedro Neighborhood Council
2. Central San Pedro Neighborhood Council
3. Coastal San Pedro Neighborhood Council, and
4. Wilmington Neighborhood Council

The Northwest San Pedro Council has been promoting resolutions and actions for undergrounding utilities, beautification of North Gaffey Street and reducing train noise. Undergrounding utilities was presented as PCAC Motion 55 in 2006. BOHC denied the motion in 2009 (not on a timely basis) and, instead, directed the Port to consider undergrounding on a project-by-project basis. Certain utility lines were undergrounded with mitigation funds from the China Shipping settlement.

Several motions have been forwarded to BOHC from PCAC over the years regarding North Gaffey Street. These motions include proposals to remove billboards, move petroleum storage tanks, purchase properties, etc. Most of these motions have been approved or approved with modifications by BOHC.

The issue of train noise reduction in the Northwest Council area has not been forwarded to BOHC from PCAC, although it has from other Councils, particularly Wilmington.

The Central San Pedro Council has recently advocated for improvements to Front Street and the San Pedro waterfront development including ensuring access to the waterfront from downtown San Pedro. A draft Wilmington Waterfront EIS/EIR was approved by BOHC in 2009 that included the Front Street improvements promoted by the Council, but with a low priority for implementation. A draft EIS/EIR for the San Pedro waterfront was approved by BOHC in 2009. The draft document includes several alternatives for waterfront development.

The Coastal San Pedro Council has been advocating for an alternative use for the former liquid bulk terminal at Kaiser Point other than a planned cruise ship terminal. A resolution was presented by PCAC to BOHC in 2008. BOHC rejected the proposal and stuck with the original alternative, a cruise ship terminal. Currently, utility and site preparation work is being conducted at the Kaiser Point site.

In recent years, the Wilmington Council has advocated for a buffer between residential areas near the waterfront and West Basin container terminals. The Wilmington Buffer was approved in 2007 and will be completed this year.

More recently, the Wilmington Council has advocated for train and truck noise reduction and improved circulation on Harry Bridges Boulevard. Train and truck noise mitigation measures were proposed by PCAC and approved by BOHC in 2005 and 2009. A more all encompassing ban on any project that would generate additional truck or rail traffic on the Wilmington waterfront was rejected in 2003. A PCAC proposal that opposed a realignment of Harry Bridges Boulevard was rejected.

As shown in the discussion, the Councils and PCAC have achieved several successes in recent years regarding Port projects of concern. In other cases, the wishes of the local councils were denied by BOHC. Proposals were more likely to be successful if they were focused on a specific project or issue and incorporated reasonable alternatives, or involved a property with limited potential for revenue production; e.g., San Pedro waterfront. Proposals were less likely to be successful if they contained blanket prohibitions on certain types of Port activity, involved projects outside the jurisdiction of BOHC; i.e., outside the Port District, or proposed replacing a major terminal improvement with a recreational or passive use. Major revenue producing projects may have been modified or mitigation projects implemented, but the projects usually proceeded.

Background on Environmental Management

The Port has built up its in-house environmental management resources and has promulgated policies and implemented projects to mitigate the environmental impacts of terminal and cargo growth including a self-mandated Clean Air Action Plan and Water Resource Action Plan. Initiatives to retire older, polluting trucks; powering idle ships through the local power grid rather than running heavily-polluting ship engines; and an extensive array of air monitoring stations have been started.

Current Environmental Management Mandates and Level of Compliance

The Port is subject to thirty-seven (37) environmental mandates enforced by twenty-three (23) separate governmental agencies and non-governmental organizations. The majority of these mandates stipulate specific planning protocols such as the elements that are incorporated into environmental impact reports; permitting and/or reporting of certain activities such as liquid discharges into Port waterways; or the installation of specific technologies. With a few exceptions, these mandates do not have quantitative targets that are specific to the Port. The primary enforcement tool for several mandates is the EIR which identifies environmental impacts and mitigation measures on a project-by-project basis. Most significant projects at the Port have approved EIRs. Projects are eventually permitted and conditioned with the selected mitigation measures. The Port is in compliance with the thirty-seven (37) mandates at this time, although compliance with the individual EIRs could not be determined. In many cases, compliance with an EIR is an ongoing process.

The primary environmental impacts of the Port are air and water pollution. Secondary impacts include traffic congestion, noise and light pollution. The thirty-seven (37) mandates cover all these impacts, especially air and water pollution, which is regulated by several agencies at all levels of government. Most of the existing mandates do not include quantitative goals for reducing or capping pollutants, with the exception of CAAP which is a voluntary mandate but is derived from the standards set by the Clean Air Act, a Federal statute, and the State level California Clean Air Act. CAAP sets San Pedro Bay-wide (both ports) quantitative standards for three (3) types of air emissions. The Ports of Los Angeles and Long Beach are currently preparing a Water Resources Action Plan that will operate in a similar manner and have equally ambitious goals and strategies.

Background on Port Consolidation

The Ports of Los Angeles and Long Beach are adjacent to each other, share much of the same transportation and supply chain infrastructure, compete for the same shipping traffic and coordinate on a wide range of infrastructure and environmental programs. In similar circumstances in North America, port organizations have merged to consolidate operations and realize scale economies. This approach has never been explored seriously in San Pedro Bay, but it may yield significant benefits to the region.

Background on Port Security

Along with environmental impacts are concerns and mandates surrounding anti-terrorism as it was determined that the Port is potentially a prime access point for terrorists or weapons of mass destruction. The Port now fields the largest port-dedicated police force in North America. However, concerns remain regarding the ability of the Port to police the waters and terminals under its jurisdiction.

METHODS AND PROCEDURES

During the investigation, the CGJ performed the following tasks and procedures:

1. Interviewed twenty (20) people including Port managers, members of community groups and one member of the Board of Harbor Commissioner
2. Reviewed twenty-eight (28) documents including legal settlements, statutes and regulations, meeting minutes, environmental documents, crime statistics, various Port databases and previous consulting reports
3. Toured the Port's security infrastructure
4. Inventoried the security mandates of the Port and evaluated compliance with those mandates
5. Inventoried the community relations mandates of the Port and evaluated compliance with those mandates
6. Inventoried the environmental mandates of the Port and evaluated compliance with those mandates
7. Inventoried community concerns with Port operations
8. Prepared an analysis of composition of PCAC
9. Prepared an analysis of PCAC attendance

FINDINGS

- 1. The community input process in the Port of Los Angeles community has degraded and does not have the organizational strength to be effective.**

Status of the Port Community Advisory Committee (PCAC)

PCAC exists and operates today though there have been several changes made in its funding and organization. The biggest changes occurred in 2009 when the Port (not BOHC) eliminated staff support for five (5) of the nine (9) original PCAC subcommittees. This was accomplished by reducing the overtime budget that allowed Port staff to attend PCAC subcommittees in the evening. The Port also eliminated the funding of private consultants that formerly had performed work on behalf of PCAC and its subcommittees. Finally, the Port eliminated funding for renting space at a hotel in San Pedro for PCAC meetings.

The rationale for these changes was that Port revenues had decreased due to the economic recession, and operating expenses were cut as a result. Also, many subcommittee meetings were lightly attended, often by the same people; and their scopes tended to overlap with other subcommittees. PCAC now has four (4) subcommittees: Steering, Wilmington Waterfront, San Pedro Coordinated Plan and EIR/Aesthetic Mitigation. The scopes of defunded subcommittees that dealt with specific

environmental issues such as water, air, and noise have been rolled into the EIR/Aesthetic subcommittee. Though PCAC is a standing committee of BOHC, these changes were never formally vetted nor approved by BOHC.

Another issue with PCAC is the composition of membership. As originally envisioned, PCAC was to include a broad representation of constituents in the harbor community including neighborhood and residential associations, labor and business groups, educational institutions, representatives from local government and economic development agencies. As it has unfolded in the last ten (10) years, certain groups have failed to appoint members and some appointed members have failed to consistently attend. This has resulted in PCAC being dominated by members from the Neighborhood Councils and residential groups. Business groups have been under-represented.

Several constituent organizations either no longer exist or they lack any legal structure as a registered corporation with the State. Lack of a legal structure makes it more difficult to ensure that an organization has bylaws, elects officers, conducts periodic meetings and maintains a legitimate address for notices and agendas. Some of the existing PCAC constituent organizations are reportedly nothing more than a small, informal group of neighbors. Table 2 shows the status of some of these organizations:

Table 2. PCAC Member Organization Status

Organization	Current Status	# of votes
Wilmington Community Advisory Committee	No legal structure	3
Harbor City/Harbor Gateway Chamber of Commerce	Suspended	1
Pacific Avenue Corridor Task Force	No legal structure	1
Wilmington Commercial District/Business Improvement District	Dissolved	1
Crescent Area Residents Association	No legal structure	1
Dana Strand Residents Association	No legal structure; No appointed member	1
Point Fermin Residents Association	No legal structure	1
Rancho San Pedro Residents Association	No legal structure; No appointed member	1
San Pedro & Peninsula Homeowners Coalition	Suspended	3
Wilmington Citizens Committee	No legal structure	1
At large member from Council Dist 15	No appointed member	1
Education at large – LA Harbor College	No appointed member	1
	Total	16

Some of these organizations such as Point Fermin and Crescent are, in fact, active but do not meet regularly lack bylaws. Dana Strand and Rancho San Pedro Residents have not appointed a representative. Representatives from Council District 15 and Los Angeles Harbor College have resigned and have not been replaced. In total, sixteen (16) out of thirty-six (36) voting seats are unfilled, have never been filled, or represent organizations that no longer exist or lack a legal structure. It may be time to address the composition of PCAC to ensure that it has equitable representation from legitimate organizations that have a stake in Port operations and appoint active members.

Existing PCAC bylaws provide for no term limits for PCAC members. This is left up to the appointing organizations. The voting Co-Chair of PCAC is elected for a one-year term but can be re-elected with no term limit. This has resulted in institutional memory among PCAC membership. It has also led to domination by entrenched interests, particularly among representatives of homeowner groups which form the largest constituency within PCAC.

Attendance has been an issue for PCAC for years. PCAC bylaws require a quorum of 50% of the voting membership of eighteen (18) members. Beginning in late 2008, attendance began to decline at the monthly PCAC meetings. In late 2009, attendance declined to the point that a quorum was not present at three (3) consecutive meetings. Meetings that did have quorums were razor thin. The last time a PCAC meeting had twenty (20) or more members attend was in June 2009, a standard that formerly was often achieved.

The sub-committees have been meeting sporadically. The EIR Sub-Committee has met only once since July 2010. The Wilmington Waterfront and San Pedro Planning Sub-Committees have been meeting fairly regularly but sometimes miss a month or two.

Along with declining attendance is the problem of light agendas. Meetings in recent months have featured agendas that were light on substance or major action items. Agendas are often light at the Sub-Committee meetings as well, with agendas featuring more status reports than action items. In 2010 only three (3) motions were approved by PCAC for referral to BOHC, two (2) of those dealing with the Battleship USS Iowa. In contrast, in 2007, twelve (12) motions were approved by PCAC for referral to BOHC. In 2008, fourteen (14) motions were approved. In 2009, nine (9) were approved. Clearly, PCAC is running out of things to do.

This paucity of substantive business is partially the price of success. Many of the projects and mitigation measures that were the focus of PCAC deliberations in earlier years have been completed. As mentioned above, PCAC has notched many successes in how these projects have been shaped or influenced. Many of these projects such as the Wilmington Buffer, San Pedro Waterfront, Pier 300/400, the Plan, etc. are now completed, in development or nearing construction. In recent years, there have not been as many projects with EIRs that required debate. This may change in the future as the Port contemplates a new generation of major projects such as Pier 300 expansion, main channel deepening and development of near-dock intermodal rail facilities. This last project, in particular, may produce new community relation challenges as the rail facilities will be close to residential areas. However, until these new EIRs are at the point where PCAC can review them, monthly meetings may be too often.

Another factor in the declining PCAC agendas is that the Port staff is bypassing PCAC and transferring the Committee's mission of organizing community input and working on environmental mitigation projects either to itself or to newly created entities. The Port has taken upon itself the task of organizing community input related to the development of the San Pedro waterfront. Port staff have successfully organized several workshops to present

the project and gather input, something that PCAC may not be set up to do. But whereas PCAC had a role in collecting and shaping community input and presenting recommendations to BOHC in a transparent and inclusive way, the Port controls most aspects of this in-house process; and it lacks the transparency, inclusiveness and deliberative qualities of PCAC.

In 2008, the Port negotiated a settlement with a number of litigants over the expansion of the TraPac container terminal in the west basin area of the Port. This settlement included the establishment of a Port Community Mitigation Trust Fund that would be administered by a yet-to-be established 501(c) 3 non-profit organization. This non-profit would evaluate and recommend mitigation projects that would be funded from the trust fund with an initial funding of \$12 million. Projects would still have to be vetted and approved by BOHC. PCAC had a similar role in earlier years with mitigation funds from the China Shipping settlement. Now the Port has opted to create another entity to serve a similar purpose. Unlike PCAC, however, this new entity will not include broad community input; and its deliberations will not have the transparency of PCAC. Instead, it will be governed by a seven (7) member Board, composed of elected officials, public health professionals and two members of the local community.

Nothing in the ASJ or any other mandate gives PCAC a monopoly on Port related community input or access to BOHC. There are no restrictions on the Port creating other avenues for conducting community relations. By many accounts, PCAC can be, and has been, a difficult entity with which to do business; but it does have some major, unique assets that can provide legitimacy to Port efforts to develop and operate facilities in a manner that is sensitive to nearby residents. PCAC is a step removed from the Port staff in providing an independent assessment of Port plans and operations. PCAC operates in an open and transparent way, unlike the Port staff who works in a secured building. When the Port staff gathers community input, as they have done with the community workshops, it is the staff (working behind closed doors) that organize, sifts, analyze, reconcile and shape this input. PCAC would conduct this process in an open, deliberative environment. Both the Port staff and PCAC may come up with the same answers, but the PCAC process is open and transparent. Any tradeoffs and compromises that are made to get to those answers are apparent to any observer. Tradeoffs and compromises made within the Harbor Administration Building may never see the light of day. PCAC represents a broad cross section of the community, while the new non-profit entity is mostly composed of non-residents. Despite the inefficiency of the PCAC process, the Committee does provide a unique service to the Port and the surrounding community.

2. The Clean Air Action Plan Is Not Analytically Sound

Clean Air Action Plan

The Plan was originally prepared and approved by the governing boards of both San Pedro bay ports in 2006 and then updated in 2010. The Plan sets emission reduction goals for three (3) types of pollutants

- a. Diesel Particulate Matter (DPM)
- b. NOx or Oxides of Nitrogen
- c. SOx or Oxides of Sulfur

The Plan also sets a goal of reducing of Particulate Matter less than 2.5 microns in diameter (PM_{2.5}) but assumes that DPM reductions will also result in reductions in PM_{2.5}, rather than setting a specific target.

The Plan establishes a baseline of 2005 emission levels and emission reduction goals for the years 2014 and 2023. The goals are expressed as percentage reductions such as 77% reduction for DPM, 59% reduction for NOx and 93% reduction for SOx by the year 2023. These goals are not controlled for cargo growth so the reductions have to be achieved irrespective of cargo volumes. These goals also dovetail with overall basin-wide air quality goals established by the South Coast Air Quality Management District (SCAQMD). The Plan, if implemented successfully, will achieve the Port’s “fair share” of emission reduction as required by the SCAQMD.

By far the major polluters are ocean going vessels and heavy duty trucks. Technologies and capital investments for achieving reduction goals are heavily weighted toward these polluters. These strategies include:

- d. Reducing vessel speeds up to 40 nautical miles from Point Fermin, thereby burning less fuel as they approach the ports
- e. Setting emission standards for heavy duty trucks that exceed EPA standards, along with incentives for truck operators to replace older trucks with those running cleaner burning engines
- f. Switching fuels on ocean going vessels with cleaner burning fuels
- g. Setting standards for cleaner burning engines for ocean going vessels
- h. Using shore-based power sources for ocean going vessels when docked at berth, instead of running heavily polluting auxiliary engines
- i. Establishing an Emission Control Area (nationwide) that sets pollution standards for ocean going vessels up to two hundred (200) nautical miles off the coast

Table 3 shows the emission reduction targets vs. current emission levels vs. the emissions forecast given the current cargo volume forecast through the year 2023.

Table 3 Emission Reduction Standards and Forecasts (Figures are annual tons of emissions. Deficit number in parentheses means that target reduction is not met.)

Pollutant	2005 Baseline	2009 Actual	2014 Target	2014 Forecast	2014 Deficit	2023 Target	2023 Forecast	2023 Deficit
DPM	2,025	1,004	567	576	(9)	459	527	(68)
NOx	34,444	21,755	26,866	27,865	(999)	14,286	28,244	(13,958)
SOx	12,421	6,358	869	890	(21)	1,010	994	16

As shown in the Table 3, the combined Port effort is forecast to nearly meet the targeted emission reduction standards for each pollutant. A major exception to this is NOx in the year 2023. There is less confidence in the forecast for NOx reductions because of uncertainties regarding the reduction strategies and technologies, particularly for improvements in ocean going vessel engines. As these technologies are tested and proven, the ports may be more confident in upgrading the forecast in future updates to the Plan.

The Plan shows a serious commitment on the part of the ports of Los Angeles and Long Beach to limit the environmental impacts of port operations. The Plan includes ambitious goals for emission reductions and wide ranging and controversial strategies for achieving those reductions. No doubt, implementation of the Plan will result in cleaner air and increased health status for area residents.

The Plan expresses a goal to reduce health risk from Port operations. Increased health risk is assumed to be positively correlated with exposure to DPM, which is considered to be a carcinogen. The Plan further assumes that reducing DPM will reduce the risk of cancer and improve the health status of nearby residents, as cancer is a reliable proxy for many health risks. In fact, health risks are impacted by all particulate matter, not just DPM. Particulate matter in general is highly correlated with respiratory disease and impaired lung development. Most of the emission sources at the Port are diesel engines which explain the reliance on DPM as a marker for particulate matter in the Plan. However, given the enormous costs associated with implementing the Plan, the Port may want to take the extra step of targeting and measuring total particulate matter (PM_{2.5} and PM₁₀) in addition to DPM.

3. Los Angeles County could benefit from a Regional Port Authority consolidating the Ports of Long Beach and Los Angeles.

Existing Coordination Between Ports

The ports of Los Angeles and Long Beach are both municipally controlled by their respective cities. Each port is governed by a Board of Harbor Commissioners. The two (2) ports are adjacent to each other and are roughly the same size both in terms of area and workload. The ports also share much of the same infrastructure, including the outer harbor (the waterways between the breakwater and the piers). The transportation infrastructure such as freeways, railways and rail yards are also shared by the customers of both ports. Both ports are financial guarantors for the Alameda Corridor Transportation Authority (ACTA) which operates a major rail corridor between the ports and the rail yards in east Los Angeles.

In the past few years, the two (2) ports have widely coordinated on environmental programs. This is a recognition that the ports have to implement similar mitigation programs to ensure that costs are shared equitably, and neither port can benefit by foregoing participation. For example, the ports have coordinated in producing a joint Plan. Specific programs from this Plan are implemented jointly. For example, both ports have enacted similar regulations on vessel speed reductions and cleaner fuels, powering ships with shore based power when they are in port and replacing older truck engines with newer, cleaner burning engines. The ports are now working on a joint WRAP that will require the same type of joint effort and coordination.

Both ports are dominated by container terminals. In the past, both ports also served other types of shippers such as liquid bulk, autos, break bulk, and cruise ship operators. In recent years, there has been some consolidation. The Port of Los Angeles has largely gotten out of the liquid bulk; e.g., petroleum business; and this type of cargo has consolidated in Long Beach. Wood products have largely consolidated at the Port of Long Beach as well.

Detriments of Current Port Structure

In the past, the ports did not often compete for shipping traffic. Usually, there was little excess terminal capacity so steamship lines and terminal operators would have little choice in properties. In other cases, the steamship line or terminal operator worked with one port to develop a facility specifically for their requirements. Terminals were never built without a tenant in mind. In the past two (2) or three (3) years as cargo growth has trailed off and even decreased, the ports have started to compete for shipping traffic. For example, Hyundai Merchant Marine recently moved from Long Beach to Los Angeles. This is a concern since both ports serve the same market, use the same landside transportation infrastructure; and longshoremen are covered by the same collective bargaining agreement. The ports do not have many ways differentiating themselves other than lease rates or the configuration of a specific property. Should the ports engage in rate-based competition, it would result in a transfer of economic value from the publicly owned ports to privately held lessees, contrary to sound public policy goals which should preclude this type of subsidy. This may become a larger problem when the Panama Canal expansion is completed in three (3) years as shipping traffic potentially bypasses the West Coast altogether.

There is duplication in some specialized facilities. For example, both ports operate cruise ship terminals (though the Port of Long Beach cruise terminal is technically leased out by another city department). Los Angeles is planning to open yet a third cruise ship terminal at Kaiser Point in the next few years. Should the cruise ship business lessen, there may be temptation to compete for this business resulting in a transfer of economic value from the publicly owned ports to private cruise ship lines.

Finally, the ports compete for the same staff which theoretically increases personnel costs. There are duplicative administrative structures at both ports which precludes the ability to economize by sharing management positions.

Potential Benefits of Consolidation

Consolidating the control and governance of the two (2) ports could realize significant benefits. One major benefit is already being realized. As mentioned earlier, the two (2) ports are coordinating on environmental mitigation efforts such as the Plan and WRAP. This coordination requires negotiations between the environmental management units of each port as well as the approval of the two (2) governing boards. Consolidation would eliminate the need for these negotiations and the potential tradeoffs, compromises and uncertainty that undoubtedly occur with these negotiations. Consolidation would also be an explicit recognition that the two (2) ports share the same ecosystem and the source of pollutants is difficult to trace from one port or another.

Consolidated ports would remove temptation for the two (2) ports to compete for shipping traffic on financial terms. This would ensure that private shipping interests are not being subsidized by publicly owned agencies through favorable lease terms. The consolidated port would still have to compete for shipping traffic with other port authorities in North America; but due to its location, sheer size and access to a vast local market, it could still compete effectively with other

West Coast ports. The distraction of competing with a nearby port authority would be removed. The combined port authority could compete as a united front.

A consolidated port could benefit from a streamlined management structure including a consolidated governing board. This would result in unified decision making over port operations and development. In addition to more streamlined decision making, it would realize economies by reducing the number of management positions needed to staff the consolidated management structure.

Infrastructure decisions may be streamlined through consolidation of ensuring that all facilities are used optimally throughout the port. For example, cruise ship operations could be consolidated at one or two facilities rather than the three that are either in operation or in the construction stage.

Challenges to Consolidation

Port consolidation faces some serious challenges. A major legal hurdle is that the two ports are located on separate land grants from the State. These grants would have to undergo some sort of consolidation which would require an act of the State Legislature. All existing lease contracts would also have to be assigned to the new port entity. Depending on the lease terms, some tenants may want to negotiate new terms.

The consolidated port would most likely be governed through a port authority, a special district dedicated to operating the port. This would also require an act of the Legislature to create this special district. The region has precedents for a special district of this magnitude. The Metropolitan Water District of Southern California or the Los Angeles County Metropolitan Transportation Authority is successful examples of regional special districts. The role of the two (2) cities (Los Angeles and Long Beach) would have to be determined. The two (2) mayors might have appointment powers over the authority's governing board, or the board might be elected region wide.

Consolidation would also require consolidating, assuming or refinancing the existing port revenue bonds that each city has issued. It is conceivable that the bond markets may perceive less financial risk in a consolidated port authority than in the current city controlled structure. This would result in less debt service, reduced financing costs and more rate flexibility.

Perhaps the most serious hurdle would be the loss of local control. A consolidated port authority would mean less control for the cities of Los Angeles and Long Beach unless they retained appointment powers for the governing board. A hybrid structure for the governing board where the mayors appoint some portion of the board while the remaining seats are elected region wide may make the most sense. In any scenario, amendments would have to be made to both city charters.

4. The Port of Los Angeles is adequately secured from external threats.

Current Security Mandates and Level of Compliance

The mandate for security of Port facilities is divided by jurisdiction. The Federal government has jurisdiction for ensuring security in all cargo and cruise terminals. This jurisdiction is further divided as follows:

The U.S. Coast Guard has authority for securing the terminal facilities. This authority is granted by the Maritime Transportation Security Act (as enabled by the Code of Federal Regulations 33 CFR 105). These regulations require operators of deep draft; e.g., container terminals and cruise terminals to prepare a Facilities Security Plan which is approved by the Coast Guard. Each terminal lessee has a plan for their terminal property. The Coast Guard is responsible for enforcing the terms of these plans at the Port and has a small force of armed security staff to respond to violations of the plans. The Coast Guard has the authority to shut down a terminal in the event of a serious violation. A primary enforcement tool for the Coast Guard is the Transportation Worker Identification Credential (TWIC) which is required for access to any Coast Guard secured areas such as container terminals. The Port Police does not have access to the terminals unless requested by the Coast Guard or the terminal operator. The Coast Guard also has shared jurisdiction over the waterways with the Port.

The U.S. Customs and Border Patrol has jurisdiction over the actual cargo. They monitor incoming containers through examination of records and will inspect certain high risk cargoes and containers such as those originating in the Middle East. Customs and Border Patrol also operates gamma radiation detection equipment at the exit gates of all container terminals. This equipment detects the presence of radiation and flags containers for more extensive inspection including opening the container and examining the contents.

Security for other leased facilities at the Port, other than cargo and cruise terminals, is the responsibility of the individual lessees, which can include restaurant and hotel operators, warehouse operators and other industrial property lessees. This responsibility is established in the terms of individual leases and is similar to those found in standard commercial leases.

Security for non-leased Port property is the responsibility of the Port Police. This includes waterways, roadways, common areas, parks and Port operated facilities. The Port Police have no mandate or responsibility for Homeland Security or counter terrorism. Instead, the Port Police is responsible for enforcing the Port Tariff; i.e., rules promulgated by BOHC for Port users, the Los Angeles Municipal Code and the State Penal and Vehicle Codes. The Port Police have a staff of 217, including 131 sworn police officers. The Port Police use an array of cameras, water-borne sonar devices and patrol craft to monitor Port property.

The Port Police augments the capabilities of the Federal authorities for certain functions such as water patrol and inspections using divers. Port divers inspect the hulls of ships if warranted. Drugs have been found hidden in hull cavities in the past. Water craft will provide a protective screen around cruise ships as they enter and exit the Port.

History of Security Incidents at the Port

Since 2006, there have been only two (2) security breaches on Port property. Both involved fake TWICs and were investigated by the Coast Guard and prosecuted by the U.S. Justice Department. No further details are available.

The Port Police tracks crimes and arrests on Port property involving violations of State or local laws. Reported crimes are approximately two hundred (200) per year with about two-thirds of these classified as Part I crimes; e.g., violent and property crimes. Theft and vandalism are frequent crimes reported at the Port in addition to traffic infractions. Port Police also make 400-500 arrests each year. About half of these arrests involve apprehending persons with outstanding warrants or for failure to appear. Rather than Homeland Security related issues, Port Police workload is similar to that of a municipal police force with the addition of a sizeable surveillance function.

RECOMMENDATIONS

1. BOHC to restructure PCAC, improving the efficiency and effectiveness of the Committee and refocusing its mission:
 - a. Rename PCAC to Port Region Advisory Committee. Note: the committee will still be referred to as PCAC in this recommendation for ease of understanding
 - b. Adopt a resolution that fulfills the requirements of the ASJ, Article IX-B and better define the role of PCAC:
 - i. Article IX-B requirement is, “(a) the Board will consider all resolutions adopted by PCAC in an expeditious and timely manner; and (b) the Board shall issue a written statement of reasons and appropriate findings for any PCAC resolution rejected by the Board.”
 - ii. Make the resolution clear and specific in defining the types of actions and decisions in which PCAC should engage, including reviewing CEQA documents, mitigation measures costing more than \$1 million, as well as, those vetted by the TraPac related non-profit Board.
 - c. Enhance the governance role of BOHC by establishing an annual work plan for PCAC. Require quarterly updates on deliberations through a standing agenda item on the BHS agenda. Furthermore, the BHS resolution should include a requirement that a BOHC member serve as a Co-Chair of PCAC. The role of this Co-Chair would be to ensure that PCAC fulfills its advisory role to BOHC and focuses on mission related activities.
 - d. BOHC to amend PCAC’s by-laws so that PCAC and its sub-committees meet quarterly instead of monthly.
 - e. BOHC to amend PCAC’s by-laws regarding composition of PCAC constituent organizations and voting membership to reflect the relative impacts of Port operations on the groups. For example, residential composition should be weighted higher than business composition insofar as Port operations impact residents more than businesses. The by-laws should also reduce the total composition of PCAC by 40%, thereby eliminating groups that are not as

established or lack certification standards, such as a legal structure, elected officers, etc. Table 4 shows how one such restructuring would look:

Table 4 Proposed PCAC Composition

Type of constituency	Organization	# of reps	Total #	Total %
Neighborhoods/Residential	Central SP	1		
	Coastal SP	1		
	Harbor City	1		
	NW SP	1		
	Wilmington	2		
	CD 15 - SP	2		
	CD 15 - Wilmington	1		
	Total Neighbor/residential		9	45%
Civic	Wilmington Comm Advisory	1	1	5%
Business/Econ Dev	Harbor Assoc of industry	2		
	SP C of C	1		
	PMSA	1		
	Wilmington C of C	1		
	Total business/econ dev		5	25%
Labor	ILWU	1		
	Non-ILWU	1		
	Total labor		2	10%
Education	LA Harbor College	1	1	5%
At Large	BHC appointed	1		
	CD 15 appointed	1		
	Total at large		2	10%
Totals		20	20	100%

- f. BOHC to amend PCAC's by-laws to include a certification process for PCAC constituent organizations. These organizations should:
- i. Be registered with the California Secretary of State
 - ii. Have their own by-laws or articles of incorporation
 - iii. Have a purpose that has a nexus or connection with Port operations or the impacts of Port operations
 - iv. Meet at least quarterly in open session
 - v. Elect officers
 - vi. Organizations should be required to recertify annually. Any organization that has not recertified within six (6) months should be decertified and replaced. This requirement would not apply to governmental organizations or subdivisions such as Neighborhood Councils.
- g. BOHC to amend PCAC's by-laws to include a certification process for PCAC voting members. The certification requirement should include:

- i. Prospective voting members should have a letter of nomination from their appointing constituent organization. BOHC would then certify their appointment.
 - ii. Certification should be revoked if the voting member has two (2) unexcused absences or three (3) excused absences during a period of four (4) consecutive quarterly meetings.
 - iii. Certification should also be revoked if the voting member is charged with code of conduct breaches in two (2) meetings during a period of four (4) consecutive quarterly meetings.
 - iv. Upon revocation, the voting seat would be filled by the alternate voting member, or the constituent organization could nominate a new member.
 - v. Existing PCAC members can be granted new five-year terms at the discretion of BOHC.
- h. BOHC to amend PCAC's by-laws to limit terms for PCAC Co-Chair (not a BOHC member) and PCAC sub-committee chairs to two (2) consecutive one (1) year terms. Terms for all PCAC members should be limited to five (5) years.
 - i. BOHC to amend PCAC by-laws to include a code of conduct for PCAC members. This code of conduct should be enforced by an appointed Sergeant-at-Arms. Breaches of the code of conduct should be documented and enforced pursuant to the revocation process as described above.
 - j. Retain the current roster of sub-committees within PCAC plus the addition of a subcommittee that would assume the responsibilities of the planned non-profit organization to oversee the Port Community Mitigation Trust Fund. This new subcommittee would replace this planned non-profit organization. All recommendations from this subcommittee would then be vetted and approved by PCAC prior to recommendation to BOHC.
 - k. Continue to assign technical and administrative support staff to PCAC meetings in order to provide expert advice and knowledge. The Port should continue to assign legal counsel to PCAC meetings.
- 2. Revisit the Plan to ensure that all particulate matter, not just DPM, is being tracked and those reduction goals are included for PM_{2.5} and PM₁₀.
 - 3. BOHC to propose to the City of Long Beach the commissioning of independent study of the costs and benefits of a consolidated Port Authority in San Pedro Bay. The study should be overseen by a commission composed of experts in municipal finance, supply chain logistics, public health, and public policy plus representatives from the governments of Los Angeles County, City of Los Angeles, Long Beach and the State of California, including a representative from the State Lands Commission. Should the study suggest that the region would benefit from a consolidated Port Authority; the Commission would be well advised to develop a legislative action plan to enact the recommendations from the study.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

FINDINGS

1. The community input process of the Port of Los Angeles communities has degraded and does not have the organizational strength to be effective.
2. The Clean Air Action Plan does not include goals for reducing total particulate matter.
3. Los Angeles County could benefit from a regional Port Authority consolidating the Ports of Long Beach and Los Angeles.
4. The Port of Los Angeles is adequately secured from external threats.

RECOMMENDATIONS

1. Board of Harbor Commission to restructure PCAC, improving the efficiency and effectiveness of the Committee and refocus its mission.
2. Revisit the Clean Air Action Plan to ensure that goals and standards are established for total particulate matter (PM_{2.5} and PM₁₀) in addition to DPM.
3. Board of Harbor Commission to propose to the City of Long Beach an independent study of the costs and benefits of a consolidated Port Authority in San Pedro Bay.

REQUEST FOR RESPONSE

California Penal Code Sections¹§933(c) and §933.05 requires a written response to all Recommendations contained in this Report which shall be made no later than ninety (90) days after the Civil Grand Jury publishes its Report (filed with the Clerk of the court).

Respond to:

Presiding Judge
Los Angeles County Superior court
Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Eleventh Floor, Room 11-506
Los Angeles, CA 90012

All responses for the 2010-2011 CGJ Report's Recommendations must be submitted to the above address on or before the end of business **September 30, 2011**.

¹ Reference California Penal Code Sections §933(c) and §933.05 at the beginning of this 2010-2011 Civil Grand Jury Report

Responses are required from:

<u>Recommendation Numbers</u>	<u>Responding Agency</u>
1	City of Los Angeles (Board of Harbor Commission)
1a	City of Los Angeles (Board of Harbor Commission)
1b	City of Los Angeles (Board of Harbor Commission)
1c	City of Los Angeles (Board of Harbor Commission)
1d	City of Los Angeles (Board of Harbor Commission)
1e	City of Los Angeles (Board of Harbor Commission)
1f	City of Los Angeles (Board of Harbor Commission)
1g	City of Los Angeles (Board of Harbor Commission)
1h	City of Los Angeles (Board of Harbor Commission)
1i	City of Los Angeles (Board of Harbor Commission)
1j	City of Los Angeles (Board of Harbor Commission)
1k	City of Los Angeles (Board of Harbor Commission)
2	City of Los Angeles (Board of Harbor Commission)
3	City of Los Angeles (Board of Harbor Commission)

APPENDIX

Table 1 – Source: BOHC Resolution 6039, China Shipping Amended Stipulated Judgment

Figure 1 – Source: PCAC Motions Recommended to BOHC as of 01-18-11, POLA

Figure 2 – Source: Motions Recommended to BOHC as of 01-18-11, POLA

Table 2 – Source: California Secretary of State

Table 3 – Source: Clean Air Action Plan Update, 2009

ACRONYMS

ACTA	Alameda Corridor Transportation Authority
ASJ	Amended Stipulated Judgment
BOHC	Board of Harbor Commissioners
CAAP	Clean Air Action Plan
CEQA	California Environmental Quality Act
DPM	Diesel Particulate Matter
EIR	Environmental Impact Review
NOx	Oxides of Nitrogen
PCAC	Port Community Advisory Committee
PM	Particulate Matter
POLA	Port of Los Angeles
SCAQMD	South Coast Air Quality Management District
SOx	Oxides of Sulfur
TEU	Twenty-foot Equivalent Unit
TWIC	Transportation Worker Identification Credential
WRAP	Water Resources Action Plan

PREFERENTIAL PARKING (PERMIT STREET PARKING)



Committee Members

Chairperson - Hazel A. Dial
Co-Chairperson: Wardah Shakir
Beverly T. Kishimoto
John A. Rangel
Gloria J. Williams

PREFERENTIAL PARKING

SUMMARY

What is Preferential Parking? Would it enhance the quality of life in your neighborhood? The 2010-2011 Los Angeles County Civil Grand Jury (CGJ) conducted an inquiry into the City of Los Angeles Department of Transportation (DOT) and the Tenth District Council Office regarding the procedures and rules governing the Preferential Parking Program (PPP). Los Angeles Municipal Code (LAMC) Section 80.58 establishes rules and procedures governing PPPs. Implementation of these requirements limit intrusion of non-residential and commuter parking into residential neighborhoods where such parking practices may negatively impact residential areas.

PURPOSE

The CGJ conducted an inquiry regarding the policies and procedures used in determining which areas receive Preferential Parking Districts (PPDs). PPD requirements and processes to be used in rescinding was the primary focus of this investigation.

BACKGROUND

DOT is responsible for establishing PPDs in neighborhoods to enhance the quality of life by limiting intrusion of non-residential and commuter parking. The requirements of LAMC Section 80.58 establishes rules and procedures to implement efforts of reducing noise, crime, traffic hazards and litter.

In residential areas where employees and customers of regular businesses have a need to park daily for long periods of time, parking for residents becomes difficult and time consuming. PPDs restrict parking for all motorists, but area residents and their guests are exempt from the special parking restrictions when they purchase and display Preferential Parking Permits (Permits).

The CGJ found that requirements to establish a PPD include the following:

1. Proponents of a proposed PPD must submit petitions signed by residents of at least 67% of the dwelling units representing more than 50% of the developed frontage on each of six (6) blocks.
2. If the six (6) block minimum is met, DOT then conducts studies to determine if parking is excessively impacted by non-resident vehicles.
3. DOT identifies the boundaries of the proposed PPD, evaluates the environmental consequences of establishing the district, and schedules a public hearing on the proposed PPD.

4. Based on testimony presented at public hearings and other comments received from the public, DOT Hearing Examiner prepares a report for the City Council recommending whether the proposed PPD should be established.
5. DOT reports are first evaluated by the Transportation Committee and then submitted, along with any additional recommendations, to the City Council for approval.
6. After the City Council adopts a resolution establishing the PPD and its boundaries, authorized preferential parking restriction signs can be installed on any block within the PPD limits. Once DOT has received the petitions requesting the approved restrictions signed by residents of 67% of the dwelling units on the block, restricted signs are then posted accordingly.
7. Within thirty (30) days of receipt of the Hearing Examiner's report, the Department makes a recommendation by written report to the City Council outlining area designations under consideration as PPDs. Times and limitations are to be specified in the report, based on surveys conducted and the record of the public restrictions. Currently a two-year waiting period to obtain Permits has been known to occur.
8. If a proposed district meets all of the program criteria, the Department is to give notice and conduct a public hearing for the purpose of stating boundaries and parking restrictions of the proposed permit parking district under consideration.

METHODS AND PROCEDURES

The CGJ met with members of DOT as well as personnel from the Tenth District Council Office. In addition, the CGJ researched applicable rules and procedures governing the PPP.

FINDINGS

The CGJ made the following findings:

1. It was noted that within thirty (30) days of receipt of a Hearing Examiner's Report the DOT makes a recommendation to the City Council outlining areas under consideration for a PPD. If the proposed PPD meets all of the program's criteria, DOT gives notice to area residents stating boundaries and parking restrictions of the permit parking district. Currently a two-year waiting period to obtain Permits has been known to occur.
2. The following incidents have occurred:
 - a. In 2008 a petition for Preferential Parking was initiated by the residents of 1600 Block of Hi-Point Street.

- b. After repeated inquiries with DOT for two (2) years, in July 2010 the residents received a letter from DOT stating “preferential parking restriction requirements had been met, and the requested installation of a PPD had been approved.”
 - c. On August 5, 2010 an additional petition was circulated opposing the establishment of a PPD. Of particular concern to the CGJ is that it took approximately two (2) years for approval of the PPD, and one (1) day for it to be denied.
3. In addition, there have been numerous attempts by area residents to get reasons for rescindment of the PPD, all to no avail.
4. When a PPD is approved, there appears to be no formal process for rescinding such a district or informing residents of same.

RECOMMENDATIONS

1. Decisions regarding approval of PPDs be made on a more timely basis after the determination of the PPD. A two (2) year waiting period is unacceptable.
2. Updates on the status of requested PPDs be readily available on line and accessible upon request.

REQUEST FOR RESPONSE

California Penal Code Sections¹ §933 (c) and §933.05 requires a written response to all Recommendations contained in this Report which shall be made no later than ninety (90) days after the Civil Grand Jury publishes its Report (filed with the Clerk of the Court).

Respond to:

Presiding Judge
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All responses for the 2010-2011 CGJ Report's Recommendations must be submitted to the above address on or before the end of business **September 30, 2011**.

Responses are required from:

<u>Recommendation Number(s)</u>	<u>Responding Agency</u>
1	City of Los Angeles (Department of Transportation)
2	City of Los Angeles (Department of Transportation)

¹ Reference California Penal Code Sections §933(c) and §933.05 at the beginning of this 2010-2011 Civil Grand Jury Report

ACRONYMS

DOT	Department of Transportation
PPD	Preferential Parking District
PPP	Preferential Parking Program
LAMC	Los Angeles Municipal Code

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TRANSITION AGE YOUTH (TAY) JOURNEY



Committee Members

Chairperson - George E. Candler, Jr.

Co-Chairperson: Laura M. Holmes

James R. Boyd

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TRANSITION AGE YOUTH (TAY) JOURNEY

SUMMARY

Los Angeles County (LAC) Department of Children and Family Services (DCFS) is charged with providing services and resources to assist Transition Age Youth (TAY) to transition successfully from dependency to self-sufficiency. The Youth Development Services Division (DCFS/PD) receives a budget each year from State and Federal government resources to implement and operate these programs and services. This Report addresses the Findings and corresponding Recommendations of the 2010-2011 Civil Grand Jury (CGJ) for data collection systems and mechanisms needed to effectively provide services to build TAY self-sufficiency.

PURPOSE

The CGJ investigation assessed the effectiveness of DCFS and the LAC's Department of Children and Family Services (PD) programs in establishing TAY self-sufficiency.

BACKGROUND

LAC is the largest foster care system in the United States. The DCFS Youth Development Services Division (YDS) is the principal entity delivering services and programs to assist TAY in the areas of life skills training, education, employment and housing. Primary services are conducted under the Independent Living Program (ILP). ILP is a Federally funded program that offers supplemental services for eligible DCFS/PD foster youth or former foster youth. The Division also offers transitional housing for youth ages sixteen (16) to twenty-four (24). The primary goal of TAY programs is to assist youth in foster care to successfully transition to a life after foster care. These programs and services rely on the coordination of the Deputy Probation Officer, Childrens Social Worker and the Transition Coordinator who are responsible for assisting youth in:

1. Identifying goals and activities that will help them achieve those goals
2. Employment, housing and educational needs

This is accomplished by monitoring progress, maintaining open communication and timely responses regarding available resources and linking the youth to these resources.

TAY Service Systems

1. TAY processes through ILP begins when youth are removed from their homes. Three (3) outcomes may occur:
 - a. If DCFS/PD so deems, the youth may reunify with the family. Over 50% of cases result in family reunification.

- b. DCFS/PD supervises home placement. In this environment, the youth may return to their homes but Children Social Workers (CSWs) oversee the placement for a finite period of time to ensure youth safety.
- c. If after twelve (12) months family reunification or home supervision is unsuccessful, the CSW places the youth in Permanent Placement Mode (PPM). If a youth is put into PPM, the CSW establishes adoption or legal guardianship for the youth. If these options are unsuccessful, the CSW places the youth in long-term foster care.
 - i. At 14, the CSW initiates the development of a Transitional Independent Living Plan (TILP). Table 1 shows the timeframe for TAY services and programs. The TILP is updated every six (6) months to outline goals, planned completion date, and progress assessments. During this time, the CSW prepares the youth for ILP participation. Participation in the TILP at 14 is voluntary. If at age 14 or 15 the youth is performing below grade level, ILP tutoring services are available. Up to fifty (50) hours of tutoring may be provided by three (3) outside contractors. At 16, the TILP development is mandatory. If the CSW determines a youth's ILP eligibility to participate in the program, the youth is referred to the ILP Transition Coordinators (TCs). The DCFS Youth Development Services Division currently employs twenty (20) TCs, each handling about 400-500 ILP participants per year. The TC serves as a bridge between the youth and an array of available ILP services. Services include Life Skills Training (LST), housing, graduation expenses, fees for college preparation tests and scholarships. LST provides for basic skills for job search, roommate etiquette and budget planning. An outside contractor provides five-week courses. YDS provides a \$100 incentive for LST class completion. Resources are available for youth who contact their TC. If the youth has established themselves as self-driven and independent, the Transitional Housing Placement Program (THPP) is available between the ages of 16 and 18. THPP allows TAY juniors or seniors in high school (16 or older) to share an apartment with other youth, save money and receive support services.
 - ii. Before a youth reaches 18, the CSW attempts to prepare the youth for adulthood. Normally, a case is closed by the courts at 18. If there is a special circumstance, the case may remain open until 19 or 20. Ninety (90) days before exit, the CSW initiates a "90-Day Transition Plan." This plan is a future life map detailing housing, education and career plans and goals. If determined that the youth requires housing, an application process for the Transition Housing Program (THP) or Transitional Housing Program Plus (THP+) is initiated by the ILP Housing Coordinator (HC). YDS employs six (6) HCs and two (2) HC Supervisors (Supervising CSWs). THP and THP+ also provide housing opportunities for former foster youth. Upon case closure, the CSW completes an exit outcome evaluation to determine the status of education, housing and career placement. If the youth has not participated in the ILP, a final attempt to engage the youth's participation in the ILP is made.

Table 1. Timeframe for TAY Services and Programs

Youth Age	Action	Available Services
14	Youngest age at which a Transitional Independent Living Plan can developed by the Children Social Worker, but it is voluntary.	ILP tutoring is available, if TILP determines it is necessary and youth chooses to participate in ILP.
16	Age at which the TILP is mandatory. ILP eligibility is determined by CSW. If so, youth is referred to the ILP Transition Coordinator.	<p>ILP services include Life Skills Training (LST), housing, graduation expenses, fees for college preparation tests, and scholarships. ILP available to eligible youths from age 16 to 21.</p> <p>Transitional Housing Placement Program is available to eligible youths 16-18 years old who are currently in out-of-home placement. THPP allows youth to share an apartment with other youth, and provides other support services.</p>
18	<p>Upon 90 days to the youth's exit, the CSW initiates the "90-Day Transition Plan," a future life-map detailing housing, education, and career plans.</p> <p>If the youth requires housing, the youth applies to Transition Housing Program (THP) or Transitional Housing Program Plus (THP+) with the ILP Housing Coordinator (HC). Gramercy House is available for pregnant or parenting youth with one child under 5 years old.</p> <p>Upon case closure, the CSW completes an exit outcome evaluation to determine the status of education, housing, and career placement. If the youth has not participated in the ILP, efforts by judge and DCFS to encourage participation.</p>	<p>ILP services are available to age 21.</p> <p>Transitional Housing Program (THP) is for youth 18-21 years old (can be accepted prior to 22nd birthday) and provides furnished scattered site apartments to share with other TAY and various support services (i.e., utilities, bus passes). Youth must work full-time and save earnings, or attend school/training and work part-time. Maximum time is 18 months.</p> <p>Los Angeles Homeless Services Authority (LAHSA) also provides THP services, but they are operated by outside, nonprofit providers, not DCFS.</p> <p>Transitional Housing Program Plus (THP+) is for youth from 18 and until 24 years old who exited care at age 18. Must work full-time or attend school/training and work part-time, and save portions of earnings. Maximum time is cumulative 24 months.</p> <p>Gramercy House is a Transitional Housing Program for youth 18 to 24 years old who are pregnant and/or parenting youth with one child under 5 years old.</p>
21	End of THP and ILP services.	Six months THP follow-up services are provided. Youth can apply for THP+ services.
24	End of THP+ or Gramercy House services.	No services available at age 24.

Source: Information and Resource Directory for Transition Age Young Adults-Los Angeles County (August 2008)

- iii. After case closure and until ILP eligible, youth can access services at any time. TCs are located in eight (8) Transition Resource Centers (TRCs) in Los Angeles County. The majority of ILP participants consist of aftercare youth whose cases were closed by the court and accessed to a TC through these TRCs. The TC assesses living needs and provides additional services. Additional services are funds for clothing, apartment start-up, food, housing programs and transportation. The THP and THP+ programs are available up to age 24. A youth can transfer from one housing program to the next (THPP to THP to THP+) depending on their age.

2. Independent Living Program (ILP)

The ILP is a Federally funded program that offers supplemental services and funds for eligible foster youth or former foster youth. Participation in the ILP program is voluntary. Youth who are 16 to 21 who were/are in foster care at any time from their 16th to 18th birthday are eligible for the ILP. Foster care is at least a “24-hour substitute care for children (after their 16th birthday) placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes....” Table 2 summarizes the types of services offered.

**Table 2. Independent Living Program
Services Provided, Number of Youth Served, and Service Costs
July 2010 - December 2010 (1st & 2nd Quarters, FY 2010-11)**

Service Description	Department	No. of Youth Served	% of Total Youth Served by Service	Total Service Costs	% of Total Service Costs	% of Total Program Costs
Tuition- Educational	DCFS	59	86%	\$184,766	92%	
	Probation	10	14%	\$16,313	8%	
	Totals	69		\$201,080		31.3%
Books and Supplies	DCFS	102	68%	\$38,976	73%	
	Probation	47	32%	\$14,371	27%	
	Totals	149		\$53,346		8.3%
Exams	DCFS	5	56%	\$580	54%	
	Probation	4	44%	\$498	46%	
	Totals	9		\$1,078		0.2%
Clothing-Educational	DCFS	144	74%	\$46,020	78%	
	Probation	51	26%	\$12,994	22%	
	Totals	195		\$59,014		9.2%
High School Graduation Expenses	DCFS	21	64%	\$6,443	57%	
	Probation	12	36%	\$4,788	43%	
	Totals	33		\$11,231		1.8%
High School Graduation Diploma/GED Incentives	DCFS	25	38%	\$2,500	38%	
	Probation	40	62%	\$4,000	62%	
	Totals	65		\$6,500		1.0%
Fees- Educational (Administrative, Parking)	DCFS	14	88%	\$892	97%	
	Probation	2	13%	\$31	3%	
	Totals	16		\$923		0.1%
Tuition-Vocational	DCFS	11	79%	\$17,478	90%	
	Probation	3	21%	\$1,944	10%	
	Totals	14		\$19,422		3.0%
Fees- Vocational (Administrative, Parking)	DCFS	6	55%	\$812	85%	
	Probation	5	45%	\$148	15%	
	Totals	11		\$960		0.1%
Airline Tickets- College Bus Pass for school/work, etc	DCFS	260	65%	\$52,803	63%	
	Probation	138	35%	\$30,679	37%	
	Totals	398		\$83,482		13.0%
Tools	DCFS	3	60%	\$2,845	71%	
	Probation	2	40%	\$1,182	29%	
	Totals	5		\$4,027		0.6%
Dues	DCFS	1	50%	\$56	6%	
	Probation	1	50%	\$900	94%	
	Totals	2		\$956		0.1%
Uniforms, Job/Work Clothing	DCFS	171	68%	\$43,650	70%	
	Probation	82	32%	\$18,775	30%	
	Totals	253		\$62,425		9.7%
Computer	DCFS	7	88%	\$5,313	84%	
	Probation	1	13%	\$1,000	16%	
	Totals	8		\$6,313		1.0%
Computer Training-Vocational	DCFS	3	100%	\$2,050	100%	
	Probation	0	0%	\$0	0%	
	Totals	3		\$2,050		0.3%
Driving Lessons	DCFS	4	50%	\$1,197	40%	
	Probation	4	50%	\$1,785	60%	
	Totals	8		\$2,982		0.5%

Source: Independent Living Program (ILP) Annual Statistical Report for ILP Eligible Probation and Aftercare Youth Federal Fiscal Year (October 1 through September 30, 2010)

Table 2. (cont.)

Service Description	Department	No. of Youth Served	% of Total Youth Served by Service	Total Service Costs	% of Total Service Costs	% of Total Program Costs
Youth Conferences	DCFS	6	100%	\$5,332	100%	
	Probation	0	0%	\$0	0%	
	Totals	6		\$5,332		0.8%
Auto Insurance	DCFS	7	70%	\$3,863	67%	
	Probation	3	30%	\$1,907	33%	
	Totals	10		\$5,769		0.9%
Emergency Housing	DCFS	1	100%	\$414	100%	
	Probation	0	0%	\$0	0%	
	Totals	1		\$414		0.1%
Rent assistance in market units: monthly	DCFS	19	56%	\$24,312	60%	
	Probation	15	44%	\$16,510	40%	
	Totals	34		\$40,822		6.4%
Rent move-in/security deposit costs	DCFS	10	50%	\$5,241	38%	
	Probation	10	50%	\$8,698	62%	
	Totals	20		\$13,939		2.2%
Rent assistance with rel./foster parents: general pop.	DCFS	1	50%	\$1,350	39%	
	Probation	1	50%	\$2,078	61%	
	Totals	2		\$3,428		0.5%
Rent assistance with rel./foster parents: spec. needs	DCFS	1	100%	\$1,800	100%	
	Probation	0	0%	\$0	0%	
	Totals	1		\$1,800		0.3%
Rent assistance for Dorms	DCFS	8	100%	\$11,842	100%	
	Probation	0	0%	\$0	0%	
	Totals	8		\$11,842		1.8%
Apartment/Dorm start-up costs	DCFS	14	100%	\$4,800	100%	
	Probation	0	0%	\$0	0%	
	Totals	14		\$4,800		0.7%
Unallocated/Medical expense	DCFS	2	67%	\$566	54%	
	Probation	1	33%	\$479	46%	
	Totals	3		\$1,045		0.2%
Food certificates	DCFS	139	75%	\$27,466	75%	
	Probation	47	25%	\$9,300	25%	
	Totals	186		\$36,766		5.7%
ILP Program Total	DCFS	1,044	69%	\$493,365	77%	
	Probation	287	19%	\$148,379	23%	
	Totals	1,523		\$641,745		100.0%

Source: Independent Living Program (ILP) Annual Statistical Report for ILP Eligible Probation and Aftercare Youth Federal Fiscal Year (October 1 through September 30, 2010)

- a. ILP services provided life skills, financial planning, car rental payments, housing assistance and tuition payments. Youth aged 14 and 15 are eligible for educational assessments and tutoring services as needed. (This is the only service available for youth under 16.)
- b. From ages 16 to 21, ILP-eligible youth may attend ILP classes at a community college or an enhancement program near their home. Transportation and food may be provided. Youth may also be eligible for fees to cover College Preparation Tests (ACT and SAT). Transportation, housing, food and registration fees at an approved young adult conference; e.g., Bridges to Independence, are also provided. High school seniors (pre-transition-age youth) who provide proof they will graduate on time, can request ILP assistance for graduation expenses (cap and gown, photos, yearbook, class ring, prom ticket and grad night ticket).
- c. Services and resources for TAY include: housing services up to age 24, auto insurance, education funds (tuition, books, supplies, school-related fees, parking and transportation) life skills and vocational training, clothing funds (work uniforms, interview clothing); room and board (move-in costs, appliances, up to six (6) months rental assistance, apartment start-up costs; assistance with food costs; transportation (standard price for bus pass/gas, three (3) month periods as needed); and funding for non-covered health-related costs.

3. Transitional Housing Placement Program (THPP)

THPP is Federally funded, State certified and provides an opportunity for juniors or seniors in high school (16-18) to share an apartment with other youth, save money and receive support services while they work and transition to adulthood. Participating youth are placed in a furnished apartment/house with paid utilities. There are two (2) housing placement plans:

Plan 1: One or more participants live independently in an apartment rented or leased in a building where one or more adult employees of THPP provides supervision.

Plan 2: One or more participants live independently in an apartment rented or leased under the supervision of the THPP. On-site supervision is not required. THPP staff is available 24 hours per day.

- a. In addition to housing, THPP offers:
 - b. Food, clothing and personal care allowances
 - c. Financial assistance with education and employment training for job preparation
 - d. Classes and workshop topics, including nutrition and food preparation, life skills, health and safety, transportation, recreation, socialization skills and values development
 - e. Transition resource services and case planning
 - f. Individual assistance in helping adjust to independent living

To be eligible for THPP, youth must be currently in out-of-home placement and follow the rules and regulations of the program; must be 16 through 18 and a

dependent of the court; must be attending high school or working towards a General Education Development (GED) or attending vocational/technical training on a full-time basis. The eligible youth may be over 18 but not 19 and satisfy the requirements of the California Welfare and Institutions Code, Section 11403.¹ Eligible are youth under the Guardianship Assistance Payment Program (KinGap) who are court dependent and eligible for Aid for Families with Dependent Children/Foster Care.² The eligible youth must be doing well in school and with the current caregiver. The CSW/Deputy Probation Officer (DPO) completes the application and provides supporting documents for review and the youth is then scheduled for interview.

The average THPP youth is housed in the program for one (1) to two (2) years. Follow-up services are also provided. Current capacity is forty (40) youths/beds. The most recent weekly vacancy report (03/16/11 – 03/22/11) indicated no vacancies. Funding is from the Federal Foster Care Program authorized by Title IV-E of the Social Security Act with an annual allocation of approximately \$1.67 million with a cost of \$3,462 per youth per month.

4. Transitional Housing Program (THP)

THP provides furnished apartment housing and supportive services to emancipated foster youth 18 to 21 who are homeless or have the potential of being homeless due to living in temporary unstable housing. The housing options are a combination of both scattered site apartments and multi-unit apartment buildings. Apartments are leased in areas with easy access to public transportation, colleges, shopping centers and grocery stores. Eligibility requirements are:

- a. 18-21 years of age
- b. Prior DCFS dependent
- c. Homeless (no stable place of permanent residency)
- d. Personal motivation to achieve independence
- e. Willingness to follow program rules and regulations

Youth in the THP are assisted in job search, school enrollment and use of community resources. The CSW assists the youth in developing independent living skills in the areas of job readiness, money management, food purchase, food preparation, laundry, housecleaning and finding affordable medical and dental care by conducting life skills classes. Two (2) tracks are available:

Work/Save Track requires: full-time employment and saving 50% or more of net earnings in an interest bearing trust fund. The saved funds are released upon completion or departure from the program.

¹ This law essentially stipulates that a child in foster care - who is receiving aid and attending high school or equivalent vocational/technical training school on a full-time basis or in the process of pursuing a GED - is able to continue to receive aid as long as he/she continues to reside in foster care placement, remains otherwise eligible for Aid for Families with Dependent Children/Foster Care (AFDC-FC) payments, and continues to attend high school or the equivalent level of vocational or technical training on a full-time basis, or continues to pursue a GED, and may reasonably be expected to complete the educational or training program or to receive a GED, before his or her 19th birthday.

² The State-funded KinGap provides cash assistance and other services, such as medical coverage and independent living services, for eligible children. The purpose of Kin-GAP is to create an option for permanent placement with a relative if all of the eligibility requirements are met and the relative and child (if age appropriate) choose this option.

Work/Study Track requires part-time employment (at least 20 hours per week) and full or part-time school attendance. Youth may attend a 2-year junior college, vocational/certificate program or any other academically oriented or job training program. On a case-by-case basis, some youth attending a vocational program or school may be allowed to work less than twenty (20) hours per week with the approval of the supervisor and Program Manager. An Associate of Arts (AA) degree from a community college or certificate of completion from a trade or vocational job training program is also required.

The estimated average time to receive housing assistance is one year with a maximum allowable assistance of up to eighteen (18) months. Six (6) month follow-up services are provided. All are required to work and/or attend school or vocational training. To apply, homeless youth may self-refer or be referred by a CSW or community partner. Once documentation is obtained, youth are screened/interviewed and attend orientation. Non-qualifying youth may be linked with other programs.

Current capacity is two hundred forty-four (244) beds. The most recent weekly vacancy report (03/16/11–03/22/11) showed a 24.8% vacancy rate. Occupancy averages 85%-90%. The THP is Federally funded with \$2.3 million Support Housing Program funds (U.S. Housing and Urban Development Department) and \$2.4 million from Independent Living Program funds. Average monthly per youth cost varies, depending on market rent value which includes a monthly food stipend and bus passes.

A similar program is offered by the Los Angeles Homeless Services Authority (LAHSA), which is a Joint Powers Authority established in 1993. LAHSA coordinates and manages over \$70 million annually in Federal, State, County and City funds for programs providing shelter, housing and services to homeless persons in Los Angeles City and County. LAHSA has ten (10) THP facilities located Countywide. Depending on the contracted provider, participants receive housing, paid utilities, life skills training and employment assistance. The participants contribute to a savings plan and receive funds to secure permanent housing upon exit. Current LAHSA THP capacity 219 beds. Applicants must complete a universal application that is accepted by all LAHSA programs. Applicants must be ILP eligible. Of the 219 beds, 175 beds are funded by \$2.13 million in Federal ILP funds. The most recent weekly vacancy report showed a 15% vacancy rate. The monthly cost per child varies according to the service provider.

5. Transitional Housing Program Plus (THP+)

The State funded and certified THP+ is for emancipated foster youth to provide a safe living environment while helping achieve self-sufficiency and learn life skills needed upon leaving the foster care support system. To be eligible for THP+, the following must be met:

- a. Be between age 18 and age 23
- b. Exited foster or probation care at age 18 or older
- c. Be able to work full-time or attend school/training and work part-time
- d. Save a portion of earnings

THP+ participants reside in apartments, condominiums or single family dwellings. The THP+ support services include case management, educational assistance, employment assistance, follow-up services, furnished housing, life skills training, monthly bus passes, monthly food stipend and paid utilities. The CSW must contact one of the outside providers regarding admission. The maximum time for THP+ participation is twenty-four (24) cumulative months. Current total capacity is fifty-two (52) beds. The most recent weekly vacancy report shows a 6.3% vacancy rate. The program is funded by the State Transitional Housing for Foster Youth Fund. Approximately \$2.4 million is allocated annually at a cost of \$2,200 per-youth per-month.

6. Gramercy House

Gramercy House is a THP for youth aged 18 to 24 who are pregnant and/or parenting youth under five (5) years old. (Foster care eligibility is not a requirement.) The purpose of the Gramercy House THP is to ensure that participants obtain employment, increase their income and obtain permanent housing. Services include housing and supportive services, childcare, individual/group counseling, life skills training and case management. Youth must apply directly with the provider (Gramercy Housing Group). Homelessness must be verified and, upon verification, the youth are placed on a waiting list. When a vacancy occurs, the agency calls and schedules an interview with the youth. This program is offered on a first-come, first-served basis. Total cost is \$100,000 per year for two (2) years and \$555.55 per youth per month. Funding is provided by the State Child Abuse Prevention, Intervention and Treatment (CAPIT) program. Current capacity is fifteen (15) beds.

7. Division/Program Budget

Table 3 summarizes the annual DCFS Youth Development Services Division budget for the past five (5) fiscal years. The current year's budget (FY 2010-2011) represents an increase of 4.7% from the previous fiscal year, but a 12.7% decrease from FY 2005-2006. Administrative and Program expenses have declined in the past five (5) years, averaging an annual decrease of 6.5% and 3.8%, respectively.

**Table 3. DCFS Youth Development Services Division/ILP Budget
FY 2005-2006 to FY 2010-2011**

Revenues	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY10-11
ILP Allocation	\$15,900,396	\$15,510,830	\$13,205,406	\$13,902,662	\$13,331,233	\$12,689,529
Emancipated Foster Youth Stipends	\$1,240,284	\$1,709,303	\$1,667,248	\$1,428,326		\$639,155
IV-E Waiver funds (including THPP savings)					\$606,004	
County match for Waiver fund (including THPP savings)					\$249,749	
Office of Justice Programs - Schiff Grant					\$107,035	\$187,000
IV-E Waiver funds (THPP savings transferred from Assistance)						\$1,454,000
Total	\$17,140,680	\$17,220,133	\$14,872,654	\$15,330,988	\$14,294,021	\$14,969,684
Expenses						
Administration Total	\$3,508,777	\$4,255,911	\$3,944,662	\$3,110,529	\$2,240,921	\$2,299,366
Programs						
Prevention (Age 14-15)	\$1,335,559	\$653,266	\$118,522	\$0	\$0	\$0
Intervention (Age 16-17)						
Life Skills	\$2,512,219	\$2,264,479	\$857,261	\$3,856,680	\$3,341,442	\$3,173,805
Educational Training Supports	\$510,581	\$504,668	\$283,992	\$475,888	\$364,173	\$415,102
Jobs/Skills Training/Development	\$1,223,464	\$1,106,432	\$2,070,020	\$245,971	\$93,471	\$108,000
Transitional Support (Age 18-21)						
Educational Support	\$1,168,976	\$1,318,741	\$1,108,568	\$1,170,769	\$1,052,309	\$853,484
Jobs/Skills Training/Development	\$92,710	\$158,366	\$143,805	\$179,243	\$85,133	\$85,000
Life Skills	\$79,316	\$116,557	\$40,149	\$43,062	\$10,061	\$25,098
Housing	\$2,662,572	\$2,907,500	\$2,077,983	\$1,741,660	\$2,281,600	\$2,333,376
Other County Department contracts - housing	\$1,401,366	\$1,503,317	\$1,636,093	\$1,695,456	\$1,612,929	\$1,633,420
Miscellaneous	\$412,335	\$490,650	\$255,263	\$384,198	\$254,695	\$312,000
Non-Allocated Costs	-\$28,217	\$0	-\$21,657	-\$11,432	-\$460	\$0
Transitional Housing Support (Operational Costs)	\$2,902,719	\$2,814,249	\$2,358,149	\$2,761,924	\$2,957,747	\$2,403,914
Programs Total	\$14,273,600	\$13,838,225	\$10,928,148	\$12,543,419	\$12,053,100	\$11,343,199
Total Administration and Programs	\$17,782,377	\$18,094,136	\$14,872,810	\$15,653,948	\$14,294,021	\$13,642,565
Surplus/(Deficit)	-\$641,697	-\$874,003	-\$156	-\$322,960	\$0	\$1,327,119

There appears to be no expenses for prevention programs for youth ages 14-15 in the past three (3) years. (The grant for these programs ended in 2007.) The expenses for Jobs/Skills Training and Development under intervention programs for ages 16-17 also declined by 91.2% from FY 2005-2006. More resources appear to be focused on life skills services in the intervention programs.

Obtaining stable and gainful employment is an important part of transitioning to adulthood. The typical pathways to such employment are high school graduation, completion of postsecondary education and vocational training and completion of meaningful work experience. Recent research indicated that American youth transitioning from the juvenile justice or the foster care system have relatively low rates of enrollment in postsecondary education and training programs:

- a. Most TAY, after leaving high school, do not receive adequate services designed to help acquire the skills needed to successfully pursue postsecondary education and training and/or obtain competitive employment.³
- b. Four (4) years after leaving foster care, 46% do not have a high school diploma; 62% have not maintained employment for one (1) year and 13% have graduated from a four (4) year college.⁴

³ Davis, Maryann, Ph.D.; Hunt, Bethany, *State Efforts to Expand Transition Supports for Young Adults Receiving Adult Public Mental Health Services: Report on a Survey of Members of the National Association of State Mental Health Program Directors*, American Institutes for Research, March 2005.

⁴ Jim Casey Youth Opportunities Initiative, *Opportunity Passports for Youth in Transition from Foster Care: A Vision Statement*, April 2002.

- c. Juvenile delinquency often exacerbates this problem; 12% of formerly incarcerated youth obtain a high school diploma or GED by adulthood. Approximately 30% were in either school or were employed one (1) year after their release. Youth who have been adjudicated delinquent are seven (7) times more likely to have a history of unemployment and welfare dependence as an adult.⁵

METHODS AND PROCEDURES

CGJ's program assessment and investigation consisted of the following Methods and Procedures:

1. Collected and reviewed data and information on TAY programs offered by DCFS/PD, staffing and resources needed for these services
2. Interviewed staff and management on their approach to these programs and how successes are measured
3. Interviewed TAY program participants to obtain input on the effectiveness of programs and services
4. Reviewed outreach efforts, services and programs available to TAY
5. Reviewed comparative service level data from other jurisdictions regarding service provision to TAY populations
6. Identified and reviewed TAY program measurement criteria used to measure program effectiveness

*NOTE: CGJ's initial intent was to randomly select from a list of past and current ILP and Transition Housing Program (THP) participants for interview. Due to privacy concerns, an interview request letter was sent to TAY. Approximately one hundred fifty-five (155) youths received this letter. A total of six (6) responded. The CGJ interviewed an additional three (3) youths by requesting referrals from the responding youth. A total of nine (9) youths were interviewed regarding ILP and housing programs.

FINDINGS

1. ILP program data shows that overall youth participation levels have significantly declined in the past five (5) years. As shown in Table 4, the number of participants declined in FY 2009-2010 by more than 48%. Participation peaked in FY 2006-2007. Starting in FY 2009-2010, the overall participation rate is lower than in prior years. This may be due to the two (2) departments using ILP eligibility to tabulate the numbers of youths available for ILP, instead of the number of students to which ILP services were offered. Also, prior to FY 2008-2009, the number of youths asked to participate was not differentiated by department.

⁵ Network on Transitions to Adulthood, "Juvenile Justice and the Transition to Adulthood," *Network on Transitions to Adulthood Policy Brief*, February 2005.

The numbers are not representative of actual eligible youth. The number of ILP eligible youth for FY 2009-2010 is inflated due to the difficulty of generating data from computerized database management systems. Actual numbers of eligible youth in the system is approximately 17,000-18,000. The data shows that of the DCFS and Probation youths eligible to receive ILP services, only a small percentage (17% - 28%) actually receive these services.

Table 4. DCFS/Probation ILP Program Participation

Year	Youth From	ILP Eligible / Offered Youth	ILP Participated Youth	Participation Rate %
FY 09/10	DCFS	24,142	3,304	14%
	Probation	3,784	1,511	40%
	Total	27,926	4,815	17%
FY 08/09	DCFS	5,755	4,626	80%
	Probation	3,960	1,866	47%
	Total	9,715	6,492	66%
FY 07/08	DCFS		6,844	
	Probation		1,769	
	Total	12,646	8,613	68%
FY 06/07	DCFS		7,360	
	Probation		1,997	
	Total	14,258	9,357	65%
FY 05/06	DCFS		6,441	
	Probation		1,876	
	Total	12,759	8,317	65%

The data shows that from FY 2005-2006 to FY 2008-2009 the proportion of youths that receive ILP services to the number of youths that were asked if they wanted to receive services remained consistent (approximately 66%). Not all youths are asked to apply for the ILP. Youth awareness of ILP and the extent of the services offered by the program is not high. Efforts to promote the ILP could be expanded and improved.

Participation numbers may not be accurate because what constitutes “participation” (whether it is the type and/or level of service) is unclear. Some youths do not receive ILP financial assistance but are only provided “soft” services, such as educational planning, establishment of goals and financial advice. Some coordinators do not record this as “participation,” while others do. These issues underscore the lack of process, clarity and definition in the ILP outcome and performance data that is collected and reviewed by DCFS and Probation staff.

2. Transitional housing programs lack clear outcomes and performance measures. The THP offers the most beds. DCHS and LAHSA together offer over 450 beds for TAY. The THP support services offered by the two (2) entities are different. Both providers require participating youth to pay a percentage of their monthly income to initiate a savings account.

The youth collects their savings account from their housing provider. DCFS returns 100% of savings plus interest. Some LAHSA agencies return only 70-80% of the youth’s saving account and retain the remainder for administration costs. Table 5 summarizes the primary differences between DCFS and LAHSA programs for TAY between ages 18 and 21:

Table 5. Differences in Service Providers

Service	DCFS THP	LAHSA THP
Saving Plan Return	100% + interest	70-80%
Housing Style	Scattered Site	Congregate
Paid Utilities	Yes	Some
Bus Pass	Yes	Few
Employment Assistance	Yes	Some
Life Skills Training	Yes	Some

Source: Independent Living Program (ILP) Policy Guidelines (Revision December 2010)

How these program differences impact the effectiveness of the THP are unclear. The programs lack clear outcome or performance measures. The CGJ investigation attempted to collect detailed information on service outcomes of the THP housing and support services. Only limited outcome information was collected from youth currently housed in THP facilities. Table 6 shows the different types of housing care for current DCFS-THP youths entering and exiting THP and the youth count for each housing type at the end of program participation. The data represents February 2011:

Table 6. Housing Types at Entrance and Exit for DCFS THP Youth, Feb. 2011

	Transitional Housing		Emergency Shelter		Foster Family Agency/ Home		Relatives or Non-related		Jail/Prison at Entrance, Probation Placement at Exit		Absent/ Unable to Locate		Other	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Upon THP Entrance	22	13%	4	2%	68	39%	73	41%	2	1%	-	-	7	4%
Upon THP Exit	6	3%	2	1%	66	38%	66	38%	11	6%	4	2%	17	10%

Source: Independent Living Program (ILP) Policy Guidelines (Revision December 2010)

Table 6 also shows that a large majority of DCFS-THP participants were not only housed at foster homes and homes of relatives and non-related guardians, but these homes received the majority of the youth upon exit from THP. Of the youth who currently reside in DCFS-managed THP, a large percentage (72.9%) are employed, have a high school diploma (87.6%) or enrolled in school (63.8%). As shown in Table 7, of those unemployed, 3.3% receive General Relief (GR) or unemployment benefits. The data provided shows the characteristics of THP participants. It does not provide information on how the program impacts the youth.

Table 7. Percentage of DCFS THP Youth, School Enrollment, H.S. Graduation, Employment and GR/Unemployment Benefits

Total In DCFS THP Housing	% Living Less Than 1 Year in THP	% Employed	% Receiving Unemployment or GR	% with H.S. Diploma	% Enrolled in School
177	63.0%	72.9%	3.3%	87.6%	63.8%

Source: Independent Living Program (ILP) Policy Guidelines (Revision December 2010)

There are no means for evaluating youth satisfaction with the THP, particularly one that can assess a youth's success and progress pre- and post-participation in THP. Interviews with youth indicated that the housing program has allowed youth to go to school and work part-time. Some youth complained about the living conditions of facilities, and one mentioned she was homeless for seven (7) months during transition from THPP to THP+.

Most youth prefer to live in DCFS-managed housing. The interviews also support this claim. The youth have limited options due to high demand and limited supply. In terms of detailed information on the quality of the services, limited information was available to evaluate the program in detail. Of the persons interviewed, some considered the quality to be marginally different, while others thought DCFS services represented a more "hands-on" and comprehensive approach. Since LAHSA contracts out the provision of housing and support services, capturing data to ensure consistency in service levels is difficult.

3. Communication between staff and youth is mostly voluntary. The tracking of youth depends on youth volunteering to provide updates on his/her status and progress. Self sufficiency is defined as the youth's ability to sustain oneself without the use of social services or family assistance as well as being aware of the available public services and resources (such as General Relief). Knowledge of the process to acquire these services and resources is often difficult for youth to obtain. Table 8 details key self sufficiency outcome and characteristics for Los Angeles County ILP youth for the past five (5) years:

Table 8. Self Sufficiency Outcomes Data

Year	Total Participated Youths	Completed high school (or equivalent)	Continuing high school (or equivalent)	Enrolled in college	Employed (part/full time)	Living independently (of agency programs)	Experienced episode of homelessness
FY 09/10	4,815	1,395	1,125	1,054	1,114	2,174	653
		29%	23%	22%	23%	45%	14%
FY 08/09	6,492	1,762	1,061	1,637	1,799	1,465	882
		27%	16%	25%	28%	23%	14%
FY 07/08	8,613	1,930	3,103	1,514	1,892	1,397	456
		22%	36%	18%	22%	16%	5%
FY 06/07	9,357	1,789	4,471	1,330	1,399	1,722	267
		19%	48%	14%	15%	18%	3%
FY 05/06	8,317	1,749	2,296	1,293	1,501	1,367	317
		21%	28%	16%	18%	16%	4%

The data shows that the current percentages of ILP youth who completed high school and enrolled in college are employed and live independently are higher than in previous years. The percentage of ILP youths in FY 2009-2010 who experienced at least one episode of homelessness has increased significantly (10 % from FY 2005-2006).

Table 9 compares the self-sufficiency outcomes and performance measures of ILP youth in FY 2009-2010 with those of five (5) other California counties. Compared to other counties, Los Angeles County ILP youth in FY 2009-2010 fared better on positive outcomes than the average with the exception of employment. The proportion of Los Angeles County ILP youth employed either part or full-time was slightly lower than the overall average. In addition, Los Angeles ILP had a higher percentage of youths who experienced a least one (1) episode of homelessness.

Table 9. Comparative ILP Self Sufficiency Outcomes Data, FY 2009-10

County	Total Participated Youths	Completed high school (or equivalent)	Continuing high school (or equivalent)	Enrolled in college	Employed (part/full time)	Living independently (of agency programs)	Experienced episode of homelessness
Los Angeles	4,815	1,395	1,125	1,054	1,114	2,174	653
		29.0%	23.4%	21.9%	23.1%	45.2%	13.6%
Alameda	1,467	360	405	344	269	184	186
		24.5%	27.6%	23.4%	18.3%	12.5%	12.7%
San Bernardino	1,250	82	260	232	374	595	60
		6.6%	20.8%	18.6%	29.9%	47.6%	4.8%
San Francisco	895	180	420	120	215	175	134
		20.1%	46.9%	13.4%	24.0%	19.6%	15.0%
Santa Clara	211	127	34	97	96	0	36
		60.2%	16.1%	46.0%	45.5%	0.0%	17.1%
Merced	59	5	1	1	0	2	6
		8.5%	1.7%	1.7%	0.0%	3.4%	10.2%

The measures and outcomes in Table 9 provide a basis for evaluating ILP program success. The processes and procedures involved in maintaining such data require improvement. Once the youth receives ILP services, the communication between the recipient and the staff coordinator is limited due to the reliance on voluntary updates about their status. If a youth withdraws from the program or does not provide personal updates, both departments are unable to track outcomes. The Departments have limited ability to determine the success of services to establish self-sufficiency.

The CGJ found the following to be of significance:

- a. The DCFS/Probation Departments do not have adequate means to evaluate the effectiveness of the ILP longitudinally in assessing participant outcomes beyond the time in the program. As long as the participant remains ILP eligible, coordinators address their needs and provide the necessary services to encourage and build self-sufficiency. However, for a youth no longer eligible, the departments provide additional aftercare and refer youth to available resources. Increasing the ability to track participant progress and outcomes allows both DCFS and Probation to assess overall program effectiveness, address service gaps and establish accountability.
- b. Annual program performance goals and objectives for TAY programs and services were not maintained by departments. Developing program goals and measures to various program levels is precisely what may be needed to improve effectiveness and accountability. Without this, it could be difficult to gauge the success of the programs as well as services and the effectiveness of the personnel and resources utilized.

RECOMMENDATIONS

1. Undertake an impartial, external audit and evaluation of TAY programs, particularly housing and ILP services. The assessment may allow for an evaluation of differences and successes of DCFS and LAHSA in their roles as housing providers to TAY. The study may provide for an evaluation of the ILP programs and services. A successful evaluation requires access to current and former youth participants. The evaluation could allow consultants to survey and interview current and past participants. A study with a longer timeframe may provide more time to gather data and information necessary for a comprehensive evaluation that best identifies service gaps and impediments in process of operations, staffing, financial resources and overall service approaches.
2. Develop and implement an evaluation plan that acknowledges self-sufficiency of participants during and beyond the program period to better evaluate progress during the program and their sustainability of skills and knowledge after program service/eligibility.
3. Submit ILP and transition housing participation data to the State as part of the reporting requirement for funds.
4. Define and develop methodologies, frequency and reliability of work data collection methods and systems to clearly define recorded data so that participation data is more reliable.
5. Develop and maintain consistent criteria participation data for ILP and other TAY services.
6. Initiate the process of tracking youths' denial of ILP services if offered and record date and follow up to reinitiate the ILP.
7. Evaluate effectiveness of the existing data management system and explore new software that could streamline data collection and analysis which improves identification of service gaps and accomplishments.
8. Increase and improve communication efforts with TAY participants to raise awareness of ILP housing and other TAY related services by improving data collection efforts and maintaining contact with participants after they leave the program.
9. Establish confidential e-mail distribution lists and send regularly scheduled e-mails to provide awareness of scholarships, ILP services, available resources, and job opportunities.
10. Increase frequency in which participants provide progress updates and complete surveys that measure progress, satisfaction and solicit input and suggestions. Improved and increased communication between participants and staff may allow the recommended evaluation plan to be effectively implemented. The second method for maintaining ongoing communication with youth participants could involve the increased use of social networking, such as facebook.com, since most youths are already using these social networking sites.

REQUEST FOR RESPONSE

California Penal Code Sections⁶ §933 (c) and §933.05 requires a written response to all Recommendations contained in this Report which shall be made no later than ninety (90) days after the Civil Grand Jury publishes its Report (filed with the Clerk of the Court).

Respond to:

Presiding Judge
Los Angeles County Superior Court
Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street,
Eleventh Floor, Room 11-506
Los Angeles, CA 90012

All responses for the 2010 - 2011 CGJ Report's Recommendations must be submitted to the above address on or before the end of business **September 30, 2011**.

Responses are required from:

<u>Recommendation Number(s)</u>	<u>Responding Agency</u>
1	County of Los Angeles (DCFS, Probation Department)
2	County of Los Angeles (DCFS, Probation Department)
3	County of Los Angeles (DCFS, Probation Department)
4	County of Los Angeles (DCFS, Probation Department)
5	County of Los Angeles (DCFS, Probation Department)
6	County of Los Angeles (DCFS, Probation Department)
7	County of Los Angeles (DCFS, Probation Department)
8	County of Los Angeles (DCFS, Probation Department)
9	County of Los Angeles (DCFS, Probation Department)
10	County of Los Angeles (DCFS, Probation Department)

⁶ Reference California Penal Code Sections §933(c) and §933.05 at the beginning of this 2010-2011 Civil Grand Jury Report

ACRONYMS

AA	Associate of Arts
ACT	American College Testing (formerly)
AFDC-FC	Aid for Families with Dependent Children/Foster Care
CAPIT	CA State Child Abuse Prevention, Intervention and Treatment program
CSW	Children Social Worker
DCFS	Department of Children and Family Services
DPO	Deputy Probation Officer
GED	General Educational Development
GR	General Relief
HC	Housing Coordinator
ILP	Independent Living Program
KinGap	Guardianship Assistance Payment Program
LAC	Los Angeles County
LAHSA	Los Angeles Homeless Services Authority
LST	Life Skills Training
PPM	Permanent Placement Mode
PD	Probation Department
SAT	Scholastic Aptitude Test
TAY	Transitional Age Youth
TC	Transition Coordinator

THP	Transitional Housing Program
THP+	Transitional Age Program Plus
THPP	Transitional Housing Placement Program
TILP	Transitional Independent Living Plan
TRC	Transitional Resource Centers
YDS	Youth Development Services

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WHOA! THE STATE OF PUBLIC PENSIONS IN LOS ANGELES COUNTY



Committee Members

Chairperson - Meg George
Beverly T. Kishimoto
Susan Stetson
Max E. Van Doren

ASSESSMENT OF THE STATE OF PENSION PLANS IN LOS ANGELES COUNTY

INTRODUCTION

The 2010-2011 Los Angeles County Civil Grand Jury (CGJ) conducted an investigation of pensions in Los Angeles County (LAC) entitled: Assessment of the State of Pension Plans in Los Angeles County. This investigation was conducted in accordance with the authorities defined in the California Penal Codes (CPC) §914 through §939. Pursuant to CPC §926 et al, the CGJ engaged the services of an auditing firm to assist it with the pension investigation. This assessment was designed to accomplish the following objectives:

1. Complete an inventory of public pension plans in LAC, including those for both California Public Employees Retirement System (CalPERS) member and non-member agencies¹.
2. Prepare a financial profile of these plans, including information on member count; actuarial value of assets and accrued liabilities; funded status; annual benefit cost; employer and member contribution rates; interest rate earnings or discounting assumptions; current and normal contribution rates; retiree to active member ratios and other attributes.
3. Identify and assess other employer liabilities that may not be fully reported in plan documents. This includes outstanding bond indebtedness that may have been incurred by jurisdictions to prefund a portion of their pension liabilities; i.e., pension obligation bonds (POBs) and unfunded retiree health insurance benefits, also known as Other Post Employment Benefits (OPEB) that may be guaranteed to plan members.
4. Review key events influencing financial and investment management decisions and how the historical funding status of the plan may have influenced collective bargaining decisions and growth in employee benefit obligations over time.
5. Prepare in-depth profiles of up to 5 jurisdictions based on the attributes of the plans within the County, focusing on plan governance and management structure, the selection and use of actuaries and investment advisors, the process used to evaluate and select actuarial assumptions and the actuarial methodologies that are employed.
6. Test the bases and methodologies used by the selected jurisdictions for determining benefit amounts for retirees by sampling a limited number of retiree records to confirm adherence to the methodological approach employed by the plan and to identify possible instances of pension spiking or other possible abuses of plan provisions.
7. Provide the public with the tools to understand and engage in informed dialog with their elected officials regarding pension attributes and obligations in their community, and the

¹ The broad categories of plans include: (a) CalPERS City Individual Plans, (b) CalPERS City Risk Pool Plans, (c) CalPERS Special District Individual Plans, (d) CalPERS Special District Risk Pool Plans, (e) Independent Plans, (f) Public Agency Retirement System (PARS) Plans and Other Supplemental Plans, (g) Other Post Employment Benefit (OPEB) Plans for Cities, and (h) Other Post Employment Benefit Plans (OPEB) for Special Districts. A separate matrices showing Pension Obligation Bond (POB) debt by jurisdiction is also provided.

ramification that pension obligations may impose on other services if nothing is changed. These tools include the pension primer in Appendix B, the data compiled in the matrices of Appendix C and the profile examples provided in Sections 1, 2, 3, 4, and 5,. If the public can embrace the ramifications of their pension obligations, they can support the political will to make the difficult choices needed to ensure their community has sustainable pension plans for its government employees.

In accordance with these objectives, this Report analyzes the key attributes of the 277 public pension plans in the County, based on available information contained in financial statements and actuary reports for each plan. The data was used to populate matrices, which were then used to profile the public pension plans in the County and provide the CGJ with information needed to select five plans for more in-depth review.

JURISDICTIONS

Jurisdictions in LAC have established 277 public pension plans that are administered either by the CalPERS or by separate, individual non-CalPERS pension trusts. CalPERS plans can be grouped into 2 general categories:

1. Individual plans – which are larger plans with 100 or more active members that receive separate actuarial evaluations to determine assets, liabilities and funded status
2. Risk Pool Plans – which are comprised of a group of smaller pension plans for which plan assets are invested in “risk pools.” Smaller pension plans are defined as those with less than 100 members in any year since 2003. Total assets, liabilities and funded status are reported at the risk pool level, and individual member agency information is adjusted by “side fund” balances that reflect the difference between the funded status of that plan and the risk pool at the time that plan entered into the risk pool.

At the time of this Report, there were 152 CalPERS plans for cities and 62 CalPERS plans for special districts for a total of 214 CalPERS plans in LAC. Of these, 81 were individual plans, and the remaining 133 were Risk Pool plans.

Individual non-CalPERS plans include 13 city and large special district plans reporting total actuarially accrued liabilities exceeding \$50,000,000 in the most recently reported actuarial valuation. There are 50 other smaller plans for special districts, including Public Agency Retirement System (PARS) plans² that have been established within the County. A full count of all CalPERS and non-CalPERS plans is included in Phase I with an accompanying inventory that shows plan attributes included in Appendix C.

ASSESSMENT OVERVIEW

This Assessment was conducted in accordance with Government Auditing Standards prepared by the United States Comptroller General and promulgated by the United States Government Accountability Office (USGAO). Also known as generally accepted government auditing standards (GAGAS), these standards provide a framework for performing high-quality audit work with competence, integrity, objectivity, and independence.

² PARS plans are typically established for part-time or seasonal workers, or to provide supplemental benefits to employees. The majority of PARS plans reporting information for this assessment are defined contribution plans.

This Assessment was performed in 2 Phases:

Phase I

Phase I involved the collection of pension plan information for each of the public sector jurisdictions within LAC. Typically, this involved obtaining 2 key documents: the Comprehensive Annual Financial Report (CAFR) for the jurisdiction and the financial statements, actuarial valuation or annual report for each of the plans.

This information was then used to populate a matrix that displays key attributes of each of the pension plans, as well as information on post retirement health insurance benefits, deferred compensation plans and any amounts that may have been borrowed by the jurisdiction to pre-fund its unfunded actuarial accrued liability (UAAL). This data was then sorted and analyzed, and recommendations were made to the CGJ on jurisdictions that may be appropriate for a more in-depth review of the plans.

Phase I was particularly challenging. A few smaller cities and special districts never responded to our requests for information despite repeated attempts to contact officials. In addition, CalPERS created unreasonable delays providing actuarial data for the 214 pension plans within the County for which it provides pension services. Although the information being requested is public, CalPERS does not post it on its website. Further, in order to obtain the needed information, we were required to file a Public Information Request (PIR) through the CalPERS Public Information Office; and the request was referred to the organization's Legal Office to coordinate compilation of the information from CalPERS actuaries. CalPERS offered to supply the information in 5 installments. Although the original request was made on December 29, 2010 and the PIR was filed with CalPERS on January 4, 2011, we did not receive all information until the evening of March 10. These delays were unreasonable, given that these are standard reports that are produced annually for all member agencies, should be publically available to the taxpayers, and should be easily retrievable by CalPERS staff for dissemination to the general public.

The effect was that the CGJ was hampered in its ability to select plans for in-depth analysis, and the auditor's ability to populate the matrix and conduct analysis of the data within the timeframe required by the CGJ's term became more difficult.

Phase II

Phase II involved the more in depth analysis of the 5 pension plans chosen by the CGJ. As mentioned previously, these systems were chosen after analysis of the information available for all plans within the County. The CGJ identified 1 well run plan and 4 other plans exhibiting characteristics that suggested weakness of financial difficulties for the sponsoring jurisdictions. Principally, the assessment of the jurisdictions appropriate for the in-depth review was based on the following indicators:

- **Actuarially Accrued Liabilities (AAL)**, which is the total plan liability based on an actuarial evaluation of plan membership, pensionable salaries, inflation, benefit formulae and other key variables
- **Unfunded Actuarially Accrued Liability (UAAL)**, which is the unfunded portion of the AAL based on an actuary's assessment of the value of plan assets available to fund plan liabilities

- **Funded status**, which is the percentage of total liabilities funded with plan assets that are valued on an actuarial basis
- **Effective Contribution Rate**, which is a calculated rate to be charged against pensionable salaries that includes the plan sponsor, or employer rate and any portion of the employee rate that may be paid; i.e., “picked up” by the employer
- **OPEB, or Retiree Health Benefit Funded Status**, which is the percentage of total OPEB liabilities funded with assets that are valued on an actuarial basis
- **Outstanding Pension Obligation Bonds**, which represent amounts jurisdictions may have borrowed to fund a portion of its UAAL

After analyzing these indicators, the CGJ selected the 5 jurisdictions for in-depth review. The project team met with each of these jurisdictions to discuss plan attributes, plan governance, collective bargaining challenges, the jurisdiction’s budget status and other matters. For the 3 non-CalPERS plans chosen for the review, a limited sampling to confirm benefit calculation methodologies and obtain a better understanding of how methodological approaches impacted benefit amounts was performed. While there were no exceptions to the methodologies or calculated benefit amounts found in these 3 independent plans, this exercise allowed identification of areas of concern that led to recommendations contained in the report. However, it was not possible to conduct similar analysis for the jurisdictions with CalPERS plans due to the general difficulty and delays encountered in accessing the CalPERS pension records and personnel.

PENSION PLANS SELECTED FOR REVIEW

The 5 agencies selected for in-depth review are described below:

1. Los Angeles County Employees Retirement Association (LACERA)

LACERA is the largest of the non-CalPERS plans in the State of California, managing pension and retiree health insurance benefits for employees of the LAC, the Little Lake Cemetery District, the Local Agency Formation Commission, the Los Angeles Office of Education and the South Coast Air Quality Management District. As of June 30, 2010, LACERA had nearly \$46.7 billion in AAL backed by slightly over \$38.8 billion in actuarial assets. With approximately 83.3% of its AAL backed by assets, the plan had UAAL of approximately \$7.8 billion.³ The LACERA AAL represented approximately 43.3% of the total public pension liability reported in the County for that year.

LACERA is governed by the California Constitution, the County Employees Retirement Law of 1937 (CERL), and the bylaws, procedures, and policies adopted by LACERA’s Boards of Retirement and Investments. The Los Angeles County Board of Supervisors may also adopt resolutions, as permitted by the CERL, which may affect benefits of LACERA members.⁴ The CGJ selected the County and LACERA for in-depth analysis because of the plan’s size and characteristics of the benefits provided to Miscellaneous and Safety (fire and police) employees, and because it was generally considered to be a well-run plan based on the indicators and performance criteria described above.

³ The technical terms used to describe fund assets and liabilities are explained in this report and defined in the Glossary of Terms included as Appendix A.

⁴ *Los Angeles County Employees Retirement Association 2010 Annual Report*

2. Los Angeles City Department of Water and Power Employee Retirement Plan (WPERP)

WPERP is one of several retirement plans established by charter for the employees of the City of Los Angeles. The Plan only provides pension benefits for employees of the Department of Water and Power (DWP). Other benefits, including retiree health insurance benefits, as well as a City-wide deferred compensation program, are managed separately by the Department or by other City agencies. As of June 30, 2009, WPERP had nearly \$8.9 billion in AAL backed by slightly over \$7.2 billion in actuarial assets. With approximately 81.5% of its AAL backed by assets, the plan had UAAL of approximately \$1.6 billion. Unlike most of the other public pension plans in the County, the DWP pension obligations are funded primarily by charges to ratepayers for water and power services.

The Retirement Plan was established in 1938 and is subject to the provisions of the City Charter and plan provisions adopted by the Retirement Board of Administration. It operates as a single-employer defined benefit plan to provide pension benefits, including death and disability benefits, to eligible Department employees. The Retirement Board is the administrator of the Pension Plan, as well as the Disability and Death Benefit Insurance Plan.

The Retirement Plan is comprised of 3 separate funds – retirement fund, disability fund, and death benefit fund. Also, the Retirement Board has investment oversight of the Retiree Health Benefits Fund (RHBF). Each fund under the Retirement Plan is considered an independent trust fund of the Department of Water and Power, which is a proprietary department of the City of Los Angeles.⁵ WPERP was chosen by the CGJ because it is a major City of Los Angeles plan funded principally with water and power ratepayer revenues.

3. Pasadena Fire and Police Retirement System (PFPRS)

The Pasadena Fire and Police Retirement System is a closed plan that provides pension benefits to fire and police retirees of the City of Pasadena. The plan covers all fire and police personnel who were employed by the City prior to July 1, 1977 except for those who elected to transfer to CalPERS as part of a special arrangement in June 2004. As of June 30, 2010, PFPRS had nearly \$166.1 million in AAL backed by slightly over \$109.7 million in actuarial assets. With approximately 66.1% of its AAL backed by assets, the plan had UAAL of approximately \$56.4 million.

PFPRS is a single-employer defined benefit plan governed by a Retirement Board (Board) under provisions of the City Charter.⁶ Since the Plan closed, the City has accumulated additional UAAL of \$193.7 million for its CalPERS Miscellaneous and Safety Plans and has outstanding Pension Obligation Bond (POB) debt of over \$111.5 million. In total as of June 30, 2010 the City was carrying over \$361.4 million in unfunded pension liabilities, not including interest on the POBs or obligations related to retiree health benefits. The CGJ chose PFPRS because it is a closed plan with a pattern of being underfunded by the City.

⁵ City of Los Angeles Water and Power Employees Retirement, Disability and Death Benefit Insurance Plan Financial Statements and Supplementary Information for the Years Ended June 30, 2010 and 2009 combined with the City of Los Angeles Water and Power Employees Retiree Health Benefits Fund Financial Statements and Supplementary Information for the Years Ended June 30, 2010 and 2009

⁶ City of Pasadena California, Comprehensive Annual Financial Report Year Ended June 30, 2010

4. Monterey Park CalPERS Miscellaneous and Safety Plans

The City of Monterey Park contracts with CalPERS to provide pension benefits for its Miscellaneous and Safety employees. As of June 30, 2009, the City's CalPERS plans had nearly \$213.7 million in AAL backed by slightly over \$184.7 million in actuarial assets. With approximately 86.4% of its AAL backed by assets, the plan had UAAL of approximately \$29.0 million.

CalPERS acts as a common investment and administrative agent for participating public entities within the State of California. Benefit provisions and all other requirements are established by State statute and City ordinance. In addition to the unfunded liabilities of its 2 CalPERS plans, the City had approximately \$49.2 million in unfunded OPEB obligations and \$16.9 million (\$32 million including interest) in outstanding pension obligation bonds as of the its last valuation date, for total unfunded pension obligation of \$95.1 million, not including interest on the POBs. Monterey Park was chosen by the CGJ because it is an individual CalPERS plan that is well funded at 92.7% as of June 30, 2009, but which has \$49 million in unfunded OPEB liability and owes \$32 million in Pension Obligation Bonds.

5. Hermosa Beach Safety Police Plan

The City of Hermosa Beach also contracts with CalPERS to provide pension benefits for its Miscellaneous and Safety employees. Because it has fewer than 100 employees in each of its plans, Hermosa Beach participates in CalPERS pooled fund plans, whereby the assets and liabilities of the City are pooled with those of other similarly sized jurisdictions that have elected the same plans for their employees. As of June 30, 2009, Hermosa Beach was participating in 3 such pooled plans: the Miscellaneous 2% at 55 Plan for non-sworn employees, the Safety 3% at 55 Plan for sworn Fire Department employees, and the Safety 3% at 50 Plan for sworn Police Department employees. The funded status for these 3 pooled plans as of that date was:

- a. Miscellaneous: 2% at 55 Plan 64.9%
- b. Safety - Fire: 3% at 55 Plan 61.5%
- c. Safety - Police: 3% at 50 Plan 60.2%

In addition to having low funded status in each of these 3 pooled plans as of June 30, 2009, the City had an additional negative "side fund balance" of \$13.9 million, representing the balance remaining on UAAL for the plans at the time they joined the various pooled funds. The amortization of this negative side fund balance significantly increases the City's annual contribution requirements, which is particularly apparent with the Police Safety Plan.

CalPERS acts as a common investment and administrative agent for participating public entities within the State of California. Benefit provisions and all other requirements are established by State statute and City ordinance. In addition to the unfunded liabilities of its 3 CalPERS pooled plans, Hermosa Beach had nearly \$2.5 million of UAAL in retiree health, or OPEB liability. While the City had not borrowed using POBs as of June 30, 2009, the CGJ was advised during interviews that management was poised to borrow using POBs during the current fiscal year to prefund its UAAL and negative side fund balance. Hermosa Beach was chosen by the CGJ because it is a CalPERS risk pool plan that has annual contribution rates that are among the highest in the County.

REPORT STRUCTURE

This Report is structured to allow a general member of the public to understand the state of public pension plans in the County. Appendix B provides a “short course” in pension terminology and concepts that could be found useful.

Phase I

Describes current trends and perspectives related to public pensions and analyzes the profile of Public Pension Plans in LAC. This Phase focuses on benefit design and the relationship to the collective bargaining processes; the types of pension plans that exist in the County; additional OPEB benefit obligations; and bond indebtedness factors that impact total retirement costs for the jurisdictions. Analysis stemming from the collection of data on each of the 277 Public Pension Plans in the County is also provided for understanding key characteristics and differences in pension benefit design and the financial status of the plans.

Phase II Sections 1, 2, 3, 4, and 5

Presents findings related to each of the jurisdictions and pension plans chosen by the CGJ for in-depth review. These sections describe the key attributes of each plan but focus on those areas where the jurisdictions may have opportunities to achieve short and long-term savings or improve plan administration.

Appendix C

Explores the attributes and obligations for Public Pension Plans offered to employees of the County or of a particular city or special district within the County. This Appendix contains 9 matrices: C.1 through C.9. These matrices are presented by broad plan category⁷ and then sorted alphabetically by jurisdiction name. A separate schedule of POB debt is also provided.

To understand all of the possible pension benefit obligations that may be borne by a particular jurisdiction, each of these plans and POB matrices need to be examined individually. Individual jurisdictions may have entries on multiple matrices since reported attributes are different for each broad category of the plan. Had the data been merged by jurisdiction, the presentation would have been cumbersome and confusing. To ensure clarity and minimize such confusion, a decision was made to segregate the information.

Using selected jurisdictions Phase II, Sections 1 through 5 of this Report presents key pension plan attributes such as:

- Funded Status
- Actuarial Value of Assets
- AAL

⁷ The broad categories of plans include: (a) CalPERS City Individual Plans, (b) CalPERS City Risk Pool Plans, (c) CalPERS Special District Individual Plans, (d) CalPERS Special District Risk Pool Plans, (e) Independent Plans, (f) Public Agency Retirement System (PARS) Plans and Other Supplemental Plans, (g) Other Post Employment Benefit (OPEB) Plans for Cities, and (h) Other Post Employment Benefit Plans (OPEB) for Special Districts. A separate matrices showing Pension Obligation Bond (POB) debt by jurisdiction is also provided.

- UAAL
- Covered payroll
- Sponsor annual required contribution rate (ARC) as a percentage of payroll
- Whether the sponsor “picks up” the employees’ contribution
- Sponsors contribution rate spread (columns U,V,W,X,Y,Z in C.1, columns M,N,O,P in C.2, etc.)
- Built-in cost of living adjustments (COLA) rates
- Other post-retirement benefits (OPEB)
- Post-retirement survivor allowance
- Benefit formula (how young can a employee start collecting retirement; how rich is the retirement)
- Whether pension obligation bonds (POBs) are in place

In order to review pension attributes for a single jurisdiction, multiple matrices may need to be consulted. For example, the City of Pasadena has a CalPERS Individual Plan for both Miscellaneous and Safety employees; has an Independent Plan for certain retired Fire and Police employees that has been closed since 1977; operates a Public Agency Retirement System (PARS) plan for part-time and seasonal employees; provides retiree health benefits through an OPEB plan; and has POB debt that had been used to fund benefits for members of the closed plan. Accordingly, Pasadena plans appear on 5 different matrices in Appendix C (C.1, C.5, C.6, C.7, and C.8). Appendix E lists all jurisdictions contained in this Report alphabetically and the matrices on which their respective pension(s) attributes are listed.

Each jurisdiction may use the data in this Report to:

1. Build and review a profile of its respective pension plans
2. Enable it to make informed decisions regarding how to move forward in a sustainable way to provide future pension obligations.

APPENDICES

There are 5 key appendices to this Report to encourage understanding of the public pension environment in Los Angeles County:

- Appendix A “Public Pension Principles” summarizes key principles of public pension systems and the primary laws and regulations governing Public Pension Plans; including theories behind benefit design and actuarial estimates of assets and liabilities
- Appendix B “Listing of Number of Plans by Jurisdiction and Where to Find in Appendix C (C.1, C.2, C.3, C.4, C.5, C.6, CC.7, C.8, C.9)” is an alphabetical list of all

jurisdictions identifying the “C. matrix” in which their respective pension(s) attributes are cataloged

Appendix C Matrices showing the results of research as to the attributes of Public Pension Plans in LAC, sorted by jurisdiction name. Appendix C contains 9 separate matrices, C.1 through C.9, covering 8 broad plan categories and a ninth separate matrix showing POB debt by jurisdiction. The list below provides a guide to Appendix C:

C.1 CalPERS City Individual Plans

C.2 CalPERS City Risk Pool Plans

C.3 CalPERS Special District Individual Plans

C.4 CalPERS Special District Risk Pool Plans

C.5 Independent Plans

C.6 Public Agency Retirement System (PARS) Plans and Other Supplemental Plans

C.7 Other Post Employment Benefit (OPEB) Plans for Cities

C.8 Other Post Employment Benefit Plans (OPEB) for Special Districts

C.9 Pension Obligation Bond (POB) debt by jurisdiction is also provided

Appendix D “Public Pension Plans in Los Angeles County List of Acronyms” used in this Report

Appendix E “Glossary of Public Pension Terms” (Adapted from the CalPERS Glossary)

PHASE I

OVERVIEW AND MATRIX OF PUBLIC PENSION PLANS IN LOS ANGELES COUNTY

SUMMARY

In 2009, losses in the investment markets had a profound effect on pension systems. This event caused a rapid deterioration of retirement fund asset bases throughout the United States. Pension systems that had previously been shown to be well funded began to report investment losses of historic proportions. These losses caused the amount of the annual required contribution due to pension plans by public sector employers to increase. In Los Angeles County (LAC), many jurisdictions emerged from this market downturn with effective pension system contribution rates exceeding 30% of salaries and, in some cases, over 50% of salaries. This created severe challenges for jurisdictions that were already facing significant budget shortfalls as a result of the recession's impact on tax receipts.

In response to this emerging situation, some public officials and the popular press began to warn of public pension system collapse, with calls for radical reform. Public employee pension benefits began to be examined closely, actuarial assumptions related to long-term investment returns began to be challenged and the ability of local government to continue funding the higher contributions was questioned. Some public officials warned that cities and counties would face bankruptcy if not provided with relief from the burden of costly public employee benefits.

While many of these concerns have some merit, the economic recovery has already begun to greatly improve the financial outlook for pension systems in LAC. In addition, many employee unions have agreed to collective bargaining concessions that will lower public sector costs over the long run. As a result, some of the largest pension plans in the County have seen stabilization and improvement in the market value of assets that will help to bring them above the 80% threshold cited by experts as a benchmark for well funded plans. Should the recovery continue to improve, as expected over the long run by most economists, it is likely that jurisdictions will begin to feel relief from the high annual contribution requirements they are presently experiencing.

Nonetheless, local government jurisdictions and employee unions should take this opportunity to consider pension system alternatives that would lower costs in the immediate future and over the long term; modify actuarial policies to moderate fluctuations in annual required contributions; and build prudent reserves to safeguard future retiree health benefits for retirees. Well reasoned approaches to resolving concerns highlighted by the impact of the Great Recession would likely lower public pension system costs for the taxpayer, ensure pension system solvency and provide reasonable benefit continuation for public employees.

PURPOSE

The Civil Grand Jury (CGJ) conducted a comprehensive review of available information for all public pension plans in LAC in order to develop an inventory of plans that would contain basic

plan attributes and allow for high level analysis, identification of themes and patterns, and development of general findings and recommendations. The basic plan attribute data was cataloged into 9 matrices to facilitate the public's review, understanding and assessment of the financial state and liabilities of the plan(s) in their jurisdiction. Five (5) plans were selected by the CGJ for review and commentary.

BACKGROUND

The crash of the investment markets in late 2008 and 2009 had a profound effect on pension system investment returns and asset bases. As a result of double digit investment losses during that period, retirement fund assets declined rapidly and concerns about the ability of public pensions to fund employee benefit obligations began to surface. Pension funds were forced to increase the Annual Required Contributions (ARCs) charged to public sector employers to fully fund pension plan benefits for employees and retirees. To compound the financial dilemma for public agencies, these increases in annual pension contributions came at a time when local jurisdictions were already faced with severe tax revenue shortfalls that were forcing severe reductions in services to the public.

As this phenomena was replayed across the country, public officials and the press began to warn of public pension system collapse with calls for radical reform. Public employee pension benefits began to be examined closely and actuarial assumptions related to long-term investment returns were challenged. The ability of local government to continue funding higher contributions was questioned. Some public officials warned that cities and counties would face bankruptcy if not provided with relief from the burden of costly public employee benefits.

SIGNIFICANT REPORTS ON CALIFORNIA PUBLIC PENSION REFORM

In general timeframe, several reports on California pension reform emerged and a public dialogue began seeking ways to recover from the impacts of the recession. The following summaries describe some of the most significant reports and comments made by California public officials and others during this period.

1. Little Hoover Commission (February 2011)

In its report, "Public Pensions for Retirement Security" (the Little Hoover report), the Little Hoover Commission pointed to several areas where benefit design has resulted in an increased pension cost, including provisions to grant extra service credit, allowing employees to retire with full benefits at younger ages; modifying methodologies used to compute the single highest year of compensation; and lowering the minimum age of retirement. The Commission stated that these types of changes, provided to employees through the collective bargaining process, have contributed to the inability of public agencies to effectively lower public employee pension costs in the near term.

The Commission produced a series of recommendations that would:

- a. Establish "lower defined-benefit formulas"
- b. Establish hybrid pension models that would combine defined benefit plans with "employer-matched defined-contribution" plans

- c. Establish caps on the maximum salary that can be used to calculate pension payments, or on the maximum pension that a retiree may earn
- d. Require that employers make minimum contributions, even when investment earnings exceed expectations
- e. Require that employees make contributions
- f. Advocate for the Federal government to extend Social Security to uncovered workers

CalPERS responded to the Little Hoover Commission report criticizing the Commission's characterization that "pension costs will crush government." CalPERS identified what it perceived as weaknesses in the Commission's analysis such as the non-reporting of 2010 investment gains by CalPERS and the recent prevalence of benefit concessions being agreed to by employee groups and other factors as key observations to be considered. CalPERS did not forcefully disagree with any of the Little Hoover Commission recommendations.

However, it is worth noting that many of the suggestions made by the Commission have already been implemented in some LAC jurisdictions. For example, the City of Los Angeles Fire and Police Retirement System already imposes benefit caps at less than 100% of final salary for retiring employees. Further, many plans have already established deferred compensation alternatives for their employees and some employee unions have agreed to concessions lowering the amount of employee contribution that the employer agency subsidizes. Each jurisdiction needs to be viewed in the context of the labor agreements it has with its employee labor groups and other local considerations.

2. Stanford Institute for Public Policy Research (April 2010)

The Stanford Institute for Public Policy Research issued a report in April 2010 entitled, "Going for Broke: Reforming California's Public Employee Pension Systems" (the Stanford Report). In this Report, the authors examined the "funding shortfalls for CalPERS, CalSTRS and UCRS"⁸ to identify policies that would "prevent similar shortfalls in the future."

The report challenged the assumed interest rate of return, or discount rate, being used by these plans to forecast future plan assets. The centerpiece of the analysis concluded that if the assumed interest rate of return was adjusted to a "risk free" level of 4.14%, instead of the 7.75% presently assumed by the CalPERS Board's Investment Committee, the funded ratio would decline from 86.1% to 49.9%, increasing the UAAL by over \$200 billion. Significant recommendations made in the report are paraphrased below:

- a. Adopt probability based funding targets with a goal of being 80% certain that the asset base will cover 80% of liabilities

⁸ The California Public Employees Retirement System, the California State Teachers Retirement System and the University of California Retirement System.

- b. Make contributions at the “Normal Rate” without exception
- c. Reduce the period used to amortize shortfall repayments to no more than half the duration of liabilities
- d. Invest in less volatile asset classes, focusing on fixed income instead of stocks;
- e. Offer employees both defined benefit and defined contribution pension alternatives

The report did not critique the other important assumptions used by actuaries to estimate future costs, including estimated inflation and payroll growth. These are significant factors to consider when projecting liabilities and reporting the funded status of retirement plans.

In its response to the Stanford report, CalPERS criticized the analytical modeling that was used by the authors and found exception with several of the recommendations. It was CalPERS' position that some of the recommendations were inconsistent with law and generally accepted accounting standards. In addition, CalPERS pointed to its history of achieving investment rates of return of an average of 7.9% in the previous 20 years and stated that the Board of Retirement's Investment Committee analyzes its assumed rate of return every 3 years and would set a new rate in February 2011. Consistent with this statement, the CalPERS Board evaluated rate recommendations by its actuary and chose to keep the assumed investment rate of return at 7.75% in March of this year.

Instead, pension plans should emulate the practices of both CalPERS and LACERA, which allow flexibility and require regular review over the pension plan horizon. When the investment forecasts require changes in rates, they should be implemented incrementally over the longer term investment horizon.

This is the approach taken by CalPERS and LACERA. These organizations:

- Conduct annual reviews of actuarial variables used to determine funded status, including the assumed investment rate of return
- Conduct more robust reviews of the assumed investment rate of return on a triennial basis, obtaining the advice of outside investment experts and actuaries as well as holding public meetings to discuss recommendations and perspectives

Both CalPERS and LACERA have managed pension trusts for local governments for over 70 years. During that period, these funds have met their pension obligations to members and been successful at accumulating significant asset reserves for future benefit obligations. Their current asset balances are sufficient to ensure that there is no threat of default on their obligations.

Further, a review of CalPERS investment return assumptions over the past 30 years since 1979-1980 indicates that the fund has often changed its assumed investment

return rate in response to market dynamics. In the late 1970s, CalPERS used an assumed rate of return of only 6.50%, increasing the assumption to as high as 8.75% in FY 1992-1993. Since that time, CalPERS has incrementally modified that rate downward to 7.75% by FY 2002-2003 where it has remained since that time. In calendar year 2010, CalPERS was again reporting investment gains of 12.5% after experiencing severe losses of -24% in 2009. CalPERS reports that at the end of 2010, the pension funds' investments had recovered "\$65 billion since the fund's low point in March 2009, at \$160 billion."

In June 1991 Governor Pete Wilson was urging the CalPERS Board to increase its assumed rate of return to 9.5% due to the particularly strong investment market at the time and the Governor's desire to reduce the amount of the annual contribution the State was being required to make for its employees. During that year, CalPERS was achieving actual investment yields of 12.5% and, in 8 of the 9 fiscal years between FY 1991-1992 and FY 1999-2000, CalPERS achieved double-digit returns that peaked in FY 1996-1997 at 20.1%.

By the end of FY 1998-1999, CalPERS was reporting a Funded Ratio of 128.4% and had a negative UAAL (a surplus) of nearly \$32.9 billion in its accounts. As a result, many CalPERS member agencies became "Superfunded"⁹ during this period. When the recession of 2000 began to take hold, local jurisdictions began to demand contribution refunds as a means of solving budget deficits they were experiencing due to losses in tax revenue.

This long-term, historical perspective is necessary to fully understand the dynamics of the investment market and the need to constantly reevaluate information that might drive projection variables in an unknowable future. The practices of both CalPERS and LACERA to regularly and periodically evaluate investment return and other actuarial assumptions, remaining flexible to respond to the dynamics of the investment market, are appropriate and should be continued. Plans with less rigorous actuary assumption evaluation processes should change their current procedures to emulate CalPERS and LACERA.

3. Public Employee Post-Employment Benefits Commission (January 2008)

- a. In December 2006, Governor Arnold Schwarzenegger signed Executive Order S-25-06, which established the Public Employees Post Employment Benefits Commission. The Commission was charged with reporting on the following topics for "all affected government bodies" in the State of California:
 - i. Identifying the amount and extent of unfunded liabilities for Other Post Employment Benefits (OPEB)
 - ii. Comparing and evaluating the advantages and disadvantages of various approaches for addressing unfunded post-employment benefits

⁹ Term used by CalPERS when the actuarial value of assets (AVA) is greater than the present value of benefits (PVB). When a member jurisdiction is Superfunded, no employer contribution is required.

- iii. Considering the advantages to the State from other post-employment benefits, such as providing health care
 - iv. Proposing a plan or plans for addressing unfunded post-employment benefits
- b. The Commission issued a report entitled “Funding Pensions & Retiree Health Care for Public Employees” in January 2008. This report included 34 recommendations that were grouped into the following broad categories:
- i. Identify and Prefund Financial Obligations
 - ii. Limit Contribution Volatility and Use Smoothing Methods Judiciously
 - iii. Increase Transparency and Accountability
 - iv. Improve Plan Design and Communication with Employees,
 - v. Provide Independent Analysis
 - vi. Strengthen Governance and Enhance Transparency
 - vii. Coordinate with Medicare
 - viii. Advocate Federal Tax Law Changes.

Significant recommendations came from this report, including several related to establishing strong prefunding policies, the use of OPEB bonds to pay down unfunded liability, requiring minimum employer contribution levels and establishing “tax-advantaged” supplemental savings plans in lieu of enhanced benefits.¹⁰

Review of OPEB benefits offered by LAC jurisdictions suggests that the application of the Commission’s recommendations will be mixed. Most jurisdictions have not been building asset reserves for OPEB liabilities, reporting funded status of 0.0%. This has not been universally the case. For example, the Los Angeles Department of Water and Power Employee Retirement Plan reported a Funded Status of 60.5% as of June 30, 2010 which has been achieved by contributing over 250% of the Annual Required Contribution in each of the past 3 fiscal years (2008 = 391.98%; 2009 = 261.43% and 2010 = 273.90%). As will be discussed later in this Report, DWP’s accelerated funding pattern may be due to its continuing strong financial position, based on electric and water utility collections, as well as a Citywide policy that has resulted in a similar pattern of funding for the City’s other large non-safety pension plan, the Los Angeles City Employee Retirement System (LACERS).

¹⁰ The report specifically referenced IRS Section 401(k), 403(b) and 457 plans, although all categories may not be available to public employees with established pension plans.

4. Professional Associations (February 2011)

A consortium of professional associations¹¹ issued fact sheets in 2010 and contributed to a series of articles included in the February issue of "Government Finance Review," a professional publication of the Government Finance Officers Association.¹² The themes of these publications are that public pension plans in the United States are not in trouble, suggesting that pension trusts have "substantial assets to weather the financial crisis." By their design public pensions have long-term time horizons that may allow the time needed to recover from market losses. They point out that market volatility is a two way street; and while it can lead to market losses, volatility can also result in long-term investment returns that continue to "exceed expectations."

In addition, the Government Finance Review articles:

- a. Question the soundness of recommendations made by the Stanford Report and others on adopting risk-free investment rates of return
- b. Examine steps being taken by State and local governments to reign in pension costs.
- c. Propose, in the Section on Other Post Employment Benefits (OPEB), or retiree health a number of practical steps for:
 - i. Prefunding liabilities
 - ii. Reforming benefits
 - iii. Cost sharing with employees
 - iv. Converting at least portions of the promised benefits to defined contribution instead of defined benefit plans

Other sections of the publication provide strategies for redesigning pension benefits through the collective bargaining and political processes.

The CGJ finds merit in many of the arguments made in all 4 of these studies. A well informed balanced approach to sustainable public pension systems is best achieved by objectively viewing all sides of the issues. Risk tolerance may vary from jurisdiction to jurisdiction.

¹¹ The National Governors Association (NGA), National Conference of State Legislators (NCSL), Council of State Governments (CSG), National Association of Counties (NACo), National League of Cities (NLC), U.S. Conference of Mayors (USCM), International City/County Managers Association (ICMA), National Association of State Budget Officers (NASBO), National Association of State Auditors, Comptrollers and Treasurers (NASACT), Government Finance Officers Association (GFOA) and National Association of State Retirement Administrators (NASRA).

¹² February 2011, *Government Finance Review*, "The Truth About Public Pensions" (Pg. 8), "Media Misperceptions" (Pg. 18), "OPEB Strategies" (Pg. 28), "Adjusting Benefits" (Pg. 36) and "Automatic Enrollment" (Pg. 42).

ATTRIBUTES OF LAC PUBLIC PENSION PLANS

Jurisdictions in LAC have established 277¹³ public pension plans that are administered either by CalPERS or by separate, individual non-CalPERS pension trusts. CalPERS plans can be grouped into 2 general categories:

3. Individual plans – which are larger plans with 100 or more active members that receive separate actuarial evaluations to determine assets, liabilities and funded status
4. Risk Pool Plans – which are comprised of a group of smaller pension plans for which plan assets are invested in “risk pools.” Smaller pension plans are defined as those with less than 100 members in any year since 2003. Total assets, liabilities and funded status are reported at the risk pool level, and individual member agency information is adjusted by “side fund” balances that reflect the difference between the funded status of that plan and the risk pool at the time that plan entered the risk pool.

At the time of this Report, there were 152 CalPERS plans for cities and 62 CalPERS plans for special districts for a total of 214 CalPERS plans in LAC. Of these, 81 were individual plans, and the remaining 133 were risk pool plans.

Individual non-CalPERS plans include 13 city and large special district plans reporting total actuarially accrued liabilities exceeding \$50,000,000 in the most recently reported actuarial valuation. Approximately 50 other smaller plans for special districts, including Public Agency Retirement System (PARS) plans,¹⁴ have been established within the County. Exhibit 1 shows the inventory of public pension plans in LAC:

Exhibit 1. Inventory of Public Pension Plans in LAC¹⁵

Total Number of Pension Plans	277
CalPERS Plans	
Cities	152
<i>Individual</i>	71
<i>Risk Pool</i>	81
Special District	62
<i>Individual</i>	10
<i>Risk Pool</i>	52
Independent Plans	
County, Cities, & Large Special Districts	13
Supplemental Plans	50

Source: Jurisdictions' annual reports, CalPERS actuarial reports and other listings of special districts.

As noted in the Introduction to this Report, the CGJ encountered difficulty in its attempts to acquire the annual financial reports and other pension plan documents for several jurisdictions. It was particularly difficult to obtain information for the special districts' plans and independent supplemental plans, both of which are typically very small plans representing a very small

¹³ The scope of the inquiry did not include pension plans for school systems, community colleges, universities, or government associations.

¹⁴ PARS plans are typically established for part-time or seasonal workers, or to provide supplemental benefits to employees. The majority of PARS plans reporting information for this assessment are defined contribution plans.

¹⁵ Does not include pension plans for school systems, community colleges, universities, or government associations.

number of members. For special districts where no annual financial report was available, the CGJ relied on the limited information provided by the CalPERS actuarial reports. Very limited information was provided for most of the independent supplemental plans in the jurisdictions' annual financial reports.

FINANCIAL PROFILE AND OVERALL FUNDED STATUS

Collectively, these plans had actuarial accrued liabilities (AAL) of approximately \$108.2 billion as of the most recent actuarial valuation, of which \$17.8 billion was unfunded (unfunded actuarial accrued liabilities, or UAAL).¹⁶ In addition, the jurisdictions for which these funds provided pension benefit administration services had an additional \$33.9 billion in retiree health care, or OPEB liabilities, of which \$30.2 billion was unfunded. Other Pension Obligation Bond (POB) debt held by these jurisdictions equaled nearly \$1.2 billion, bringing total UAAL for pensions and OPEB and pension obligation bonded indebtedness to nearly \$49.2 billion. The financial profile of the plans within LAC is shown in Exhibit 2:

Exhibit 2. Profile of Pension Liabilities in LAC (in \$billions)

	Pension Benefits		Retiree Health Care Benefits (OPEB)		Total Liability	Pension Obligation Bonds (Principal + Interest)	Total Unfunded Liability and Pension Debt
	Liability	Unfunded Liability	Liability	Unfunded Liability			
County	\$ 46.7	\$ 7.8	\$ 24.0	\$ 24.0	\$ 70.7	\$ 0.6	\$ 32.4
Cities Subtotal	56.3	9.4	8.2	5.0	64.5	0.6	15.0
Special Districts Subtotal	5.2	0.8	1.6	1.2	6.8	-	2.0
Total	\$ 108.2	\$ 18.0	\$ 33.8	\$ 30.2	\$ 142.0	\$ 1.2	\$ 49.4

Source: Jurisdictions' annual financial reports and actuarial reports.

Using this data, the overall funded status for all retirement benefits can also be calculated. As shown, the total liability, considering all types of jurisdictions and all types of retirement liabilities (pension and retiree health care), is approximately \$142 billion as of the most recent valuations available. The overall Actuarial Value of Assets (AVA) is \$94 billion (total liability minus unfunded liability), which calculates to an overall funded status of approximately 66.2%. When combined with the pension obligation bonded indebtedness of \$1.2 billion, the funded status declines to 65.4%. This is well below the 80% level that most experts consider the benchmark for a well funded plan.

It is important to note that, although the pension funds within the County have significant unfunded liabilities, they are in no danger of short-term default. For example, at the beginning of

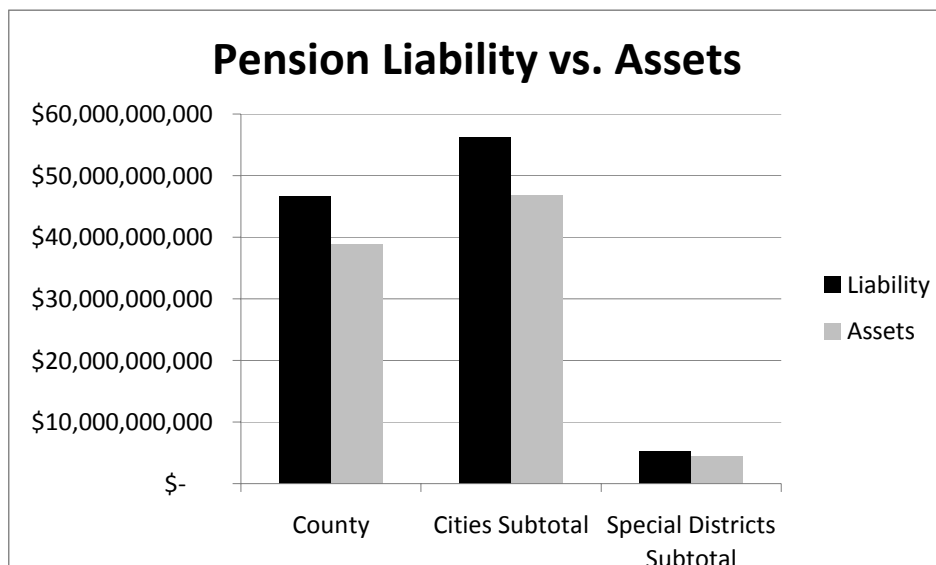
¹⁶ The most recent actuarial evaluation for the retirement plans may be for either 2009 or 2010, depending on the plan, so the numbers being reported from our survey are generally conservative. This occurs because the actuarial value of assets (AVA) has declined for these agencies since the 2009 valuation, despite the investment market recovery in 2010, due to the smoothing of market gains and losses over multiple years. Meanwhile, the AAL has continued to climb due to the actuarial impacts of inflation, salary growth and other factors driving future costs.

FY 2009-2010, LACERA reported total market valued assets of approximately \$30.5 billion. During the year, LACERA reported total expenses for benefits and administration of approximately \$2.2 billion. This reflected an asset to expense ratio of about 14, meaning that LACERA's beginning assets were 14 times greater than expenses incurred during the year. Further, contributions from the County and employees were nearly \$1.3 billion; and investment earnings were over \$3.8 billion in that year, for a total of approximately \$5.1 billion of additional assets that entered the system— nearly 2.3 times greater than current year expenses.

PENSION FUND ASSETS, LIABILITIES AND CONTRIBUTION RATES

Exhibit 3 shows the AAL and AVA for public pension systems Countywide, with the difference between the liability bar and the asset bar representing UAAL (unfunded liability):

Exhibit 3. Pension Liabilities Compared to Assets



Source: County, cities, and special district annual financial reports; CalPERS actuarial reports for individual and risk pool plans

As shown, the plans within the County continue to report significant assets, even when contrasted against projected liabilities.

1. Percent of Annual Required Contribution (ARC) Funded for Pension Benefits

All of the cities and special districts providing benefits through CalPERS contributed 100% of their Annual Required Contributions (ARC) for their pension plans as of the most recent information for each jurisdiction. LAC also contributed 100% of its ARC. Of the 11 independent plans with liabilities over \$50 million, only 2 plans did not contribute 100% of the ARC. Pasadena Fire and Police Retirement System (FPRS) contributed just 35.5% of its ARC, and the Antelope Valley Health Care District contributed 52.7% of its ARC in FY 2010. The Pasadena FPRS is the subject of one of the CGJ's case studies performed as part of this assessment (See Section 4).

2. Employer Effective Contribution Rate Components

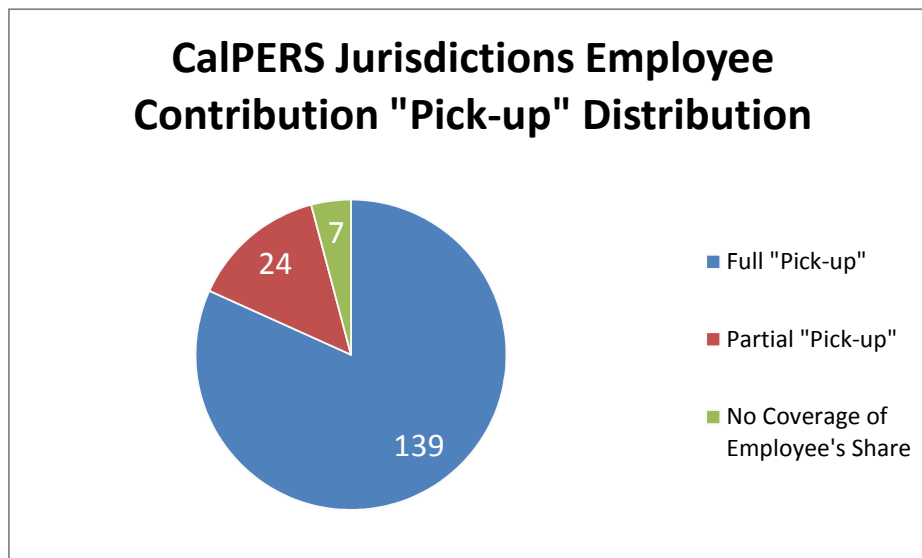
In most jurisdictions throughout LAC, it would be misleading to view the employer “normal cost” contribution rate without also incorporating an analysis of 2 other components of the employer’s total contribution. In addition to the base “normal” rate, the full magnitude of the employer’s contribution includes:

- a. An amortization of unfunded liability
- b. The “pick up” of the employee’s contribution in cases where the jurisdiction pays the employees share as an employment benefit to workers

Information on the unfunded liability component was most readily available for the city plans. The average contribution rate for unfunded liability of the 71 non risk pool CalPERS city plans was 5.151%. Of these 71 plans, 5 had negative unfunded liability contribution rates, indicating a better funded status resulting in a credit effect on the total employer contribution rate. The low of the 71 plans was negative 1.885% (improved rate) for the Long Beach Safety Plan and the high was a positive 18.001% (worsened rate) for the Torrance Police Safety Plan.

Of the 170 CalPERS jurisdictions for which the information was available, 139 (82%) “pick up”, or pay the entire employee contribution on behalf of the employee. Another 24 jurisdictions (or 14%) contribute a portion of the employee’s share. Only 7 (or 4%) of these 170 CalPERS jurisdictions do not pick up the employee’s contribution. Exhibit 4 summarizes the “pick up” statistics:

Exhibit 4. Distribution of Employee Contribution “Pick up” by Jurisdictions



Source: Jurisdictions’ CAFR documents.

By contrast, only one of the major independent cities and special districts (those with more than \$50 million in liabilities) contributes the employee’s share on behalf of the employee. LACERA, all 3 City of Los Angeles plans, and all 5 plans of the LAC Metropolitan Transportation Authority each require their employees to contribute at the established employee contribution levels through payroll deductions. The contributions

generally vary based on benefit plan, age of entry and other actuarial determined factors.

For tax purposes, Internal Revenue Code Section 414(h)(c) provides that, "...for any plan established by a governmental unit, where the contributions of employing units are designated employee contributions, but the employer 'picks up' the contributions, the contributions are treated as employer contributions." CalPERS states that, "The effect of a pick up is to defer tax on employee contribution amounts until the member retires and receives retirement benefits, or separates from employment and takes a refund of contributions."

Therefore, because the pick up is considered to be a form of tax deferred compensation, the agreement to pick up the employees' contribution is not considered a vested pension benefit of employees or retirees. Instead, research, confirmed by public officials interviewed for this assessment, suggests that the pick up is merely a contractual obligation of the jurisdiction made under the terms of Memoranda of Understanding (MOU) with employee unions. As a result, the terms of the pick up or the amount to be paid by the jurisdiction can be modified through the collective bargaining process for all current employees and not just new employees.

This is an important consideration. If jurisdictions are considering more immediate reductions in their costs of pension and retiree health benefits, one approach may be to negotiate with labor unions to reduce the amount of the employee contribution pick up being paid by the employer. Such savings could be realized immediately and not be dependent on new employee hires and turnover.¹⁷ For CalPERS member agencies, removing the agreement to pick up the employees contribution would result in savings of 7% to 9% of salaries, depending on whether the employee group falls under the Miscellaneous or Safety groups of employees category.

BENEFIT AND ACTUARIAL CONSIDERATIONS

The foundation for the actuarial analysis and calculation of contribution amounts and rates is the market basket of benefits that are provided to employees. For non-CalPERS agencies, plan design can vary considerably. For example, the County and the City of Los Angeles have designed multiple tiers of plan benefits for their employees that differ depending on the category of employee, the date of initial employment and plan choice. For CalPERS jurisdictions, employers may select from an extensive menu of possible plan benefits to customize a pension system for their employees.

After the investment gains of the late 1990s, employee bargaining groups began to request enhancements to the basic benefit formulas that jurisdictions could then choose to adopt as part of their retirement plan. In response to these conditions, in 2001 the State Legislature approved changes in the law that enhanced these formulas by:

- Allowing public employees to retire with full benefits at younger ages
- Increasing the percentage of salary for each year of service for determining pension amounts

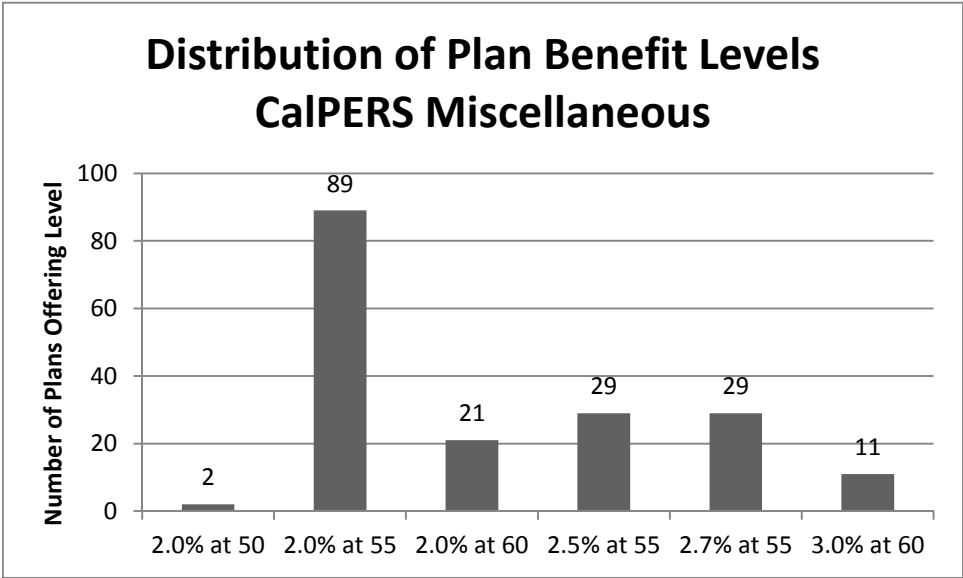
¹⁷ CalPERS projects employer contribution rates two years in advance. Therefore, actual budget savings would not be achieved until year three, unless CalPERS modifies its current policy.

In LAC, the County and City of Los Angeles resisted these enhancements. However, in June 2003, the CalPERS Board of Administration adopted these enhancements as available options for member agencies. Most significantly, police and firefighter employees would now be eligible for 3% at 50 plans if the option was successfully negotiated with the CalPERS member agency.

In LAC and around the State, there was a concerted effort by employee bargaining groups to secure the more generous benefit formulas. The following 2 Exhibits show the benefit options chosen by LAC CalPERS member agencies as of the FY 2009-2010 valuations. Exhibit 5 shows the distribution of plan benefit levels for the CalPERS Miscellaneous category, and Exhibit 6 shows the distribution of plan benefit levels for the CalPERS Safety category.

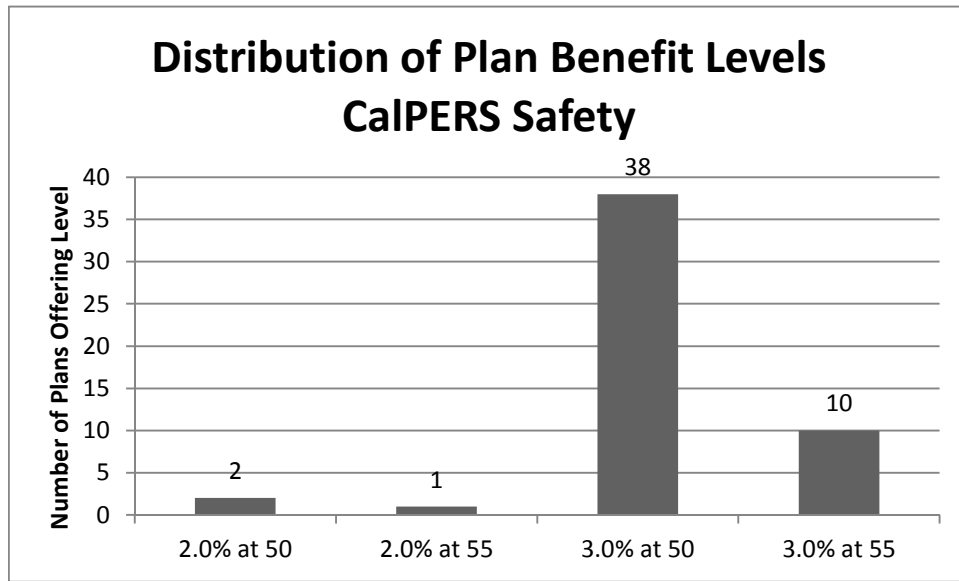
As shown in Exhibit 5 and Exhibit 6, these changes in the law allowed employee bargaining groups in many LAC jurisdictions to access the improved benefit formulas by FY 2009-2010. This migration to the improved benefit formulas is particularly apparent when viewing Exhibit 6, which shows that 38 of the 51 CalPERS Safety Plans in the County (74.5 %) have moved to the more generous 3% at 50 Plan:

Exhibit 5. Distribution of LA County Plan Benefit Levels – CalPERS Miscellaneous



Source: CalPERS actuarial reports for individual and risk pool city plans

Exhibit 6. Distribution of LA County Plan Benefit Levels – CalPERS Safety



Source: CalPERS actuarial reports for individual and risk pool city plans

Although minor variations in plan design are incorporated into this general profile, the current data shows that benefits for employees have migrated to the most generous levels. For example, a Safety Plan retiree with 30 years of service credit can retire at the age of 50 earning 90% of salary. If this individual can add service credit by obtaining military credit or purchasing sick time credit, “air time” or other service credit enhancements, the pension amount can easily reach a pension level of 100% of salary in pension from the age of retirement.

1. Service Credit Enhancements

CalPERS agencies and all of the individual plan jurisdictions have established policies that allow members to purchase service credits that effectively add years of service for time worked in other governments, sick leave and non-worked time that can be purchased by the employee at an actuarially determined cost; i.e., “air time.” Many of these are briefly described below:

- a. Sick Leave – Some agencies allow employees to convert sick leave balances into earnings for the computation of final average salary and/or use sick leave hours balances in the computation of service credit. The use of sick leave is subject to plan limitations and Internal Revenue Service Section 415 limitations on pensions. CalPERS agency members, for instance, can receive one year of service credit for every 250 days of unused sick leave.
- b. Non-Worked Time – Known popularly as “air time,” some agencies allow members to purchase service credit at an actuarially determined cost. Such credits are not based on actual worked time. Termed “Additional Retirement Credit” at LACERA, employees may enter into contracts for either lump sum payments or installment payments during employment. Payments can be made from after-tax payroll deductions or rollover amounts transferred from contributory accounts such as 401(k) or IRA accounts. Similar provisions exist for CalPERS agencies termed “Additional Retirement Service Credit.”

- c. Others – Common to most retirement plans in the County, members may receive service credit for military time, employment with other government agencies, temporary employment with the sponsoring agency, Federal service organizations; e.g., Peace Corps, periods involving leaves of absence and others.

2. Final Average Salary (FAS) Computation and Opportunities for Pension Spiking¹⁸

The final average salary (FAS) that is used in conjunction with years of service, age, and other factors to calculate retirement benefits may vary depending on the time period over which the FAS is based and the types of compensation that are classified as “pensionable.”

Jurisdictions typically calculate the FAS for employees using one of two time periods: 12 months or 36 months. As shown in Exhibit 7, 85% of CalPERS plans in LAC use a method which calculates the average salary over the most recent 12-month employment period with the highest proportion being for regular plans at 94%. While risk pool plans are more likely to utilize an average of the most recent 36-month period, the rate is still low at 20%.

In jurisdictions where the 36-month period is used for FAS, employees must work for multiple years to elevate the average salary used in determining their pension benefit. Although the CGJ did not find evidence of such spiking in the limited case study sampling, to the extent that instances of “pension spiking” might occur, it would be more prevalent in jurisdictions where the shorter FAS period is used. The pervasive use of the 12-month period to compute FAS throughout LAC may indicate an increased risk for abuse:

¹⁸ Pension spiking (From Wikipedia): Pension spiking is the process whereby public sector employees grant themselves large raises or otherwise artificially inflate their compensation in the years immediately preceding retirement in order to receive larger pensions than they otherwise would be entitled to receive. This inflates the pension payments to the retirees and, upon retirement of the “spikee”, transfers the burden of making payments from the employee’s employer to a public pension fund. This practice is considered a significant contributor to the high cost of public sector pensions. Several states including Illinois have passed laws making it more difficult for employees to spike their pensions.

Pension spiking is largely seen in public sector and is an example of the [principal-agent problem](#). In the classic principal-agent problem, a principal hires an agent to work on his behalf. The agent then seeks to maximize his own well being within the confines of the engagement laid out by the principal. The agent, or bureaucrat in this instance, has superior information and is able to maximize his benefit at the cost of the principal. In other words, there is [asymmetric information](#).

In the case of pension spiking the general public (the principal) elects officials to hire the bureaucrat who then hires the public servants, who are the ultimate agents of the general public. Thus, the principal is three steps removed from the bureaucrat. In the case of pension spiking, the public has allowed a pension system to be created which is based on the compensation in the last year of service and delegated the setting of this cost to the bureaucrat.[] The bureaucrat, who will often himself or herself benefit from a spiked pension or the same laws permitting pension spiking, fails to stop the practice, a clear [conflict of interest](#).

Exhibit 7. CalPERS Final Average Salary Methodological Distribution

Period Used to Determine Final Average Salary By Plan Type for CalPERS Agencies

	12 Months	36 Months
Risk Pool Plans	80%	20%
Regular Plans	94%	6%
Total	85%	15%

Source: CalPERS actuarial reports for each jurisdiction.

3. Benefit Enhancements

The other major factor driving the determination of FAS and the level of pension benefit is the set of earnings that are counted as “pensionable.” Categories of compensation such as sick leave credit, vacation buy-back, vehicle allowance, uniform allowance and special bonuses may count toward pensionable earnings in many jurisdictions throughout the County. The categories of pensionable earnings are not readily available in the jurisdictions’ financial reports. However, the CalPERS plan actuarial statements include an indication of whether the jurisdiction opts to allow its members to apply sick leave credit.

These provisions can increase the amount of the calculated pension or the amount of the actual pension during retirement. For example, the LAC established a “Longevity Pay” provision for certain employee groups as an alternative, to attempts by certain employee groups to obtain 3% at 50 or other more generous base pension formulas. As shown in Phase II (Section 1) of this Report, these provisions effectively increase the amount of the FAS for employees. They were reportedly seen by the County as being less costly alternatives to the formula changes that were being requested at the time.

4. Cost of Living Adjustments (COLA)

The primary driver of pension increases after retirement are the Cost of Living Adjustments (COLA) that are agreed to by the jurisdiction. For example, the LAC has set pension COLAs at actual inflation based on the Consumer Price Index (CPI) to a maximum of 2% for all plans, except Plan A which is set at 3% . However, while the basic CalPERS plan offers a 2% COLA, member agencies may purchase a COLA up to 5% at an additional cost. Of the 152 CalPERS member agencies identified as part of this assessment, only 20 (13.2%) had purchased increased COLAs at the time of the last valuation. Half of these purchased the 5% COLA, including the City of Bell for its Miscellaneous employees.

5. Investment Smoothing

Retirement plans typically “smooth” investment rates of return¹⁹ in order to reduce the volatility in the amount of annual contributions that need to be made by employers and employees. CalPERS retirement plans smooth investment rates of return over 15-year 5-year s. Other plans in LAC, including LACERA and the Los Angeles City plans, smooth investment rates of return over more typical 5-year periods, which can result in greater rate volatility when there are dramatic swings in the market value of investments.

Recognizing that the return on investments can be volatile from year to year, actuaries typically compute a rolling average of investment returns rather than relying on actual annual returns to prepare their estimates of current and future fund assets. This mechanism is designed to “smooth” the natural volatility of market fluctuations and make annual contribution requirements more predictable. CalPERS policy is to smooth investment returns over 15-year 5-years.

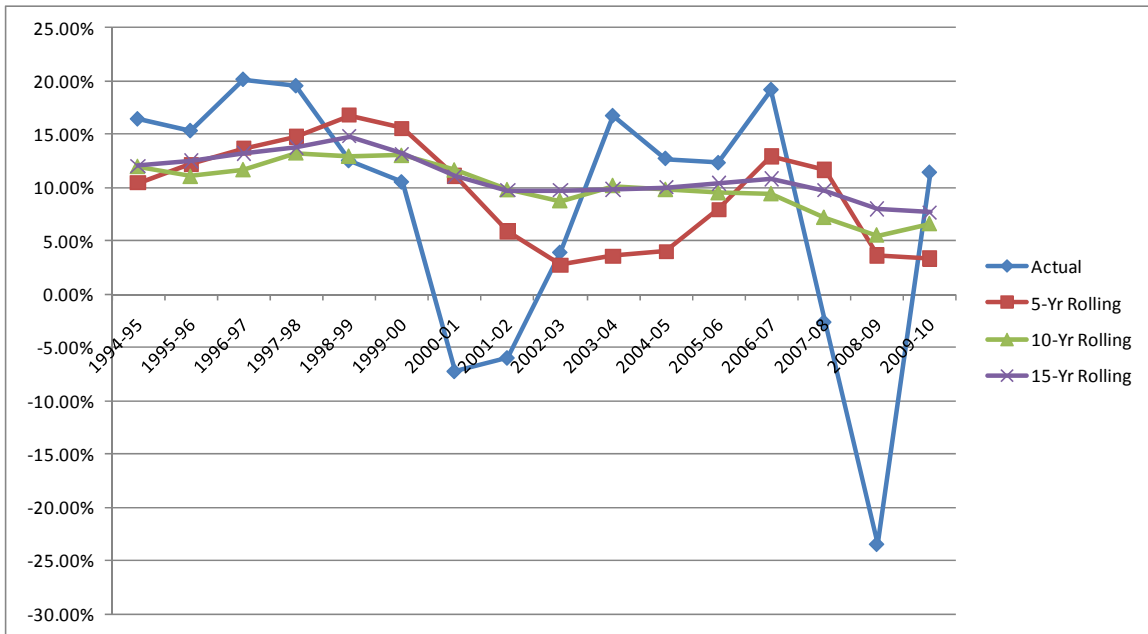
The Little Hoover and the Stanford reports suggest that jurisdictions contribute their normal contribution as a minimum amount each year to ensure adequate funding of pension benefits. While this would moderate underfunding during periods of low investment returns, it would inflate the actuarial value of assets during periods of extraordinary investment gains. The resulting actuarially determined overfunding of plans could expose jurisdictions to public criticism and to demands from employee groups for additional benefits.

An alternative to the suggestion of making the normal contribution, the minimum allowed ARC would be to modify the smoothing methodologies used by actuaries so that the calculated ARC would move within a narrower band closer to the normal contribution rate. Extraordinary gains and losses would then be recognized over a longer period of time so that the appearance of over or under funding would not be as dramatic. By establishing “smoothing corridors,” as done by CalPERS, the risk of recognizing and responding to severe economic conditions would be tempered. Exhibit 8 shows the effect of a 5-year, 10-year and 15-year smoothing on investment rate assumptions using CalPERS investment return data available for this assessment.

As shown by this simple model, the actuarial assumed rate of return using both the 10-year and a 15-year smoothing methodologies cause the actuarial investment performance to moderate swings in actual investment gains and losses, and thus the actuarial value of assets. This would ensure that jurisdictions contribute an amount each year that is closer to the normal contribution rate.

¹⁹ Rate smoothing is accomplished by calculating the rolling average rate of return over a period of time greater than one year. This method of calculating rates of return has the effect of moderating annual changes in investment performance over a longer term investment horizon.

Exhibit 8. Effect of Variable Smoothing Assumptions on Assumed Rate of Return



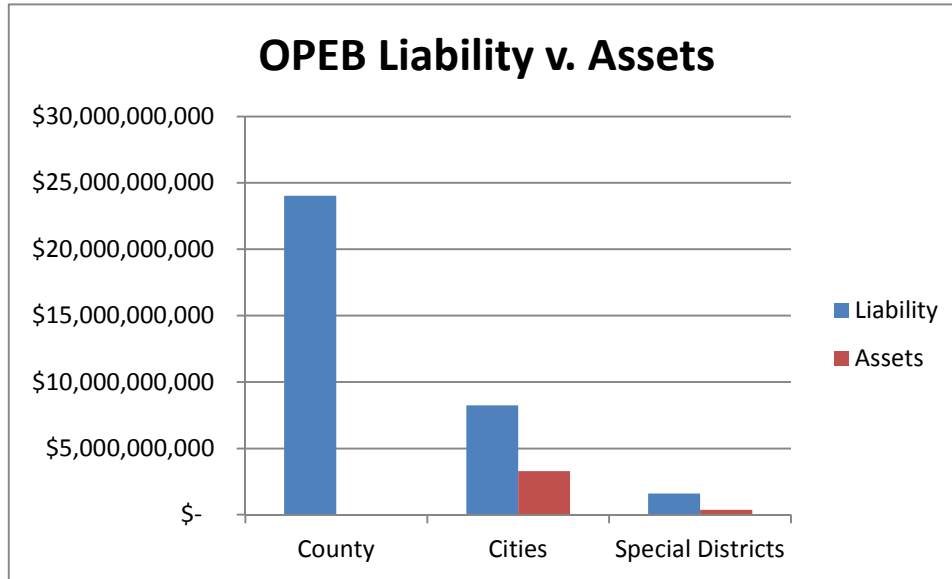
Source: CalPERS reports on fiscal year annual rates of return

RETIREE HEALTH CARE ASSETS AND LIABILITIES

A different quandary emerges when considering the funding profile for retiree health care benefits, also known as Other Post Employment Retirement Benefits (OPEB). As shown in Exhibit 9, the total liability for all OPEB plans in the County, cities, and special districts, based on the most recent information available from those jurisdictions, was approximately \$33.9 billion. However, with only \$3.7 billion in combined assets, the overall funded status of OPEB plans county wide is 10.8%. A large portion of the OPEB liability is held by LAC, amounting to \$24.0 billion or 71% of the total liability held by all jurisdictions.

Without viewing the detail of each city's OPEB funded status, Exhibit 9 may suggest that the cities are in a much better funded position than the County. However, the aggregate cities' figure is heavily skewed by the OPEB plans of the City of Los Angeles. In fact, a large majority of other city OPEB plans are completely unfunded, but the City of Los Angeles' higher funded status and large share of total liability distorts the aggregate city level summary. The funding levels of OPEB plans in the City of Los Angeles are shown in Exhibit 10 with the LACERS plan, the Department of Water and Power plan (WPERP), and the Fire and Police plan (FPRS) funded at 63.8%, 60.5% and 32.3%, respectively.

Exhibit 9. OPEB Liabilities Compared to Assets



Source: Jurisdictions' CAFR documents.

Exhibit 10. Funded Status of OPEB Plans in the City of Los Angeles

City Plan	Liabilities	Assets	Funded Status
LACERS	\$2,233,874,000	\$1,425,726,000	63.8%
WPERP	\$1,631,916,204	\$ 987,475,976	60.5%
FPRS	\$2,537,825,000	\$ 817,276,000	32.2%
LA City Combined	\$6,403,615,204	\$3,230,477,976	52.2%

Sources: CAFRs and actuarial reports for each of the three entities.

As shown in Exhibit 11, at least 56 of the 88 cities have no assets reserved for OPEB and are thus 0.0% funded. An additional 14 cities report some partial funding of OPEB, ranging from a low of 0.5% in Santa Fe Springs to a high of 83.5% in Manhattan Beach. At least 5 cities do not offer or did not report OPEB liabilities, and it is unknown whether there are OPEB plans in 13 other cities which did not report at all.

Exhibit 11. Distribution of Funded and Unfunded OPEB Plans in LAC Cities

0% Funded	56
Partially Funded	14
Without OPEB	5
Unknown OPEB	13

Source: Jurisdictions' CAFR documents.

Prior to 2008, public agencies were not required to report OPEB liabilities. On December 15, 2008, Governmental Accounting Standards Board (GASB) Statement 45 went into effect requiring the reporting of estimated liabilities for retiree health plans. Most jurisdictions reported

that they had not set aside any funds and that significant liabilities were developing due to growth in the plans and the rapidly increasing cost of health care. Recognizing the funding dilemma being faced by these jurisdictions, GASB Statement 45 embodied the following key provisions:

- Like pension benefits, OPEB assets and liabilities would need to be estimated over the benefit horizon on an actuarial basis.
- Any unfunded liability could be amortized or spread over a period of up to 30 years, “approximately equal to a typical public employees’ term of employment.”²⁰
- The Annual Required Contribution (ARC) consists of the normal cost and the portion of the UAAL to be amortized in the current period.

Although GASB does not recommend funding strategies, various other notable organizations have made comments and recommendations in this regard. The United States Government Accounting Office stated in a 2008 report that:

Pay-as-you-go financing has been the norm up to the present day. The initial estimates of the unfunded liabilities will be daunting. But that is a natural consequence of pay-as-you-go financing. Just as the unfunded liabilities did not accumulate overnight, it may be unrealistic to expect them to be paid for overnight. Rather State and local governments need to find strategies for dealing with unfunded liabilities, and such strategies will take time, will require difficult choices, and could be affected by changes in national health policy.²¹

Other professional organizations are more explicit. The Government Finance Officers Association of the US & Canada (GFOA) states in its Best Practice literature:

Recommends that the financing of post-employment benefits as they are earned (i.e., prefunding v. pay-as-you-go funding) offers significant advantages from the vantage point of equity and sustainability. Just as important, the earnings on the resources thus accumulated will lower the amount that ultimately must be budgeted by the employer. GFOA strongly recommends that OPEB involving explicit benefit payments be prefunded on an actuarial basis, as discussed in GFOA’s Best Practice, *Ensuring the Sustainability of Other Postemployment Benefits*.²²

The CGJ concurs with the observations and recommendations of the GAO and GFOA. Although there may be circumstances when funding the full ARC for OPEB may not be necessary or desirable, in most circumstances jurisdictions should make every effort to prefund the benefit. As suggested by the GFOA, this permits the jurisdictions to accumulate reserves from which investment earnings may be used to offset a portion of the jurisdictions’ required contributions. Without the accumulation of reserves and resulting investment returns, the cost of accrued and future benefits will need to be paid exclusively from taxpayer revenues.

²⁰ March 2011 internet version, Government Accounting Standards Board, *Other Post Employment Benefits: A Plain-Language Summary of GASB Statements No. 43 and No. 45*

²¹ January 2008, Report to the Committee on Finance, U.S. Senate, GAO-08-223, *State and Local Government Retiree Benefits, Current Funded Status of Pension and Health Benefits*

²² GFOA of the UC & Canada, *Best Practice: Considerations for Prefunding OPEB Obligations (2008)*

6. Ability to Modify OPEB Benefits

California and Federal case law is reportedly mixed on a jurisdiction's ability to modify OPEB benefits for existing employees and retirees. Depending on how the benefits are structured and the contractual obligations agreed to by the employer and employee during the period of employment, there may be some opportunity to modify benefits for both future and current employees. However, contract law is unclear; and mere past practice or agreement in a Memorandum of Understanding with represented employees may create an implied or actual contractual agreement between the jurisdiction and the employees.

Therefore, a legal assessment would need to be conducted in each LAC jurisdiction to determine the extent which current modifications to retiree health benefits would be allowed. If legal tests were met, jurisdictions would potentially be able to cap benefit amounts, require copayments from retirees or implement other changes that could reduce costs. In the City of Vallejo which declared bankruptcy in 2008, modifications to retiree health benefits have successfully been negotiated with retiree groups and labor organizations that will reduce the City's costs.²³ This is an extreme situation, and the same flexibility may not be available in LAC jurisdictions that provide this benefit.

Jurisdictions that provide OPEB benefits should explore the degree of flexibility they have to modify OPEB benefits for existing retirees and employees. Even if this is not legally permitted, jurisdictions should proceed with efforts to modify benefits in a manner that would reduce costs of benefits for future employees. For example, one jurisdiction reviewed for this study is exploring the impact and potential savings that might be achieved by more effectively coupling retiree health benefits with Medicare.

PENSION OBLIGATION BOND (POB) FINANCING

Pension Obligation Bond (POB) financing is used by some jurisdictions to pay down a portion of the pension system's UAAL. The POB debt is a general obligation of the jurisdiction, which means that it is secured by the general taxing authority of the jurisdiction. Unlike other general obligation borrowing, POBs do not need to be authorized by the voters.

In LAC, 17 jurisdictions have current POB debt. For these jurisdictions, the total POB debt including interest, as of the most recently reported data, was approximately \$1.17 billion²⁴, of which approximately 51% was held by the County. According to County financial documents and County and LACERA management, LAC's outstanding POB debt including interest will be completely paid by June 30, 2011. The remaining 49% of the total POB debt was held by 16 cities, with final maturity dates ranging from 2015 to 2036. Appendix C.7 shows the detailed amounts of the POB debt for the County and each of the 16 cities.

As shown in Phase II (Sections 3 and 5) of this Report, some cities within the County are contemplating borrowing funds using POBs, including some that currently have no POBs (Hermosa Beach) and others with significant POB debt (Pasadena). The wisdom of borrowing using POBs is highly dependent on the jurisdiction's needs, current market conditions and other factors that may impact cost effectiveness and political acceptance (See Appendix B).

²³ Updated 4/16/2009, U.S. Bankruptcy Court, Eastern District of California, Sacramento Division Case No. 08-26813, *Official Unsecured Creditors Committee of Retirees, Retiree Committee Information*

²⁴ Figure does not include interest payments for four jurisdictions: Baldwin Park, Burbank, La Verne and Long Beach.

The GFOA advises public agencies to proceed with caution when contemplating borrowing with POBs. In a GFOA Advisory on the topic:

The Government Finance Officers Association (GFOA) recommends that State and local governments use caution when issuing pension obligation bonds. If a government chooses to issue pension obligation bonds, they should ensure they are legally authorized to issue these bonds and that other legal or statutory requirements governing the pension fund are not violated. Furthermore, the issuance of the pension obligation bonds should not become a substitution for prudent funding of pension plans

Even if the analysis indicates that financial benefits appear to outweigh the risks, governments should evaluate other issues that may arise if the bonds are issued, such as the loss of flexibility in difficult economic times because of the need to make timely payments of principal and interest in order not to default on the bonds, potential misunderstanding by policy makers regarding the possibility that an unfunded liability may reappear in the future, and potential pressures for additional benefits by government employees if plans are fully funded and government's contribution as a percentage of payroll has declined relative to neighboring jurisdictions.

The GFOA further suggests that there are certain other considerations, including making sure that the structure of the bond does not defer any principal payments, understanding the implications on the jurisdictions' debt rating, and impacts on cash flow as debt obligations become due.²⁵ Other professional organizations, such as the Center for State & Local Government Excellence, issue similar cautions and makes the further observation that, "governments are more likely to issue POBs if they are in financial stress and already have substantial debt outstanding and the plan represents a substantial obligation to the government . . . In short, the data shows that the governments that could issue a POB generally have not, while those that should not issue a POB have done so."²⁶

METHODS AND PROCEDURES

This Report provides a review of current literature and commentary on public pensions conducted in conjunction with plan-specific data analysis and field work. Phase I, the results of which are summarized in this Section, involved the collection of pension plan information for each of the public sector jurisdictions within LAC. Typically, this involved obtaining 2 key documents: the Comprehensive Annual Financial Report (CAFR) for the jurisdiction; and, the financial statements, actuarial valuation or annual report for each of the plans. A set of matrices (included as Appendices C.1 to C.9) present the data that was available for the 277 identified plans, and summary Exhibits included in this section tabulate an overview of the basic attributes. Appendix D presents an alphabetical list of all jurisdictions with the C matrices on which their respective pension(s) attributes are cataloged.

²⁵ GFOA of the US & Canada, *Advisory: Evaluating the Use of Pension Obligation Bonds (1997 and 2005)*

²⁶ January 2010, Center for State & Local Government Excellence, *Issue Brief, Pension Obligation Bonds: Financial Crisis Exposes Risks*

FINDINGS

1. Many of the Little Hoover Commission recommendations related to modifications to pension benefit formulas, establishing hybrid defined benefit and defined contribution models, capping maximum salaries for determining final average salary or amounts of pensions that can be earned have merit.
2. Although several recommendations made by the Stanford Institute for Public Policy Research have merit, the central theme of reducing the assumed investment rate of return to “risk free” levels is overly conservative and could expose taxpayers to unnecessary additional costs.
3. Recommendations made by the Public Employee Post-Employment Benefits Commission are generally sound, particularly those related to establishing strong prefunding policies, requiring minimum employer contribution levels, and establishing “tax-advantaged” supplemental savings plans; e.g., defined contribution plans, in lieu of enhanced benefits.
4. Agreements for employers to pick up the employee contribution to retirement or OPEB plans are not considered vested retirement benefits and can be modified without violating the pension guarantees protected by contract law. For the jurisdictions in LA County whose pension plans are administered through CalPERS, employee contributions are set at 7% and 9% of salaries for Miscellaneous and Safety Members, respectively. For 84% of CalPERS member agencies in LAC, employers pick up some or all of this employee contribution. Eliminating this pick up by transfer of responsibility for employee contributions back to the employee could save jurisdictions between 7% and 9% of salaries. This change could be implemented within a 3-year time period.
5. Longer term savings could be achieved by modifying some pension benefit provisions for new employees. These include: changing the basic benefit formulas to levels that existed prior to 2001 and restricting or eliminating service credit enhancement provisions, such as sick leave and “air time” service credit.
6. Regular review of actuarial assumptions facilitates keeping pension plans focused on prevailing investment climates, actuarial trends and other factors that influence pension assets, liabilities and sustainability. For example, the pension plan administrators of both CalPERS and LACERA review actuarial assumptions annually with their respective governing boards and evaluate them more rigorously on at least a triennial basis.
7. The risk of “pension spiking” could be reduced substantially by converting to a 36-month or longer basis for calculating Final Average Salary for at least 85% of CalPERS member agencies in LAC.
8. Besides regular salary, some jurisdictions allow other categories of compensation to be included in the calculation of pensionable salaries, including sick leave buy-back and certain categories of special pay and bonuses. This results in higher pension benefits and costs.
9. Hybrid defined benefit and defined contribution pension plans would more equitably share the risk of investment losses between the employer and employee. A jurisdiction’s ability to modify pension provisions for retirees, existing employees or future employees varies by group and may be controlled by statute and case law.

10. A small percentage of LAC CalPERS member agencies (13.2%) have decided to adopt post retirement COLA provisions that have a potential to increase pension system costs at rates that exceed inflation, effectively increasing the present value of retiree compensation over time.
11. The actuarial assumed rate of return using both the 10-year and a 15-year smoothing methodologies cause swings in actual investment gains and losses to moderate actuarial investment performance, and thus the actuarial value of assets. These methodologies ensure that jurisdictions contribute an amount each year that is closer to the normal contribution rate.
12. The overwhelming majority of jurisdictions in LAC are not prefunding retiree health benefits or contributing the Annual Required Contribution determined by actuaries, deciding instead to fund these benefits on a pay-as-you-go basis. This practice is inconsistent with recommendations by actuaries and the Government Finance Officers Association. In addition, this is a costly policy that reduces the jurisdictions' capacity to discount contribution rates and, instead, passes full costs onto the taxpayer.
13. Opportunities may exist for some jurisdictions to cap benefit amounts, require copayments from retirees or implement other changes that would reduce costs for jurisdictions providing retiree health benefits to current retirees in the short term. However, each instance would need to be assessed by the jurisdictions' legal counsel to ensure that such modifications would not be a violation of contract law.
14. It is unlikely that retiree health benefits can be modified for current retirees and employees. However, jurisdictions could change the benefit offered to new hires by establishing benefit caps or defined contribution components, establishing improved cost sharing agreements with employees and modifying plan design to more effectively couple retiree health benefits with Medicare. Such change may involve negotiations with collective bargaining groups.
15. Pension Obligation Bonds are not used extensively by Los Angeles County jurisdictions. However, there are indications that some jurisdictions are considering POBs to fund UAAL that developed during the recent economic downturn. The GFOA and other experts recommend that jurisdictions proceed cautiously when considering POB borrowings by:
 - a. Thoroughly evaluating financial benefits and risks
 - b. Fully recognizing "other issues" that may arise if the bonds are issued such as:
 - i. The loss of flexibility in difficult economic times because of the need to make timely payments of principal and interest in order to not default on the bonds
 - ii. Potential misunderstanding by policy makers regarding the possibility that an unfunded liability may recur in the future
 - iii. Potential pressures for additional benefits by government employees if plans are fully funded and government's contribution as a percentage of payroll has declined relative to neighboring jurisdictions

PHASE II: SECTION 1

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

SUMMARY

The Los Angeles County Employees Retirement Association (LACERA) administers the pension system for the County of Los Angeles, acts as the trustee of contributions that have been made by the County and plan members, and invests assets in a manner that attempts to moderate risk and maximize returns. LACERA provides advice and counsel to County managers on the financial impact of proposed changes to the County's retirement system, and are partners with the County on benefit design, funding strategy and other aspects of pension system management.

Overall, LACERA is well run and effective at fulfilling its responsibilities, and the County has done a good job at moderating pension costs. However, LACERA could explore the benefits of changes to actuarial methodologies used to smooth investment returns and the County could, with input from LACERA, focus on discussions with employee bargaining groups to redesign benefits, including exploring benefit caps and establishing defined contribution alternatives; examining opportunities for cost reductions from modifying certain provisions that create opportunities for pension spiking; and consider policy changes to ensure the pre-funding of OPEB benefits by increasing annual contributions and narrowing the allowed uses of the County Contribution Credit Reserve.

PURPOSE

The Los Angeles County (LAC) and LACERA were chosen by the Civil Grand Jury (CGJ) for in-depth review based on its status as the largest plan in the region and relatively high dollar amount of liability. LACERA also has a better than average funded ratio and multiple plan tiers, as well as the County's substantial pension obligation bond debt and retiree health benefit unfunded liability.

BACKGROUND

LAC offers pension benefits to its employees through the LACERA. In addition, LACERA administers a retiree health benefits program for eligible retirees. As measured by total assets, LACERA is the fourth largest public pension plan in California behind CalPERS, the California State Teachers' Retirement System and the University of California Retirement Plan, and is the largest county retirement system in the United States. The combined LACERA funds hold assets of \$39 billion and serve more than 160,000 members.

Exhibit 12 provides a summary profile of the Plan membership, benefit structure, actuarial assumptions and financial status, as of the time of this Report. Because of the multiple tiers offered under the LACERA Plan a more complete profile of pension benefits provided to active LAC employees is included in Exhibit 21 (located at the end of this section).

GOVERNANCE

LACERA was established on January 1, 1938 in accordance with the enactment of the California state law known as the County Employees Retirement Law of 1937 (CERL), which set forth the policies and regulations governing County retirement systems. LACERA is governed by the California Constitution, the CERL, and the bylaws, procedures, and policies adopted by LACERA's Boards of Retirement and Investments. The LAC Board of Supervisors may also adopt resolutions as permitted by CERL, which may affect the benefits of LACERA members.

The Board of Retirement is responsible for the administration of the retirement system, the retiree health care program, and the review and processing of disability retirement applications. The Board of Investments is responsible for establishing LACERA's investment policy and objectives as well as exercising authority and control over the investment management of the fund. Each board is composed of 9 members who are selected by a combination of appointment by the Board of Supervisors and election by plan members.²⁷

MEMBERSHIP AND ACTUARIAL VALUATION

As of June, 30, 2010, the date of LACERA's most recent actuarial valuation, there were a total of 160,604 members in the system, 54,196 of whom were retired. LACERA's membership includes both "General" and "Safety" employees. Safety membership includes law enforcement (Sheriff uniformed staff and District Attorney investigators), firefighter, forester, and lifeguard classifications. General membership is applicable to all other occupational classifications. Of the 160,604 members, 136,469 are General members; and 24,135 are Safety members. Exhibit 12 and Exhibit 13 show the distribution of the system's membership by the broad categories of Active, Retired and Deferred.²⁸

²⁷ The County Treasurer and Tax Collector are required by law to serve on both boards as ex-officio members. The Retirement Board also includes two alternates, one of which is elected by the active Safety membership and the other by the Retired membership.

²⁸ Deferred are vested employees who have left employment with the County but have not yet retired.

Exhibit 12. LACERA Profile²⁹

MEMBERSHIP		PLAN BENEFITS AND OPTIONS	
		(See Detailed Comparison of Plan Provisions Within)	
Active Members	94,410	Normal Retirement Age	Varies by Plan
Retired Members	54,196	Benefit Formula	(Sal x Yrs)/ Plan Fraction
Disabled/Retired Members	8,990	Lump-Sum Death Benefit	Varies by Plan
Beneficiaries	7,808	Survivor Benefit	Varies by Plan
Inactive Members	11,998	Retiree Health	Defined Benefit
Total Annuitants [█]	160,604	Deferred Compensation	No
ACTUARIAL		FINANCIAL	
<i>Investment/Discount Rate</i>		<i>Pension Fund</i>	
Assumed Actuarial Rate	7.75%	Actuarial Accrued Liability	\$ 46,646,838,000
One Year Actual Return (FY 2010)	11.60%	Unfunded Actuarial Accrued Liability	\$ 7,807,446,000
		Funded Status	83.3%
<i>Methods</i>		<i>Retiree Health Fund</i>	
Investment Smoothing	5 Years	Actuarial Accrued Liability	\$ 24,031,000
Investment Corridor	None	Unfunded Actuarial Accrued Liability	\$ 24,031,000
Amortization of Unfunded Liability	30	Funded Status	0.0%
<i>Contributions</i>		<i>Pension Obligation Bonds</i>	
Employer Contribution	12.9%	Principal Balance	\$ 345,913,000
Employee Contribution Pick-Up	No	Projected Interest Expense	\$ 253,644,000
Total Contribution	12.9%	Total Indebtedness	\$ 599,557,000

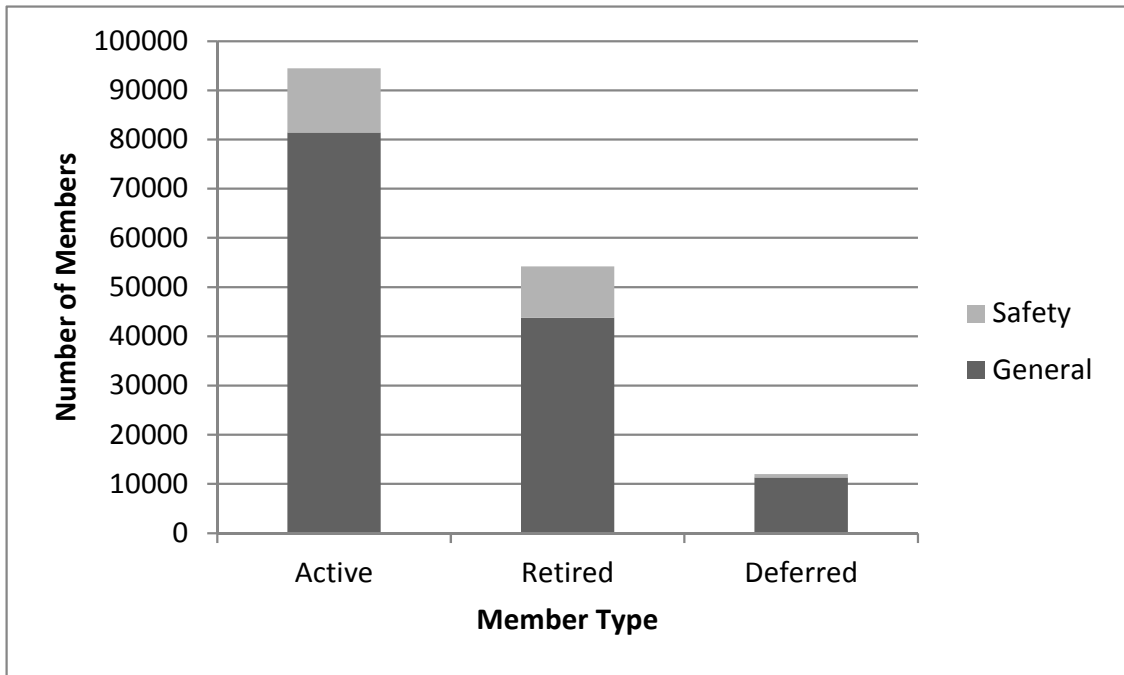
SOURCE: LAC COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE YEAR ENDED JUNE 30, 2010 AND THE LAC EMPLOYEES RETIREMENT ASSOCIATION ANNUAL REPORT FOR THE YEAR ENDED JUNE 30, 2010.

1. Declining Yet Above Average Funded Ratio

As of June 30, 2010, the date of LACERA's most recent actuarial valuation, the plan's actuarial accrued liability (AAL) was approximately \$46.7 billion; and its actuarial value of assets (AVA) was approximately \$38.8 billion, resulting in an unfunded actuarial accrued liability (UAAL) of approximately \$7.8 billion and a funded status of 83.3%. As shown in Exhibit 14, over the past 3 fiscal years, both the total AAL and the UAAL have grown, resulting in a pattern of declining funded ratio:

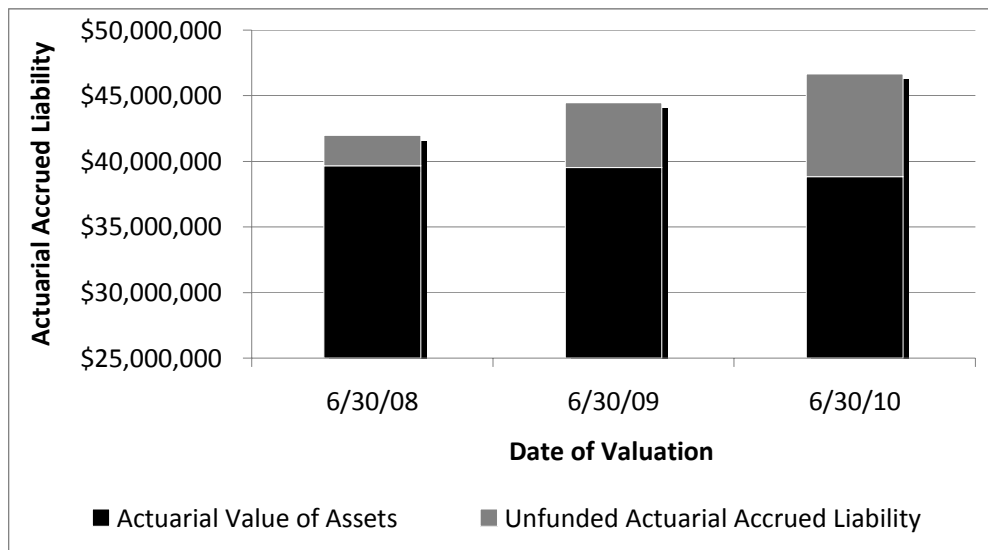
²⁹ In addition to serving LAC, LACERA provides retirement benefit services to the LAC Superior Court and to four outside agencies: Little Lake Cemetery District, Local Agency Formation Commission, LAC Office of Education, and South Coast Air Quality Management District.

Exhibit 13. LACERA Membership by Type as of June 30, 2010



Source: LAC Employees Retirement Association Annual Report for the Year Ended June 30, 2010.

Exhibit 14. LACERA Actuarial Accrued Liability 3-Year Trend



Source: LAC Employees Retirement Association Annual Report for the Year Ended June 30, 2010.

The pattern of declining funded ratio is driven in part by the market losses of recent years and, as discussed in the actuarial assumptions section, LACERA's choice to smooth, or account for, its losses over a relatively short 5-year period. In 2009, the Board of Investments adopted a new funding policy which, among other things, changed

the investment smoothing period from 3 to 5 years effective June 30, 2009. As discussed in Section 1, smoothing policies have a significant effect on funded status and the annual required contribution rate. In this case, LACERA's move from a 3-year to a 5-year smoothing period had the effect of moderating the change in asset losses in the year of the loss and amortizing, or spreading, the effect of that loss over a longer period of time. Additionally, the corresponding increase in the required employer contribution rate established to compensate for the unfunded liability has now been spread over a longer period of time.

Even though the loss of assets and increase in required contribution rate "fell" in a single year under the 5-year policy, it is less than under the previous 3-year policy LACERA is still recognizing the losses across a much shorter period of time than some other public pension plans, principally CalPERS. For the purposes of comparing funded ratios, contribution rates and other factors, it is important to understand LACERA's situation in the context of the assumptions made by other pension systems. CalPERS, for example, uses a 15-year smoothing period, which has the effect of reducing the appearance of loss when compared against systems like LACERA which use a shorter smoothing period. Conversely, as the recovery occurs, LACERA's funded status will improve at a much faster rate than CalPERS (1/5 recognition of actual asset gains for LACERA vs. 1/15 recognition of asset gains by CalPERS).

However, given LACERA's shorter smoothing period, its funded ratio is higher than the average of the CalPERS plans in LAC. As of June 30, 2009, the date of the most recent CalPERS valuation, the average funded ratio for all non-risk pooled CalPERS plans was 85.7%. LACERA's funded ratio as of that date was 88.9%, even though the shorter smoothing period tends to exaggerate losses and gains.

2. Assumed Rate of Return is on Par with Most Plans

As discussed in Section 1 of this Report, it is important to evaluate a plan's assumed rate of return on its investments when considering its funded status. In particular, a plan's assumed rate of return is critical in interpreting its funded status since even minor changes in the assumed rate can have a significant effect on the actuarial value of assets and, therefore, the funded status. As of the writing of this report, LACERA's assumed rate of return on investments was 7.75%, net of all expenses, which is consistent with the rate assumed by CalPERS and many other large plans.

According to LACERA staff, the plan's actuarial assumptions, including its assumed rate of return on investments, are reviewed regularly by the Board of Investments. Every 3 years, the actuarial valuation includes a more intensive review of the plan's assumptions, using forecasting prepared by external investment auditors and assessed by the Plan's actuaries. The most recent "triennial valuation year" was 2010. According to LACERA management, the current 7.75% assumed rate of return was analyzed and discussed extensively; and the Board of Investments decided to leave the assumption unchanged.

PRUDENT "TIERING" OF PLAN BENEFITS

LACERA's stronger than average financial condition reflects, in part, prudent efforts by the County to manage pension costs through benefit design. Since 1977, the LAC has consistently demonstrated efforts toward controlling pension costs. In addition to financial management

approaches described in this Report, strategies have aimed to reduce benefit costs and to increase the proportion of costs shared by employees. By establishing benefit tiers in 1977, the County began to exhibit a collective bargaining culture that many other public jurisdictions have only recently begun to embrace.

Retirement benefits offered by LACERA are “tiered” and based on the date of LACERA membership. In total, since its inception, the County has designed 7 different plans for General and Safety employees: Plans A, B, C, D, and E for General members and Plans A and B for Safety members. Both Plans A/General and A/Safety are now closed to new members, as are Plans B/General and C/General. New General employees have the option of joining either Tier D or Tier E which are distinguished by the contribution requirements for employees. New Safety members are eligible only for B/Safety. The status of each of the plans, including the time period when each plan was open to new members, is shown in Exhibit 15:

Exhibit 15. Status of LACERA Plans

General Plans			Safety Plans		
	Status of Plan	Years Open		Status of Plan	Years Open
A	Closed	1938 – 1977	A	Closed	1938 – 1977
B	Closed	1977	B	Open	1977 – present
C	Closed	1978			
D	Open	1979 – present			
E	Open	1982 – present			

Source: Interviews with LACERA management.

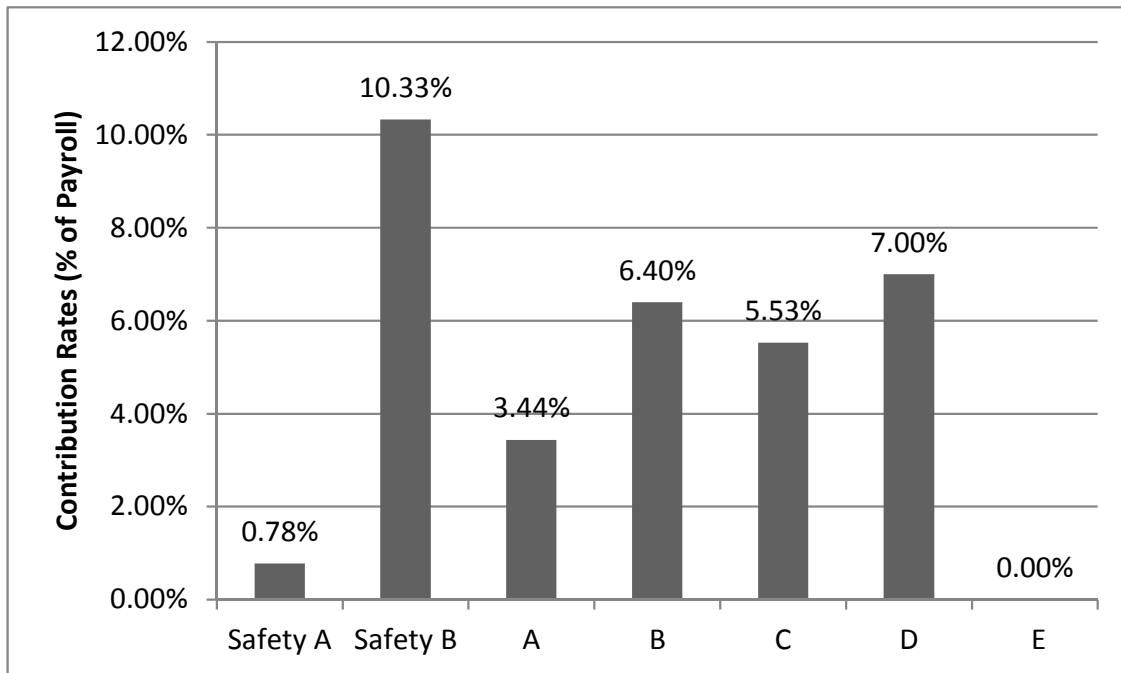
The benefits offered by each new plan have generally been less generous than the benefits offered by previous plans. As described by executive management of both LACERA and County Employee Relations, the movement toward less generous retirement packages has reflected a deliberate effort toward pension reform and controlling pension costs. The provisions of the plans currently available to new employees, Plans D and E for General employees and Plan B for Safety employees, are summarized in Exhibit 21 located at the end of this section.

1. Employee Contribution Rates

While many jurisdictions have agreed to pay the employee’s retirement contribution as part of the collective bargaining process, the LAC continues to require employees to make their own contribution from payroll deductions. Plan E is the only “non-contributory” plan, meaning that the employee does not make contributions to the plan during his or her term of employment. However, upon retirement, Plan E members are entitled to a lower defined benefit, not to exceed 80% of Final Average Salary (FAS). In plans other than Plan E, benefits are capped at 100% of FAS.

The member contribution rates are set at each “triennial valuation.” Since the 2010 actuarial valuation was a triennial valuation, new member contribution rates were determined by the actuary and adopted by the Board. As of June 30, 2010, the average employee contribution rate for all members was 5.75% of payroll. Exhibit 16 shows the rate breakdown by plan.

Exhibit 16. Employee Contribution Rates by Plan as of June 30, 2010



Source: LACERA plan summary documents.

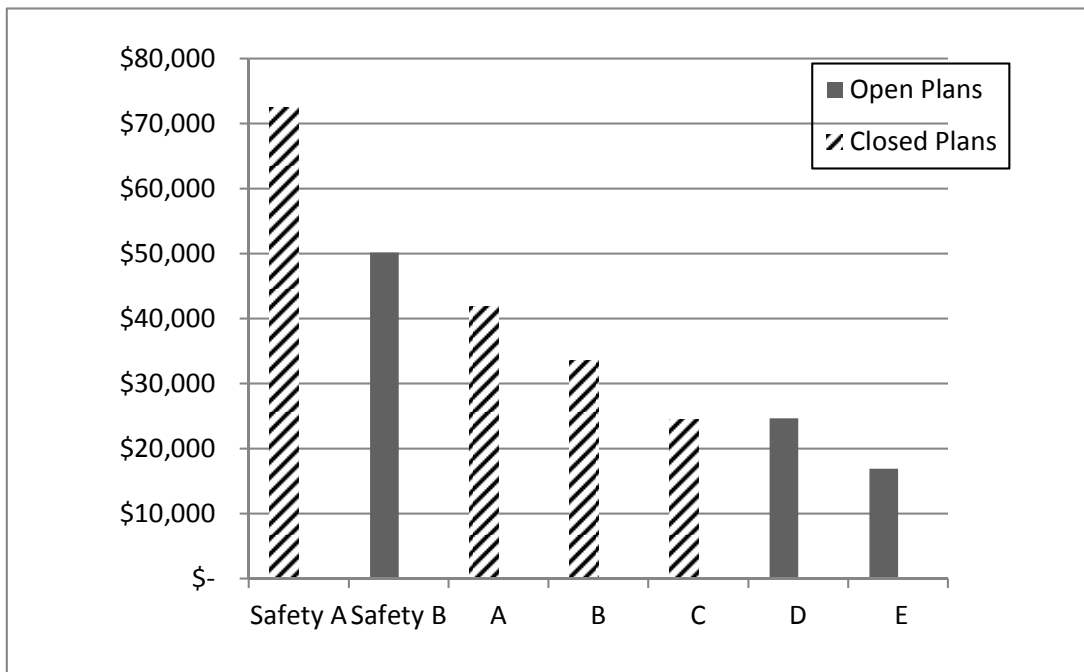
For the General members who choose the contributory plan (Plan D), the contribution rate (7%) is equivalent to that for most Miscellaneous CalPERS plan members. However, as previously noted, most LAC employers who are members of CalPERS contribute the 7% on behalf of their employees in addition to their own employer cost. In that regard, LAC stands out as adhering to a philosophy of shared responsibility to fund pension benefits with the employee.

The County's total required contribution rate is set by the Board of Investments each year based on the recommendations of an actuarial valuation. The total contribution rate is comprised of 2 sub-rates: the normal contribution rate and the rate representing the payment of the amortized unfunded actuarial accrued liability (UAAL). As of June 30, 2010, the normal contribution rate was determined to be 9.84% of payroll, and the payment toward the UAAL was determined to be 6.47% of payroll; yielding a total contribution rate of 16.31%. This represented an increase from the previous fiscal year when the County's rate was determined to be 14.22% of payroll. According to the actuarial report, the 2.09 percentage point increase was primarily due to the recognition of deferred investment losses.

2. Pattern of Decreasing Average Annual Retirement Income by Plan

As a result of the County's success at establishing progressively less costly benefit tiers, the average annual retirement income varies among plans. Exhibit 17 shows the average annual retirement income of all 54,196 LACERA retirees as of June 30, 2010. As Exhibit 17 shows, members of the earlier plans, which are now closed, earn a significantly higher retirement income than their counterparts in the more recent plans. In particular, Plan A Safety retirees earned an average of \$72,466 in FY 2010, which was 127% higher than the combined average of the other plans at \$31,902.

Exhibit 17. Average Annual Retirement Income by Plan for Retired LACERA Members

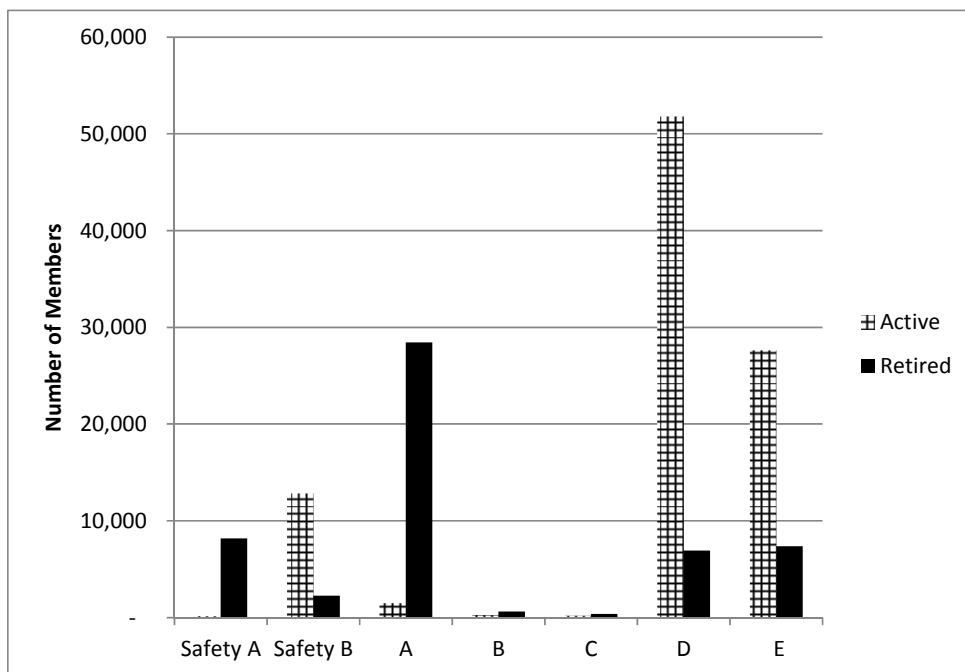


Source: LACERA member database as of June 2010.

While the average retirement incomes for Safety members are higher than the average incomes of members of the General plans, the number of Safety retirees is much smaller than the number of General retirees as shown in Exhibit 18.

Exhibit 18 also shows the distribution of active and retired members by plan, highlighting the fact that the high-cost Plan A Safety members constitute a small portion of active members. The remaining 159 active Plan A Safety members, whose average age is 56, constituted 0.17% of the total active membership.

Exhibit 18. Distribution of All LACERA Members by Plan



Source: LACERA member database as of June 2010.

3. Cost of Living Adjustment and Supplemental Targeted Adjustment for Retirees

Cost of living adjustments (COLA) are applied to all retirement allowances (service and disability), optional death allowances, and annual death allowances effective each April 1st, based on changes in the Consumer Price Index (CPI). COLAs are capped at either 2% or 3%, even if the CPI exceeds these caps. The various COLA benefits are broken out by plan in Exhibit 19:

Exhibit 19. Cost of Living Adjustments by Plan

Plan	COLA Benefit
A	Maximum 3% increase; Eligible for COLA Accumulation
B, C, D, E	Maximum 2% increase ³⁰ ; Eligible for COLA Accumulation

Source: LACERA plan summary documents.

As shown, plans A through E offer a “COLA Accumulation” provision which allows members to maintain an accumulation of credits for years in which the CPI either

³⁰ The 2% for Plan E is pro-rated based on service earned after June 4, 2002. “Elective COLA” increases for service earned prior to June 4, 2002 may be purchased by the member.

exceeds 2% or 3% (depending on plan). Those credits may be used in future years to provide COLA increases when the CPI falls below 2% or 3%.

Additionally, the Supplemental Targeted Adjustment for Retirees (STAR) program allows for members (except for Plan E members) who have an accumulation of COLA credits that exceed 20%age point credits to receive a supplemental adjustment to restore retirement allowances to 80% of the purchasing power held by retirees at the time of retirement. Any such adjustments are subject to the availability of STAR's reserve funds. As of June 30, 2010, the reserve amounted to \$614 million. STAR reserve funds may only be spent on STAR program benefits.

In its 2009 funding policy, the Board of Investments chose to include the STAR reserve in the Valuation of Assets, as permitted by the plan's funding policy, even though there is no corresponding liability for future STAR benefits. This accounting method understates the plan's potential liability and, therefore, overstates the strength of its financial position. Since 100% of the STAR reserve must be spent on STAR program liability, except in extreme circumstances, a \$614 million STAR liability should be booked against the full \$614 million STAR asset reserve. According to the actuarial valuation, if the reserve were to be excluded from the Valuation of Assets, or have a liability booked against the full amount of the asset reserve, the unfunded actuarial accrued liability would increase, the 2010 required employer contribution rate would increase by 0.52 percentage points to 16.83%, and the Funded Ratio would decrease by 1.4 percentage points to 81.9%.

4. Computation of Final Average Salary

Because current employees are vested in the pension benefits in place during their period of employment, there is no opportunity to change key benefit methodological provisions for existing personnel. However, collective bargaining agreements could be changed for new employees, which was the approach that the County took in the past when it created the multiple plans for General and Safety employees over the years.

One provision that can affect the amount of pension that employees receive is the basis for computing the FAS upon which the pension will be based. When it is based on a shorter period of 12 months, employees can receive a lifetime of pension benefits that are based on a very short period of time during their careers. To prevent "pension spiking" from occurring, some jurisdictions establish a 36-month timeframe for calculating the FAS, which reduces the opportunity for spiking to occur.

Of the 3 open plans in the County, Safety Plan B and General Plan D base the FAS on the final 12 months of employment. General Plan E, which is the non-contributory plan that caps retirements at 80% of final salary, is based on a 36 month FAS period. A recent memo from the LAC Chief Executive Officer to the Board of Supervisors estimates that implementing a 36 month period for these 2 plans could potentially save the County over \$100 million annually as the newly hired employees retire, and eventually reduce the County's pension obligation by \$2.3 billion³¹. Because this is a long-term strategy, the County would not realize significant savings for many years. However, such a change is consistent with the County's approach to managing its pension system costs during the past 2 decades.

31 "Report on Options to Reform the County Pension System," from William T. Fujioka, Chief Executive Officer, to the Members of the Board of Supervisors, September 17, 2010.

In addition, some other jurisdictions in LAC also cap pensions. For instance, some employee groups in the City of Los Angeles have pensionable salaries capped at a percentage of an employee's FAS, as does the County with employees who elect General Plan E. An alternative would be to cap the amount of pension that a retiree can earn at or below the level set by the Internal Revenue Service (IRS), which limits pensions at \$195,000 for qualified plans, which are the types of plan provided to most County employees.³²

However, the County has established a second plan, the Los Angeles County Replacement Benefit (RB) Plan, enabling retirees to earn benefits in excess of the \$195,000 limit set by the IRS. In these instances, LACERA will pay the amount up to the IRS limit and additional pension amounts will be paid from the Replacement Benefit Plan. According to LACERA, "Retirees impacted by Section 415(b) will receive two separate checks (or direct deposits) each month; one from LACERA and one from the RB Plan. . . . The total gross amount of the retiree's benefit remains the same." CalPERS member agencies have a similar program.

As it evaluates mechanisms for further reducing pension costs, such as modifying benefit formulas, the County may also wish to evaluate the time period for computing FAS, the effect of the RB program for highly compensated employees, and placing caps on pension amounts that are less than or correspond with IRS limits for qualified plans, such as most plans provided by LACERA.

MILESTONES IN EMPLOYEE RELATIONS

The retirement benefits available to LACERA members are driven in large part by the results of negotiations between the employee labor organizations and the County. In addition to establishing plan tiers, beginning in the late 1970's, a number of other key milestones have shaped the design of benefits and the County's declining liability trajectory.

1. Landscape of Employee Organizations

All but 3 of the County's 60 bargaining units receive fringe benefits from 1 of 2 Fringe Benefits Agreements. The 2 agreements, one for the Service Employees International Union Local 721 and 1 for the Coalition of County Unions, are essentially identical. As of the writing of this Report, the other 3 bargaining units had undetermined benefit packages³³. Non-represented employees, who constitute approximately 10% of the County workforce, receive a separate package of fringe benefits. This group includes executive management.

Despite the existence of multiple fringe benefit packages, all County employees are subject to the same restrictions in retirement plan participation as described earlier. The differences in retirement related provisions between employee groups manifest in 1 broad area, pensionable earnings.

³² Internal Revenue Code Section 415(b); applies to employees who entered employment with the County after "January 1, 1990. These limits are established for "qualified" plans, which receive favorable tax treatment.

³³ Bargaining Units with undetermined fringe benefits packages were Probation Directors, Supervising Child Support Officers, and District Attorneys.

2. Changes in Pensionable Earnings

In the early 1990s, County employees had several categories of compensation counted in the calculation of their FAS. Included were contributions made by the County to the employees' "Cafeteria Benefit Plan," as well as County contributions to the LACERA retirement fund. In 1996, State law modified the amount of Cafeteria Plan benefits that could be counted toward pensionable salaries, based on percentages of the total County contribution.

In 1997, case law defined in the "Ventura Case"³⁴ redefined pensionable income to include everything that is paid to an employee in cash. For CERL systems, like LACERA, other forms of compensation such as uniform allowance, vehicle allowance, skill-based differentials and other miscellaneous categories of pay were also included. However, sick leave and accrued vacation buy-back pay is pensionable in LAC, subject to Administrative Policy. These administrative policies could be reversed, lowering the amount that employees can apply toward service credit or pensionable salaries when the FAS is computed.

As pension investment income rose at the end of the decade, employee bargaining groups in the County began to bargain for enhanced pension benefit formulas. However, this was resisted strongly by the County. In exchange, the County offered longevity and wellness bonuses to Safety and other employee groups, which allowed pensionable income to be raised by as much as 11% during the final years of employment (for example, 4% at 20 years, 4% at 25 years and 3% at 30 years for police Safety, compounded). As the County explores alternatives for reducing its overall pension cost, these 2 special categories of pay could be reduced or eliminated through the collective bargaining process as a mechanism for reducing pensionable salaries in the final years of employment.

In addition, LACERA, like CalPERS, allows employees to purchase at full cost "Additional Retirement Credit," or ARC (also known as "Air Time") for up to 5 years of service credit. Under this optional benefit, employees are permitted to purchase 1 to 5 years of service credit at cost, as determined using actuarial methods. Although LACERA states that this is an expensive option for most employees, some employees take advantage of the opportunity to raise their annual pension amount when short of major years of service thresholds.

A review of what is and is not defined as pensionable income is worth including in the evaluation when the County next decides to modify pension benefits. However, any changes to defining certain categories of compensation as pensionable versus non-pensionable income must be considered within the constraints of existing case law.

LONG TERM FUNDING STRATEGIES & INVESTMENTS

1. Pension Obligation Bonds and County Contribution Credit Reserve

During FY 1994-1995, the County issued approximately \$2 billion in pension obligation bonds (POB) as a result of the Retirement Association Funding Agreement, which established a mechanism to fund the UAAL. As of June 30, 2010, the total outstanding

³⁴ The final decision in the Ventura Case was issued in 2002.

principal on the bonds was \$345,913,000. By June 30, 2011, the County reports that it will pay the last principal and interest payment on this POB debt.

The 1994-1995 Agreement also allowed surplus earnings on LACERA's assets for the period July 1, 1994 through June 30, 1998 to be split between a County controlled reserve account (75%) and the STAR program (25%), which provides the supplemental cost of living adjustment. Those excess earnings were used to create the County Contribution Credit Reserve, which may be used by the County to meet its required contribution requirement without adding new cash deposits to the fund. In each year since the establishment of the reserve, except 2010, a significant yet declining portion of the County's contributions have been met using these reserve funds. No funds were spent from the reserve in FY 2010. The balance of the County Contribution Credit Reserve as of June 30, 2010 was \$470.7 million.

Rather than keeping it in reserve, some or all of the \$470.7 million County Contribution Credit Reserve could be put toward funding the retiree health trust. This would be a step toward accumulating reserves for OPEB benefits which is currently 0% funded.

2. Effective Investment Management

LACERA's Board of Investments (BOI) and its investments division have been recognized for strong financial stewardship. The independent fiduciary services firm that conducted LACERA's most recent fiduciary review wrote, in summary:

We were favorably impressed by the dedication and insight of the BOI, caliber of staff, the level of sophistication in operations, and the obvious focus on maintaining excellence in the areas covered by this fiduciary review. We did not discover any material shortcomings, and the LACERA BOI and staff should be proud of their investment program's many accomplishments.

In comparison to other large public pension funds and to the market as a whole, LACERA's fund assets performed relatively well during the financial crisis of 2008-2009. LACERA's return on investment for the year ending June 30, 2009 was negative 18.2%, while CalPERS had a negative 24.8% return for the same period.

UNFUNDED RETIREE HEALTH BENEFIT

LACERA also administers a retiree health benefit program for eligible retirees. also referred to as OPEB. Every 2 years, the LACERA Board commissions an actuarial valuation of the plan to determine its liability. As of July 1, 2010, the most recent valuation, the actuarial accrued liability for the retiree health program was \$24.03 billion and was completely unfunded. This represents an increase of 9.9% from the previous valuation in 2008, which was \$21.86 billion in unfunded liability.

The current retiree health benefit is defined by the "1982 Agreement" between LACERA and the County, wherein LACERA would administer the program and the County would fund the program. The current benefit provides retirees between 40% and 100% of the cost of retiree health insurance, depending on years of service. At 10 years of service, the County covers 40% of the cost of the benefit for the employee; and that rate increases by 4% per year of service up to 100% coverage at 25 years of service.

The County's OPEB liability will continue to compound at increasingly higher rates due to pressure from high rate of health care cost inflation, coupled with increasing retirement rates.

As described in Phase I of this Report, many jurisdictions operate OPEB programs on a “pay-as-you-go” basis. However, this unfunded liability is significant and growing in the LAC; and the County should develop and adhere to a plan for funding the benefit.

RESULTS OF SAMPLING

In order to analyze certain attributes of recent retirees and understand general trends in the LACERA population, the CGJ drew a sample comprised of all employees who entered retirement during the 3 most recent fiscal years (July 1, 2007 through June 30, 2010). First, statistical analysis was conducted on the entire 3-year population, which totaled 6,979 retirees. The results of this analysis are summarized in Exhibit 20. Plan E members comprised the largest group of retirees during the 3-year period at 31.7% of all retirees; Plan D members comprised 28.7% of the population, and Plan A members comprised 22.7%.

When considering all plan retirements during this 3-year period, the average number of years of service credit was 25.2 years; and the average annual retirement income was \$45,948. As Exhibit 20 shows, there is a large variance in average annual retirement income between the plans, ranging from a low (Plan E) of \$23,670 to a high (Plan A/Safety) of \$117,047.

This sampling helped CGJ identify and support the findings delineated in this Section.

Exhibit 20. Summary of All Employees Entering LACERA Retirement During 3 Most Recent Fiscal Years (July 1, 2007 through June 30, 2010)

Plan	Number of Retirements	Average Total Service Credit (yrs)	Average Benefit Percentage	Average Annual Benefit
A/G	1585	32.5	79.2%	\$68,920
A/S	388	31.6	84.3%	\$117,047
B/G	120	28.9	66.6%	\$59,620
B/S	618	24.3	62.1%	\$74,040
C/G	51	25.8	58.3%	\$43,891
D/G	2006	17.6	38.2%	\$29,182
E/G	2211	25.7	38.6%	\$23,670
Grand Total	6979	25.2	52.9%	\$45,948

Source: LACERA retirement records.

METHODS AND PROCEDURES

Using information collected for each of the 277 pension plans in LAC, the CGJ selected those that exhibited a range of characteristics that suggested an in-depth research and analysis would be appropriate. Once the plans were selected, meetings were held with officials, various documents were obtained and analyzed; and Findings and Recommendations were developed. In addition to various documents, LACERA was able to provide the CGJ a sample of nearly 7,000 LACERA retirements for analyses and benefit calculation verification. These analyses identified and provided support for several of the Findings discussed in this Section.

FINDINGS

LAC management, with advice and counsel from LACERA, has taken relatively prudent measures in the last 30 years to control and fund pension costs for LAC.

LACERA manages a County Contribution Credit Reserve that has been used in past years to offset a portion of the Annual Required Contribution for pension benefits. As of June 30, 2010, this reserve had a balance of \$470.7 million.

The legal requirement to count certain categories of compensation as fully pensionable, such as uniform allowances, vehicle allowances, and skill-based pay differentials, has the effect of inflating salaries. However, vacation and sick leave “buy-back” categories of pay have also been designated as pensionable salaries by administrative policy of the County.

The use of a 12-month period for determining final average salary and, ultimately, the amount of the retirement benefit in all plans except Plan E, may provide an opportunity for “pension spiking.” Plan E and other plans administered by CalPERS set the FAS period at 36 months, which reduces the opportunity for pension spiking.

Certain provisions of the LACERA plan and County agreements, such as agreements that permit certain classifications of employees to earn “longevity pay,” may increase overall pension costs. However, these options were often agreed to by the County as alternatives to salary increases or pension formula enhancements that were being negotiated with employee labor unions at the time.

The lack of caps on retirement income and the use of the LAC Replacement Benefit Plan allows high-income, long-term employees to earn pensions that are higher than those allowed by Internal Revenue Code 415(b), which is \$195,000 in 2011.

The County’s unfunded retiree health liability of \$24.03 billion should be a significant concern for the County, especially when considering the rising costs of health care.

The LACERA Board of Investments’ choice to book the \$614 million STAR reserve as a Valuation Asset without booking a corresponding liability overstates the financial strength of the plan.

RECOMMENDATIONS

1. Eliminate Administrative policies that permit employees to spike their final average salary in the final years of employment. When the County next decides to modify pension benefits, include in the modification scope an examination of the efficacy of:
 - a. Changing the period used to determine FAS from 12 months to 36 months for most plans
 - b. Eliminating all pensionable pay categories that are not mandatory, such as vacation and sick leave buy-back pay
2. Through the collective bargaining process, the County could also reduce or eliminate automatic pay increases given to employees as they approach retirement, such as longevity and wellness pay, which contribute to pension spiking.
3. The County to consider changes to pension plans for new employees, capping pensionable salaries or placing a cap on the maximum value of pension allowed, including changes to the Replacement Benefit Plan for highly compensated employees.

4. The County to consider negotiating changes in the Retiree Health Benefit Plan with labor organizations, to reduce the County's net cost for the retiree health benefit, by either modifying benefit levels or increasing the member's share in the cost of retiree health insurance.
5. The County to consider applying the full amount of the \$470.7 million County Contribution Credit Reserve to the retiree health trust as a first step toward accumulating reserves for OPEB benefits.
6. The County begin contributing the full annual required contribution for retiree health benefits in an attempt to build reserves and apply investment income as discounts toward the cost of benefits.
7. LACERA Board of Retirement to wholly offset the County STAR asset reserve, valued at \$614 million in 2010, by a corresponding liability since funds may only be expended for STAR benefits. .

REQUEST FOR RESPONSE

California Penal Code Sections³⁵ §933(c) and §933.05 requires a written response to all Recommendations contained in this Report which shall be made no later than ninety (90) days after the CGJ publishes its Report (filed with the Clerk of the Court).

Respond to:

Presiding Judge
LAC Superior Court
Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street,
Eleventh Floor, Room 11-506
Los Angeles, CA 90012

All responses for the 2010 - 2011 CGJ Report's Recommendations must be submitted to the above address on or before the end of business **September 30, 2011**.

Responses are required from:

<u>Recommendation Number(s)</u>	<u>Responding Agency</u>
1a	LAC (Board of Supervisors)
1b	LAC (Board of Supervisors)
2	LAC (Board of Supervisors)
3	LAC (Board of Supervisors)
4	LAC (Board of Supervisors)
5	LAC (Board of Supervisors)
6	LAC (Board of Supervisors)
7	LAC (LACERA Board of Retirement)

³⁵ Reference California Penal Code Sections §933(c) and §933.05 at the beginning of this 2010-2011 CGJ Report

Exhibit 21

Provisions of Open LACERA Plans (Unmodified)

Provision	Plan D (General)	Plan E (General)	Plan B (Safety)
Member Contributes to Plan	Yes	No	Yes
Vested³⁶	5 Yrs	10 Yrs	5 Yrs
Eligible Age to Receive Retirement Allowance	<ul style="list-style-type: none"> · Age 50 with 10 yrs svc · 30 yrs svc, any age · Age 70, any svc 	<ul style="list-style-type: none"> · Age 55 if vested · Age 70, any svc 	<ul style="list-style-type: none"> · Age 50 with 10 yrs svc · 20 yrs svc, any age
Maximum percentage of Final Compensation Member Can Receive as a Retirement Allowance	100%	80%	100%
Disability Retirement	Yes	No	Yes
Pre-Retirement Death Benefit	Yes	No	Yes
Pre-Retirement Survivor Benefits	Yes	No	Yes
Retiree Health Insurance Subsidy	Yes	Yes	Yes
Post-Retirement Survivor Benefits	Yes	Yes	Yes
COLA Increases after Retirement	Yes	Yes	Yes
Eligible Former Members May Be Reinstated to Prior Contributory Plan	Yes	No	Yes
May Purchase Service Credit for Eligible Government Service Prior to LACERA	Yes	No	Yes

³⁶ Years of County Service Credit.

PHASE II: SECTION 2

CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER EMPLOYEE RETIREMENT PLAN

SUMMARY

The City of Los Angeles Department of Water and Power Employee Retirement Plan (WPERP) administers the pension plans established for Department of Water and Power (DWP) employees. The WPERP invests assets for the DWP Retiree Health Benefits plans. The WPERP acts as the trustee of assets held for all elements of the pension plans.

DWP contributions are made in amounts based on the recommendations of actuaries for the Retirement and Retiree Health Benefits plans. While the Retirement Fund exceeded the 80% funded ratio threshold cited by experts for a well funded plan in 2010, other trust funds are at lower funded ratios. While DWP has been accelerating payments to the Retirement Health Benefit Fund in recent years to build asset reserves by contributing in excess of 250% of Annual Required Contributions (ARCs) in each of the past 3 years, the WPERP reports a 2010 Funded Ratio of only 60.5% for the Retiree Health Benefits fund.

In FY 2009-2010, the most recent year for which actual data is available, the combined Department contributions paid to the Retirement Fund, Retirement Health Benefits Fund, the Death Benefits Insurance Fund and the Disability Benefits Insurance Fund was \$360,447,428 on payroll of \$767,912,436 (a contribution rate of 46.9%). Yet, DWP employee relations personnel state that the Department is not currently contemplating any changes to employee bargaining agreements in an effort to reduce pension benefit costs. This contrasts sharply with efforts being made by the City to reduce retirement costs for non-DWP employees who receive benefits through Los Angeles City Retirement System (LACERS).

The WPERP also has a reciprocal agreement with the LACERS, which provides benefit portability for employees who transfer between City and DWP jobs. However, actuaries have determined that approximately \$183 million in WPERP unfunded liability is attributable to weaknesses in this agreement stemming from the absence of a provision requiring the plans to transfer assets representing employer contributions between LACERS and WPERP when employees move between plans. The actuary modeled this \$183 million underfunding by amortizing it over 15 years and determined that the WPERP contribution rate would need to increase by a factor of 1.4% of current payroll or approximately \$11.7 million per year. This should be a City cost and not a responsibility of DWP ratepayers.

To ensure DWP ratepayers are not subsidizing City services, the Los Angeles City Council and DWP Board of Commissioners should work diligently to resolve the funding discrepancy that has resulted from the reciprocity agreement. In addition, DWP should work collaboratively with employee bargaining groups to evaluate alternatives for lowering the cost of benefits provided to DWP personnel.

PURPOSE

The City of Los Angeles Department of Water and Power Employee Retirement Plan (WPERP) was chosen by the Civil Grand Jury (CGJ) for in-depth review because as a public utility

business-type enterprise, employer borne pension costs are passed through to the ratepayer. With a solid funded ratio and a recent history of accelerated payment of OPEB liabilities, the CGJ's initial review suggested that the plan was not undergoing the same financial difficulties as other LAC Public Pension Plans.

BACKGROUND

The DWP offers pension benefits to its employees through its WPERP. In addition, DWP provides Retiree Health Benefits to its employees through a separate plan that is jointly administered by the Department and the WPERP. The City has not issued any Pension Obligation Bonds (POBs) to prefund any portion of DWP's pension liabilities, but has been aggressively accelerating contributions to the Retiree Health Benefits Fund to improve that plan's funded ratio in recent years. Exhibit 22 shows key attributes of the retirement plan.

GOVERNANCE

The WPERP is established in the Los Angeles City Charter³⁷ which also establishes the Board of Administrators and defines its powers, duties and authorities related to Department of Water and Power (DWP) retirement fund administration. Article XI, Part 2, §1180 through §1190 of the Charter define the benefit parameters and administrative requirements of the WPERP, including the Board's authority to modify the plan and the assignment to DWP of its responsibility to pay retirement benefits "as a general obligation of the Department." The WPERP Board of Administrators is exempt from §245 of the City Charter, which allows the City Council to veto decisions of other boards established in the City Charter.

It is important to note that the Retiree Health Benefits Fund is not overseen by the WPERP Board of Administrators. According to the combined financial statements for all retiree benefits, the "Board of Water and Power Commissioners approved the creation of the Retiree Health Benefits Fund (RHBF) in September 2006 to defray current and future retiree health benefit liabilities and related costs incurred by the fund. The Retirement Board has the fiduciary responsibility for investing the assets of the Health Fund and administering payments from it, while the DWP Board of Water and Power Commissioners continues to have the responsibility to set the funding policy and the funding level of the RHBF."

³⁷ Article XI, Section 1102 (b)

Exhibit 22. WPERP Profile

MEMBERSHIP		PLAN BENEFITS AND OPTIONS	
Active Members	9,295	Normal Retirement Age	60
Retired Members	6,358	Benefit Formula	2.3% x Years
Disabled/Retired Members	-	Lump-Sum Death Benefit	Option
Survivor Members	2,110	Survivor Benefit	50% of pension
Inactive Members	1,739	Retiree Health	Defined Benefit
Total Members	19,502	Deferred Compensation	No
ACTUARIAL		FINANCIAL	
<i>Investment/Discount Rate</i>		<i>Pension Fund</i>	
Assumed Actuarial Rate	8.00%	Actuarial Accrued Liability	\$ 8,893,618,433
One Year Actual Return (FY 2010)	11.96%	Unfunded Actuarial Accrued Liability	\$ 1,649,188,744
		Funded Status	81.5%
<i>Methods</i>		<i>Retiree Health Fund</i>	
Investment Smoothing	5 Years	Actuarial Accrued Liability	\$ 1,631,916,204
Investment Corridor	None	Unfunded Actuarial Accrued Liability	\$ 644,440,228
Amortization of Unfunded Liability	15 Years	Funded Status	60.5%
<i>Contributions</i>		<i>Pension Obligation Bonds</i>	
Employer Contribution	38.5%	Principal Balance	\$ -
Employee Contribution Pick-Up	0.0%	Projected Interest Expense	\$ -
Total Contribution	38.5%	Total Indebtedness	\$ -

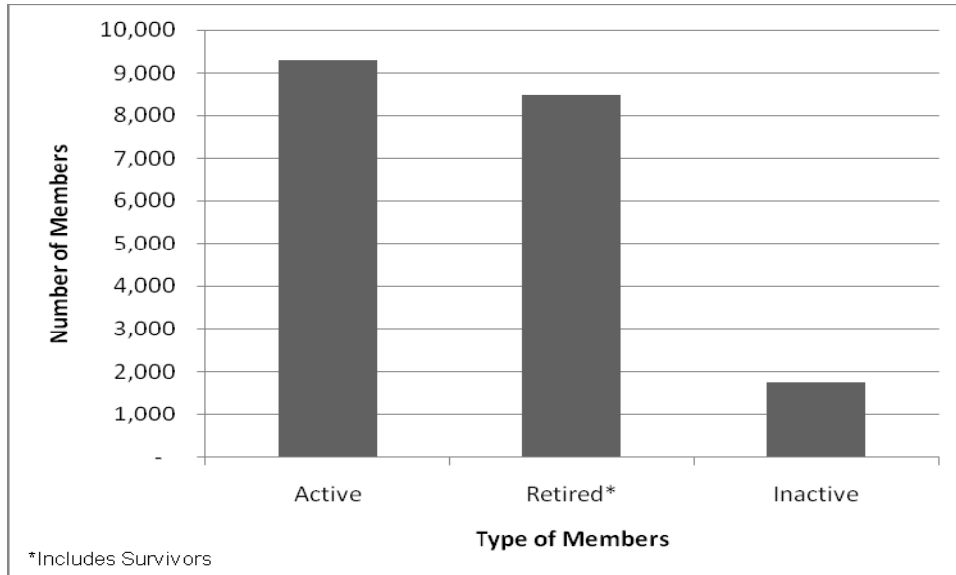
Source: The Segal Group, Inc., *Water and Power Employee Retirement Plan Actuarial Valuation and Review as of July 1, 2010* and Simpson & Simpson, Certified Public Accountants, *City of Los Angeles Water and Power Employees' Retirement, Disability, and Death Benefit Insurance Plan Financial Statements and Supplemental Information for the Years Ended June 30, 2010 and 2009* *Water and Power Employees Retiree Health Benefits Fund Financial Statements and Supplementary Information for the Year Ended June 30, 2010 and 2009*

A more complete profile of pension benefits provided to DWP employees is included in Appendix C of this Report.

MEMBERSHIP AND ACTUARIAL EVALUATION

As of June 30, 2010 there were 19,502 members in the WPERP, of which 6,358 were retired. Per the City Charter which establishes WPERP as a single employer plan, only those employees who work for DWP are members. However, the WPERP has a reciprocal agreement with the LACERS, which provides benefit portability between plans when individuals move from employment between other City departments and the DWP. Exhibit 23 shows WPERP membership by broad type:

Exhibit 23. WPERP Membership by Type as of June 30, 2010



Source: The Segal Group, Inc., *Water and Power Employee Retirement Plan Actuarial Valuation and Review as of July 1, 2010*

In the past 3 years, between 2007 and 2010, there were 608 retirements at the DWP. On average, these individuals received a full pension allowance of \$65,040 per year, which was 71.3% of the final average compensation used to calculate their pensions at the time of retirement. Of the 608 retirees, there are 68, or 11.2%, who are receiving pensions over \$100,000 per year. The average pension for these 68 individuals equaled approximately \$125,970 per year.

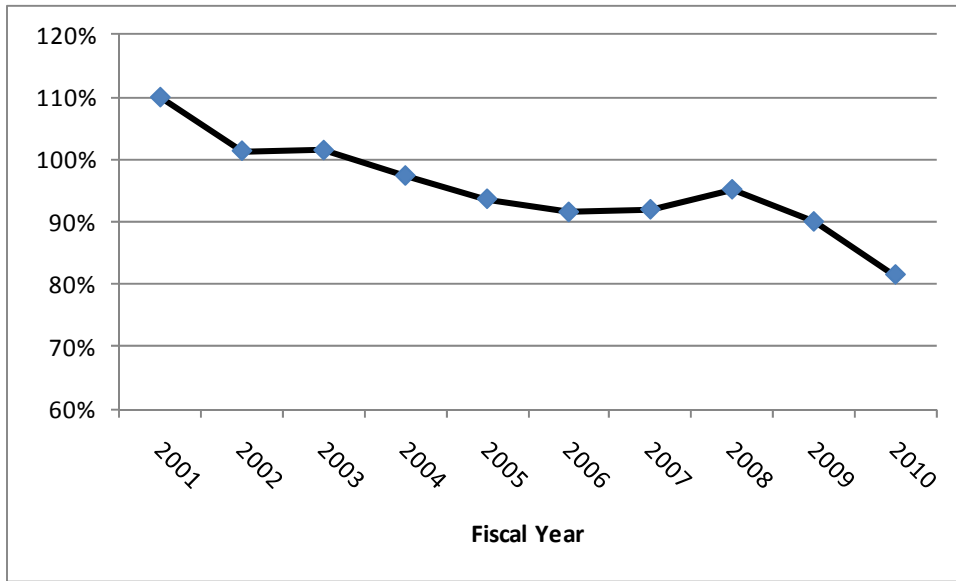
It is important to note that these pensions are derived from both employer and employee contributions over the employee's career. With an average of 30 years employment at the DWP, these pensions can sometimes appear high. For example, when conducting the sample, the CGJ found one individual with approximately \$585,000 in his employee contributory account. Because this individual was elderly when he retired and because of the balance in his contributory account, he would have been able to retire with a monthly pension that would have exceeded 160% of his final average compensation. Instead, he decided to name a beneficiary who would receive a percentage of his salary upon his death.

Although Funded Ratio Remains Strong, Contribution Requirements Have Escalated

As of the last valuation date of July 1, 2010, the WPERP Retirement Fund has Actuarial Accrued Liability (AAL) of \$8,893,618,433. The Unfunded AAL (UAAL) for the Retirement Fund was \$1,649,188,744, resulting in a funded ratio of 81.5%. Although this Funded Ratio is within the range considered sufficient by experts, it follows a 10 year pattern of declining performance by the fund from a high of approximately 110.0% Funded Status in 2001. This deterioration has correspondingly increased the Annual Required Contributions (ARC) from the DWP as shown in Exhibit 24 and Exhibit 25 adapted from the WPERP's most recent actuarial report.³⁸

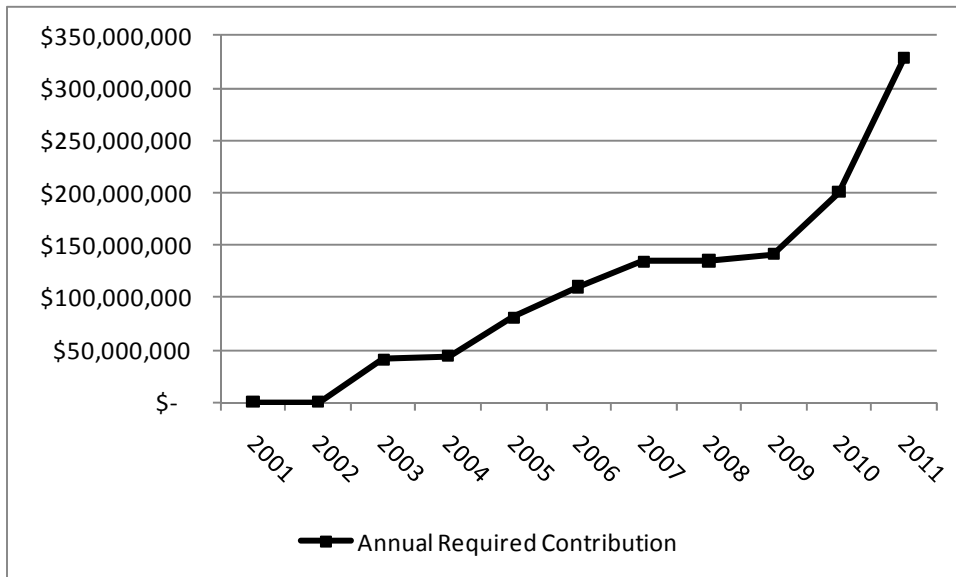
³⁸ The Segal Group, Inc., *Water and Power Employee Retirement Plan Actuarial Valuation and Review as of July 1, 2010*, Page 14

Exhibit 24. FY 2001 through FY 2011 History of WPERF Funded Ratio



Source: Adapted from The Segal Group, Inc., *Water and Power Employee Retirement Plan Actuarial Valuation and Review as of July 1, 2010*, Chart 16

Exhibit 25. FY 2001 through FY 2011 History of WPERP Annual Required Contributions



Source: Adapted from The Segal Group, Inc., *Water and Power Employee Retirement Plan Actuarial Valuation and Review as of July 1, 2010*, Chart 15

As shown by Exhibits 24 and 25, as the funded status of the Retirement Fund has declined, the ARC has grown dramatically. In FY 2000-2001 and FY 2001-2002, the Department was not required to contribute anything to the Fund because the funded ratio was over 100%. In the next

8 years by FY 2010-2011, the DWP's projected ARC climbed to \$329,178,234, which is 38.45% of the projected payroll of \$856,089,559.³⁹

In addition, the ARC for the WPERP does not include additional contribution amounts for the Retiree Health, Disability Insurance or Death Benefits Insurance plans provided to employees and retirees. An analysis of the ARC and actual contributions for all categories of DWP retirement benefits in FY 2009-2010 shows that the additional costs are significant, as shown in Exhibit 26:

Exhibit 26. FY 2009-2010 Contributions for Major Categories of DWP Retirement Benefits

Fund	ARC	Actual	Difference	% of ARC
Retirement	\$ 200,578,278	\$ 201,034,807	\$ 456,529	100.2%
Retiree Health	\$ 58,502,789	\$ 159,412,621	\$ 100,909,832	272.5%
Total	\$ 259,081,067	\$ 360,447,428	\$ 101,366,361	139.1%

Source: Simpson & Simpson, Certified Public Accountants, *City of Los Angeles Water and Power Employees' Retirement, Disability, and Death Benefit Insurance Plan Financial Statements and Supplemental Information for the Years Ended June 30, 2010 and 2009 Water and Power Employees Retiree Health Benefits Fund Financial Statements and Supplementary Information for the Year Ended June 30, 2010 and 2009*

The actual contributions for all categories of DWP retirement benefits in FY 2009-2010 amounted to \$360,447,428. This equates to approximately 46.9% of actual pensionable salaries of \$767,912,436 in that year.

Two important factors are to be considered when viewing this data:

1. The ARC for the Retirement Plan was calculated to be 26.12% in FY 2009 on a smaller base of pensionable salaries amounting to \$767,912,436. In FY 2010-2011, the ARC is projected to be 38.45% of a higher base of pensionable salaries of \$856,089,559. The difference in cost for DWP from this change will therefore amount to an additional \$128,588,157 in FY 2010-2011. This does not include additional costs which may be necessary to fund the ARC for the Retiree Health Plan.
2. Despite the steep increase in these costs, DWP has chosen to accelerate the prefunding of the UAAL for its Retiree Health Benefit Fund, amounting to additional contributions of \$100,909,832 in FY 2009-2010. This equates to 272.5% of the actuarially determined ARC in that year and followed two years (FY 2007-2008 and FY 2008-2009) when the actual contribution exceeded the ARC by 391.98% and 261.43%, respectively.

It is also important to recognize that in 12 of the past 20 years, the base contribution rate for the WPERP has exceeded 20% of DWP employee salaries (60% of the time period), excluding contributions for Retiree Health Insurance. Although DWP employees are exempt from Social Security, DWP saves the 6.2% payroll tax on the first \$106,800 in employee earnings. This percentage contribution is significant. Exhibit 27 shows the pattern of contributions made to the WPERP over a 20-year period between 1990 and 2010:

³⁹ The Segal Group, Inc., *Water and Power Employee Retirement Plan Actuarial Valuation and Review as of July 1, 2010*, "Summary of Key Valuation Results", Page iv