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Exhibit 28. Three Year History of DWP Contributions for Retiree Health Benefits

Year	Annual Required Contribution (ARC)	Actual Contribution	Over (Under) ARC	Percentage Contributed
2008	40,144,629	157,359,628	117,214,999	391.98%
2009	60,976,358	159,412,621	98,436,263	261.43%
2010	58,502,789	160,236,897	101,734,108	273.90%

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*

As discussed in Phase I of this Report, most jurisdictions that offer OPEB benefits to their employees have not funded future benefits and continue to operate on a “pay-as-you-go” basis. This is inconsistent with GASB standards; and as the CGJ recommended in Phase I, these jurisdictions should end this practice and develop strategies to fully fund the ARC.

However, DWP has been funding this liability at levels far greater than the amount determined using GASB accounting standards, while at the same time requesting an electric rate increase in the Spring of 2010; and advising the City Council that it would be unable to pay the full amount of the 8% electric utility transfer to the City in FY 2009-2010, because of insufficient cash resources. The unpaid portion would have amounted to \$73.5 million which is less than the \$101,734,108 of accelerated funding paid to the RHBF.

Although the CGJ did not examine the specifics of this controversy as part of this assessment, the CGJ recommends that the new Ratepayer Advocate and the City Council, through the powers overwhelmingly granted by the voters with Propositions I and Proposition J on March 8, 2011, be advised of the decision by the DWP Board of Commissioners to accelerate payment of the RHBF ARC in each of the past 3 fiscal years. Had these payments not been accelerated, \$317,394,370 in additional resources would have been available in the Water and Power Funds during this 3-year period. Although the CGJ does not have information on the portion of these payments that were made from the Water and Power Enterprises, respectively, it is likely that all or a substantial portion of the delinquent payment could have been made from that fund.

### RECIPROCAL AGREEMENT

On February 1, 1980, a reciprocal agreement was entered into by the WPERP and LACERS to provide benefit portability to DWP and City employees when they moved employment between City departments and the DWP. Under the agreement, employee contributions are transferred between the retirement funds, the employees' service credit is transferred between the benefit programs, and any contracts the employees may have for the purchase of retirement service credits are transferred between departments.

Based on the CGJ's review and according to the Los Angeles Chief Legislative Analyst (CLA), the reciprocal agreement does not include provisions for the transfer of employer contributions between plans. According to the CLA, this occurred because, “Actuarial reports conducted at the time it was established indicated the cost of the program would be similar in both pension plans.” It was thought that the WPERP cost of providing benefits to employees transferring from City departments to DWP would be essentially offset by the LACERS cost of providing benefits to employees transferring from DPW to City departments.

Since that time, WPERP found that the transfers between DWP and City departments had grown out of balance. The Retirement Board requested that the Plan's actuary evaluate the financial impact of the imbalance.<sup>41</sup> The actuary found:

- For the period April 1, 2004 through March 31, 2010, reportedly 1,623 City department employees transferred from City departments to DWP, while only 270 DWP employees transferred to City departments.
- The total increase in the WPERP unfunded actuarial liability due to the transfer of the 1,623 employees amounted to approximately \$183 million which, amortized over 15 years, increases DWP's annual contributions by \$11.7 million or 1.4% of payroll.
- No estimate was made of the offsetting savings to WPERP from the transfer of the 270 DWP employees to City departments so it is likely that the \$183 million in UAAL that was identified for this period is overstated.
- The actuarial analysis was limited to the 6 year period and did not assess the impact from transfers that may have occurred prior to this timeframe. Therefore, the DWP net costs could be even greater.
- The actuarial analysis did not analyze the additional cost or UAAL to DWP for the Disability Insurance, Death Benefits Insurance or Retiree Health Plan benefits granted to the employees after transferring to DWP.

In response, the WPERP Board of Administrators adopted a resolution recommending suspension of the reciprocal agreement. The WPERP Board of Administrators submitted this resolution to the Board of Water Commissioners. The Commissioners approved the resolution and submitted it to the City Council for consideration. The City Council, at its meeting held on October 13, 2010, vetoed the resolution and referred the matter to the City Administrator, WPERP and LACERS for further review. No further action has been taken by the City Council on this matter since that time.

## **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 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, the CGJ was able to analyze a sampling of 608 retirements which constituted all retirements in the past 3 calendar years. The sampling allowed the CGJ to verify benefit calculations and to identify and support Findings discussed in this Section.

## **FINDINGS**

1. DWP employee relations management staff has not initiated any substantive meet and confer sessions with employee bargaining groups to modify aspects of the retirement benefit package in an effort to reduce costs, despite total annual retirement benefit contributions of approximately \$360 million or 46.9% of pensionable salaries in FY 2009-2010.

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<sup>41</sup> August 10, 2010, The Segal Company, *Re: Reciprocity program – Impact of Possible Suspension of Program*

For at least 3 years, the DWP management has chosen to contribute amounts exceeding 250% of the Annual Required Contribution to its Retiree Health Benefits Fund. During this period, they have made \$317,394,370 in excess contributions, while simultaneously requesting utility rate increases and advising City officials that the Department would be unable to pay the full amount of the 8% transfer to the City in FY 2009-2010, because of insufficient cash resources.

The City and LACERS may owe the WPERP \$183 million or more in UAAL for employees who transferred from City employment to DWP employment during the past 6 years, increasing the WPERP contribution requirements by \$11.7 million annually over the next 15 years. The City Council referred this matter to the City Administrator, WPERP and LACERS to refine the analysis on October 13, 2010; but no further action has been taken since that time.

## **RECOMMENDATIONS**

1. The DWP Board of Commissioners give direction to management to evaluate and report back in closed session on alternatives for reducing the Department's cost of employee retirement benefits.
2. The DWP Board of Commissioners advise the new Ratepayer Advocate and the City Council of the decision by the DWP management to accelerate payment of the Retiree Health Benefit Fund ARC in each of the past three fiscal years to ensure that the prepayments are fully considered when the DWP seeks future rate increases or indicates that it is unable to make revenue transfers to the General Fund.
3. Los Angeles City Council, the DWP Board of Commissioners and LACERS Board of Administrators need to expedite reaching an agreement regarding transferring funds to WPERP to cover the cost of an increased UAAL imposed on DWP, estimated by actuaries to equal as much as \$183 million for the 6-year period between 2004 and 2010, due to Los Angeles City employees who have moved from City departments to DWP so that the burden is not imposed on ratepayers.
4. Los Angeles City Council, the DWP Board of Commissioners and LACERS Board of Administrators need to amend the reciprocity agreement between LACERS and WPERP with regard to the transfer of employer pension contributions in order to prevent such inequity in the future.

## REQUEST FOR RESPONSE

California Penal Code Sections<sup>42</sup> §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  
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>
1	City of Los Angeles (Department of Water and Power Board of Commissioners)
2	City of Los Angeles (Department of Water and Power Board of Commissioners) City of Los Angeles (City Council) City of Los Angeles (LACERS Board of Administrators)
3	City of Los Angeles (Department of Water and Power Board of Commissioners) City of Los Angeles (City Council) City of Los Angeles (LACERS Board of Administrators)
4	City of Los Angeles (Department of Water and Power Board of Commissioners) City of Los Angeles (City Council) City of Los Angeles (LACERS Board of Administrators)

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<sup>42</sup> Reference California Penal Code Sections §933(c) and §933.05 at the beginning of this 2010-2011 Civil Grand Jury Report