

**BOB MIRATA**  
CHAIRMAN  
B.O.S. APPOINTEE

**SHARI SCHAPMIRE**  
VICE-CHAIRMAN  
TREASURER TAX COLLECTOR

**TIM KNUDSEN**  
SECRETARY  
ELECTED RETIRED MEMBER

**SUPERVISOR KENDALL SMITH**  
B.O.S. APPOINTEE

**JOHN SAKOWICZ**  
B.O.S. APPOINTEE

**TED STEPHENS**  
B.O.S. APPOINTEE

**LLOYD WEER**  
ELECTED  
GENERAL MEMBER

**RANDY GOODMAN**  
ELECTED GENERAL  
MEMBER

**CRAIG WALKER**  
ELECTED SAFETY  
MEMBER

**RICHARD SHOEMAKER**  
ELECTED RETIRED  
ALTERNATE MEMBER



**RICH WHITE**  
RETIREMENT  
ADMINISTRATOR

**JEFF BERK**  
LEGAL COUNSEL

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# **MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION BOARD MEETING AGENDA DECEMBER 12, 2012 – 8:30 A.M.**

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**ROLL CALL (8:30 A.M.)**

**PUBLIC COMMENT (Estimated Time 5 min.)**

Members of the public are welcome to address the board on subjects within the jurisdiction of the Board of Retirement regarding items both on and off the agenda. The board is prohibited by law from taking action on matters not on the agenda, but may ask questions to clarify the speaker's comment and/or briefly answer questions. The board limits testimony on matters not on the agenda to 5 minutes per person and not more than 10 minutes for a particular subject at the discretion of the Chair of the Board. To best facilitate public expression please complete the speaker form available at the entrance to the boardroom and present to the Clerk to the Board. If you wish to submit written comments please provide 13 copies to the Clerk to the Board prior to the start of the meeting. Public speakers are reminded to announce their names before they address the board.

**1) DISCUSSION AND POSSIBLE ACTION REGARDING ELECTION OF BOARD OF RETIREMENT OFFICERS FOR 2012/2013 (Estimated Time 5 min.)**

**2) APPROVAL OF THE MINUTES OF THE BOARD MEETING HELD DECEMBER 3, 2012 (Estimated Time 5 min.)**

**3) PRESENTATION OF A PROCLAMATION HONORING SUPERVISOR KENDALL SMITH FOR HER SERVICE TO THE BOARD OF RETIREMENT (Estimated Time 5 min.)**

**4) DISCUSSION AND POSSIBLE ACTION REGARDING EQUITY STRUCTURE AND PASSIVE MANAGER SELECTION (CALLAN ASSOCIATES) (Estimated Time 45 min.)**

**BREAK (Estimated Time 10 min.)**

◆RETIREMENT BOARD MEETING AGENDA◆

◆DECEMBER 12, 2012 - 8:30 A.M.◆

~~5) DISCUSSION AND POSSIBLE ACTION REGARDING THE JUNE 30, 2012 ACTUARIAL VALUATION (THE SEGAL COMPANY) (Estimated Time 1 hour 30 min.)~~

6) DISCUSSION AND POSSIBLE ACTION REGARDING RESOLUTION 2012-06 DEFINING COMPENSATION EARNABLE (Estimated Time 30 min.)

LUNCH RECESS (11:45 A.M.)

RECONVENNE (12:15 P.M.)

7) CLOSED SESSION (Approximately 12:15 P.M.) (Estimated Time 40 min.)

- Pending disability applications update
- Lorenzo Torres, NSCD
- Public Employee Performance Evaluation - Retirement Administrator - Pursuant to Government Code Section 54957

REPORT OUT FROM CLOSED SESSION (Estimated Time 5 min.)

8) DISCUSSION AND POSSIBLE ACTION REGARDING BOARD STRATEGIC PLAN (Estimated Time 30 min.)

- Objectives
- Charter and Policy planning timeline

9) MONTHLY FINANCIAL REPORTS (Estimated Time 10 min.)

- October Financial Statements
- Trust Fund Assets

10) BENEFITS AND OPERATIONS (Estimated Time 5 min.)

- Member retirements and withdrawals of contributions by inactive members

11) DISCUSSION AND POSSIBLE ACTION REGARDING TRUSTEE EDUCATION AND TRAVEL POLICY (Estimated Time 10 min.)

12) DISCUSSION AND POSSIBLE ACTION REGARDING MEDICAL ADVISOR CONTRACT (Estimated Time 10 min.)

13) RETIREMENT ADMINISTRATOR'S REPORT (Estimated Time 20 min.)

- Operations and Member Services
- Mendocino County Grand Jury Response
- Report on External Audit
- Report on CAFR
- December Holiday Schedule

◆RETIREMENT ASSOCIATION CONFERENCE ROOM: 625-B KINGS COURT, UKIAH, CA 95482◆

◆PHONE 707-463-4328 FAX 707-467-6472◆ WWW.CO.MENDOCINO.CA.US/RETIREMENT◆

**◆RETIREMENT BOARD MEETING AGENDA◆**  
**◆DECEMBER 12, 2012 - 8:30 A.M.◆**

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**14) COMMUNICATIONS (Estimated Time 5 min.)**

**15) GENERAL BOARD MEMBER DISCUSSION (Estimated Time 5 min.)**

**ADJOURNMENT (Approximate Time 2:15 P.M.)**

(Pursuant to Government Code Section 54954, this agenda was posted 72 hours prior to the meeting.)

Richard A. White, Jr.  
Retirement Administrator



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Fax: (707) 467-6472

**MENDOCINO COUNTY**  
**EMPLOYEES' RETIREMENT ASSOCIATION**  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: December 12, 2012  
To: Board of Retirement  
From: Richard White, Retirement Administrator *rau*  
Subject: ELECTION OF OFFICERS

The Association By-Laws provide for the election of officers for the Board of Retirement at your first meeting in December.

***ARTICLE 1. Administration. Section 3. ELECTION OF OFFICERS: At the First Regular Meeting in December the Board of Retirement shall elect one of its members Chair; one of its members Vice Chair, and one of its members Secretary, each to hold office for a term of one year or until a successor is duly elected and qualified. Should any officer for any reason fail to complete this term the Board of Retirement shall select a successor for the balance of the unexpired term at its next Regular Meeting. The County Treasurer shall act as Treasurer of the Retirement Board.***

◆ MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION ◆  
BOARD OF RETIREMENT MEETING MINUTES  
◆ DECEMBER 3, 2012 AT 9:00 A.M. ◆

**CALL TO ORDER**

Bob Mirata, Board Chair, called the meeting to order at 9:00 A.M.

**ROLL CALL**

Roll call was conducted with the following members present: Shari Schapmire, Lloyd Weer, Ted Stephens, Tim Knudsen, Randy Goodman, Supervisor Kendall Smith, Craig Walker, John Sakowicz, and Bob Mirata. Members absent: Richard Shoemaker. Also present: Rich White, Retirement Administrator, Jeff Berk, Legal Counsel, Judith Boyette, Hanson Bridgett, and Judy Zeller, Clerk to the Board.

**PUBLIC COMMENT:** None

**1) APPROVAL OF THE MINUTES OF THE BOARD MEETING HELD DECEMBER 3, 2012**

Upon motion by Board member Schapmire, seconded by Board member Weer; IT IS ORDERED that the minutes of the NOVEMBER 7, 2012 Board meeting are approved unanimously.

**2) CLOSED SESSION**

- Potential litigation pursuant to Government Code Section 54956.9(b)(3)(A) – 1 case

**REPORT OUT FROM CLOSED SESSION**

**Board Direction:** Direction was given to staff and tax counsel to communicate with the IRS, County, Retirees, Beneficiaries, and other stakeholders, regarding the implementation of recommendations by tax counsel.

**3) DISCUSSION AND POSSIBLE ACTION REGARDING PEPRA**

**Presenter/s:** Rich White referenced information previously distributed to the Board.

**Board Action:** Motion was made by Board member Stephens to exclude Standby Pay and On Call Pay from Compensation Earnable due to PEPRA stating that payments for additional services rendered outside of normal working hours shall not be included. Board member Sakowicz seconded the motion.

**Motion Withdrawn:** After discussion, Board member Stephens withdrew his motion and Board member Sakowicz withdrew his second motion.

◆MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION◆  
BOARD OF RETIREMENT MEETING MINUTES  
◆DECEMBER 3, 2012 AT 9:00 A.M.◆

**Board Direction:** Standby Pay and On Call Pay included in Compensation Earnable Resolution 2012-06 will be brought back for discussion and possible action at our next Board meeting December 12, 2012. A special Board meeting will be scheduled on January 3, 2013 to discuss adoption of new retirement tier contribution rates.

**4) DISCUSSION AND POSSIBLE ACTION REGARDING ACTUARIAL ASSUMPTION FOR SICK LEAVE CONVERSION AND VACATION CASH OUTS**

**Presenter/s:** Rich White and Andy Yeung, The Segal Company, referenced information previously distributed to the Board.

**Board Action:** Motion was made by Board member Walker to approve the recommendation of The Segal Company to include sick leave conversion at service retirement as new actuarial assumption and to study the patterns of vacation cash outs for the triennial experience study of June 30, 2014. Board member Goodman seconded the motion and it was approved by the following vote: Ayes 9 Noes 0 Abstain 0 Absent 0. (Motion approved)

**5) GENERAL BOARD MEMBER DISCUSSION**

Board member Sakowicz spoke regarding the fall SACRS Conference.

**ADJOURNMENT (Approximate Time 11:40 A.M.)**

Richard A. White, Jr.  
Retirement Administrator



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**MENDOCINO COUNTY**  
EMPLOYEES' RETIREMENT ASSOCIATION  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: December 12, 2012  
To: Board of Retirement  
From: Richard White, Retirement Administrator  
Subject: Monthly Investment Report

**Update on Equity Structure and manager selection.**

As you recall, the Board conducted a review of the U.S Equity portfolio structure at your November 7, 2012 and approved an allocation to a passive S & P 500 Index fund. The rationale for doing this was that by adding passive management, eliminating four active equity managers and reorganizing the equity allocations with the remaining managers it would make the fund structure more efficient while remaining consistent with the Board's belief that active management does add value in the market over a broad passive mandate.

The manager search process was started by Callan Associates soon after the November 7<sup>th</sup> Board meeting and I participated in the interview of three candidate firms on December 6, 2012. The firms interviewed were BlackRock, State Street Global Advisors and The Vanguard Group, Inc. The manager search book detailing the managers that participated in the Passive S&P 500 Index search interviews is provided as a separate document.

Greg DeForrest, Callan Associates and I will review the search process and interviews with the Board and be available for questions.

**Recommended action:** Select one firm to manage the passive allocation to the S & P 500 Index Fund.

Richard A. White, Jr.  
Retirement Administrator



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**MENDOCINO COUNTY**  
EMPLOYEES' RETIREMENT ASSOCIATION  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: December 12, 2012  
To: Board of Retirement  
From: Richard White, Retirement Administrator  
Subject: Actuarial Valuation of June 30, 2012

The Segal Company will be presenting the Actuarial Valuation of June 30, 2012. The report was provided to the Board of Retirement as a separate document. Mr. Andy Yeung, Vice President and Associate Actuary, The Segal Company, will be in attendance to review the valuation report with the Board.

The presentation will be an informational item and action on the report is scheduled for the January 2013 meeting.

Richard A. White, Jr.  
Retirement Administrator



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**MENDOCINO COUNTY**  
EMPLOYEES' RETIREMENT ASSOCIATION  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: December 12, 2012  
To: Board of Retirement  
From: Richard White, Retirement Administrator  
Jeff Berk, Legal Counsel  
Subject: Compensation earnable element

**Introduction:**

At the December 3, 2012 meeting, the Board directed staff to return with a discussion of whether "on-call" and "stand-by" pay should continue to be treated as pensionable for current employees following the passage of PEPRA. This memo is intended to provide a brief summary of this issue.

Following the California Supreme Court's Ventura decision, most, if not all systems, included stand-by pay as pensionable. This Board did just that in 1998, when it passed a Resolution that codified various pay elements available to members, including stand-by. As part of the implementation of PEPRA, last month the Board considered and approved Resolution 2012-06, which defined compensation earnable for current employees and included both on call and stand-by pay. At the time, staff informed the Board that many systems had not yet adopted such Resolutions and that there were several issues that presented some ambiguity.

To provide some perspective on materiality, County employees are compensated \$2.50 per hour when required by the County to be "on call" or "standby" as part of their official duties. A very cursory review shows that in 2011 there were 62 members who received an average of \$147 per month for on call pay and 12 members who received an average of \$171 per month for stand-by.

PEPRA defines "compensation earnable" to exclude "payments for additional services rendered outside of normal working hours." There is no legislative history to help define what this means. Courts have consistently found that payments in the nature of overtime are not pensionable. Some systems have concluded that standby pay is in the nature of overtime and should be excluded.

Other systems have not reached that conclusion. Moreover, at a SACRS-sponsored conference on PEPRA in September, the systems were provided a "post legislative history" by staff aides for the legislators who drafted PEPRA. They said that "very little is changing for current members," but that "the two main differences are . . . terminal pay [and] anything paid to enhance a member's retirement benefit." There was no mention of changing the treatment of stand-by pay.

PEPRA also states that it is intended to be consistent with two court decisions that followed Ventura, Salas and In Re Retirement Cases. Although these cases did not specifically address stand-by pay, they did narrow Ventura somewhat as to what items may be pensionable. On the other hand, there is language in PEPRA that suggests that the Legislature was mindful of vested rights issues, which may call for the continuation of an item that has been pensionable.

Given the above analysis and arguments that can be made both ways as to whether these items should continue to be included or not, it is not surprising that about half of the 37 Act systems have now included stand-by pay as pensionable and half have not.

**Recommended action:** Take appropriate action

Attachments



**MENDOCINO COUNTY**  
EMPLOYEES' RETIREMENT ASSOCIATION  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: November 7, 2012  
To: Board of Retirement  
From: Richard White, Retirement Administrator  
Subject: MCERA Resolutions resulting from Pension Reform Legislation

**Introduction:**

Governor Brown and Democratic lawmakers announced the long-anticipated comprehensive public employee pension reform plan on August 28, 2012 which went to the Legislature's conference committee that evening where the plan was approved. The plan will be carried as AB 340 and Assembly Bill 197 and is known as the California Public Employees' Pension Reform Act of 2013 (PEPRA). The bill was passed by the Legislature and the Governor signed the bill on September 12, 2012. The effective date for implementation of PEPRA is January 1, 2013.

As discussed with the Board at the October meeting, the PEPRA legislation impacts a number of areas of public employee pension benefits for current and future employees. One of the significant areas addressed in the legislation are the pay elements that are added to base salary for the purpose of determining final compensation. These pay elements are somewhat unique to 1937 Act systems such as Mendocino and have been the subject of litigation and legislation around the State over the course of the past fifteen or so years.

Mendocino CERA passed a resolution in 1998 which codified the pay elements available to members of the retirement association. In essence, PEPRA confirmed what MCERA is already doing in calculating compensation earnable for current members. For current employees who retire on or after 1-1-13, the same items of compensation are included and excluded as those who retire on or before 12-31-12. The Board is being asked to pass an updated resolution which complies with the new PEPRA legislation as passed under AB 197. The new resolution will supersede the 1998 resolution.

The Board is being asked to pass an additional resolution that will define the pay elements included for new members of the retirement association on or after January 1, 2013. The PEPRA legislation changed pay elements of pensionable compensation for new members and this resolution codifies the changes reflected in the legislation passed as AB 340.

MCERA staff has worked closely with our counterparts in the SACRS systems, CalPERS and with County staff to review the pay elements, pay codes and ensure the compliance with the PEPRA legislation. It should be noted that the review of the PEPRA legislation continues to be a very fluid situation by all of those tasked with the interpretation and operational implementation of the pension reform legislation. We have previously mentioned this and it continues to be so. In fact, staff expects to have a very meaningful series of discussions about the legislation at the SACRS Fall Conference which takes place the week of November 13-16, 2012.

The information and interpretations of the PEPRA legislation might change and staff will return to the Board in that event. Staff is comfortable with the resolutions before you and we believe they are based upon the best information that the staff has available to us at this point. These resolutions are what we think the right answer is today and staff is recommending that the Board adopt these resolutions at today's meeting because it will assist the County with the timing of their workload necessary to implement their payroll system to deal with the pension reform legislation.

Also, it is anticipated that the Board of Supervisors will be discussing the PEPRA legislation and pension tiers at their meeting on November 13, 2012 and I will be participating in the agenda item as a member of the county working group.

**Recommended action:** Approve and adopt Resolution 2012-06 and 2012-07.

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
RESOLUTION 2012-06

**RESOLUTION DEFINING COMPENSATION EARNABLE  
PURSUANT TO GOVERNMENT CODE §31461 FOR MEMBERS  
WHO ARE NOT SUBJECT TO GOVERNMENT CODE §7522.34.**

**WHEREAS**, for those current members who became active members prior to January 1, 2013, and those members who became active members on or after January 1, 2013, but who are not subject to Government Code §7522.34 of the California Public Employees' Pension Reform Act, the determination of compensation earnable for remuneration earned by those members is governed by Government Code §31461; and

**WHEREAS**, Government Code §31461 provides that compensation earnable by a member means the average compensation as determined by the Board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay; and

**WHEREAS**, Government Code §31461 provides that this Board determine which items of remuneration earned by members shall constitute "compensation earnable"; and

**WHEREAS**, the Board has reviewed the current pay items and has determined which of those items are to be included in "compensation earnable" and which items are not to be included; and

**WHEREAS**, it is necessary for this Board from time to time to amend its determinations of compensation earnable due to changes in the compensation schedules of MCERA employers or changes in the law; Therefore be it

**RESOLVED** that effective January 1, 2013, resolution number 97-98 as amended is rescinded, and pursuant to Government Code §31461 as interpreted by the courts, the Board hereby makes the following determinations to be effective January 1, 2013, as to what is included in "compensation earnable" and items of remuneration that are not included:

1. Compensation earnable shall include:

Pay Code	Description
(303)	Vacation Pay-Out Non Management.
(304)	Vacation Pay-Out Management
(406)	Shift PM
(407)	Shift AM
(409)	Supervisor Shift
(417)	32.50 Bilingual
(418)	18.00 Bilingual
(422)	Confidential 5%
(438)	2.5% Longevity
(439)	5% Longevity
(440)	On Call Regular

Pay Code	Description
(441)	On Call Prior PP
(443)	7.5% Longevity
(444)	10% Longevity
(445)	Car Allowance
(456)	Board Of Supervisor Auto Allowance
(457)	BA Incentive
(514)	Standby Pay
(515)	Animal Handler
(520)	Field/Specialized Training
(523)	Bilingual 5% MCLEMA
(525)	Uniform Allowance
(528)	Covelo Housing
(529)	Covelo Bonus
(530)	Officer In Charge
(531)	Officer In Charge Level 2
(532)	Detective/Investigator Premium
(556)	AA/AS/Supv Incentive MCLEMA
(558)	10% B/A Incent
(559)	AA/AS DSA 3%
(567)	Bilingual 3% MCLEMA
(926)	Uniform Non-Cash

2. Pursuant to Government Code §31461(b) compensation earnable, shall not include in any case the following:

A. Any compensation determined by the Board to have been paid to enhance a member's retirement benefit under that system. That compensation may include:

(1) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.

(2) Any one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class.

(3) Any payment that is made solely due to the termination of the member's employment, but is received by the member while employed, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period regardless of when reported or paid.

B. Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, in an amount that exceeds that which may be earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

C. Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

D. Payments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

3. Pursuant to Government Code §31641(c), the terms listed above in paragraph 2 are intended to be consistent with and not in conflict with the holdings in *Salus v. San Diego County Employees Retirement Association* (2004) 117 Cal.App.4th 734 and *In re Retirement Cases* (2003)110 Cal.App.4th 426.

**FURTHER RESOLVED** that the above listed determinations by the Board of what is included or not included in compensation earnable, shall be in effect until such time as action taken by the Board or action by the Legislature or the Courts as a matter of law requires a different determination.

The foregoing resolution introduced by Board Member \_\_\_\_\_, seconded by Board member \_\_\_\_\_, and carried this 7th day of November, 2012, by the following vote:

ayes:  
noes:  
absent:

WHEREUPON, The Chair declared said Resolution adopted, and SO ORDERED.

\_\_\_\_\_  
Bob Mirata, Chairman  
Mendocino County Board of Retirement

Attest: \_\_\_\_\_  
Judy Zeller, Clerk to the  
Mendocino County Board of  
Retirement

Richard A. White, Jr.  
Retirement Administrator



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**MENDOCINO COUNTY**  
**EMPLOYEES' RETIREMENT ASSOCIATION**  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: December 12, 2012  
To: Board of Retirement  
From: Richard White, Retirement Administrator *RW*  
Subject: MCERA Strategic Plan

**Introduction:**

The Mendocino County Employees' Retirement Association (MCERA) met on October 17 and 18, 2012 for the first formal strategic planning session undertaken by the Board of Retirement. The session was facilitated by Nancy Williams and Russ Charvonia, consultants from the Fiduciary Practice at the consulting firm Hewitt Ennis.Knupp (HEK).

Subsequent to the meeting, the Board of Retirement received a summary of the Strategic Planning workshop from the HEK consultants which provided a general overview of the strategic planning process and the outcomes from the meeting which included a proposed mission statement, proposed core values and proposed goals and objectives.

The next steps for the Board of Retirement and staff are detailed on page 13 of the strategic plan summary, as follows:

1. Staff refines the language of the Core Values, Goals, Objectives, and the details under Goal 3, Objective A for Board review at the November 7, 2012 Board meeting.
  - ◇ The Board of Retirement approved the Mission Statement, Core Values and Goals for MCERA at this meeting.
2. Staff adds proposed start and completion dates to each of the Objectives for Board review at the December 12, 2012 Board meeting. At this meeting, the Board will be asked to:
  - ◇ Discuss and approve the objectives for each of the four goals
  - ◇ Discuss and approve the prioritization and timeline for the completion of the MCERA Charters and Policies.
  - ◇ The timeline will be returned to the Board for discussion and approval at the January 16, 2013 Board meeting.
3. Staff submits the revised strategic plan for the Board's approval of the Mission Statement, Core Values, Goals and Objectives for the Board's review at the January 16, 2013 Board meeting.

4. Using the approved strategic plan, the Retirement Administrator creates strategies with timelines and budgets for March 2013 Board meeting, when the budget will first be discussed.

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5. ~~The Retirement Administrator collaborates with the staff and creates action plans for Objectives that are to start in 2013.~~
6. The Board and staff reach agreement on the "definition of success" for the Objectives that are to start in 2013.
7. The Retirement Administrator reports progress under the plan as necessary and prepares a formal report on the progress of the strategic plan for the Board meeting in October, 2013.
8. The Board updates the strategic plan in October 2014.

## **Action Items:**

The Board of Retirement is being asked to finalize these components of the strategic plan, as the initial steps in the strategic plan and in anticipation of the next steps:

### **1. Goals and Objectives (Pages 11 and 12)**

The participants engaged in a SWOT analysis which led to a number of critical issues. (See Appendix for details.) The following are the priorities, stated as Goals and Objectives, for the Board and staff over the next 3 to 5 years. The GOALS were approved by the Board on November 7, 2012. The Objectives are to be approved by the Board at this meeting

#### **Goal #1: Enhance communications and customer service provided by the Association**

##### **Objectives:**

- a. Develop a proactive communication strategy (further details to be added after Board discussion)
- b. Increase interaction and information sharing with the plan sponsors to better educate them about funding and other Association issues
- c. Improve the annual member statements
- d. Invite greater participation by the various employee groups
- e. Improve the content and usability of the website
- f. Assess the costs and benefits of creating a periodic email newsletter for members and retirees
- g. Create an external Internet portal so members can access their account information on a 24/7 basis
- h. Provide members with the education to equip them for retirement

#### **Goal #2: Increase the effectiveness of internal operations**

##### **Objectives:**

- a. Prepare for the implementation of PEPRA
- b. Assess technological needs for all key functions of the organization and re-visit the previously prepared IT roadmap
- c. Evaluate various service providers and implement an automated pension administration system
- d. Undertake the process of imaging vital documents (EDMS)
- e. Complete the IRS Voluntary Correction Program
- f. Re-evaluate the organizational structure, the assignment of responsibilities, and job descriptions
- g. Assess the adequacy of internal controls, including the separation of duties
- h. Pursue staff development, cross-training, and succession planning
- i. Explore options for disaster preparedness
- j. Discuss the feasibility of issuing debit cards or requiring electronic funds transfers (EFTs) for benefit payments
- k. Decide the most cost-effective way of handling accounting functions
- l. Evaluate ways to streamline the procurement process and expense reimbursement
- m. Investigate means of achieving economies of scale to reduce costs
- n. Evaluate long range requirements for office space

*4 Goals Adopted by the Board of Retirement on November 7, 2012*

### **Goal #3: Establish optimal board governance**

#### **Objectives:**

- a. Review existing charters and policies to identify gaps (further details to be added after Board discussion)
- b. Refine the disability determination policy and processes
- c. Prepare a board member position description outlining expectations for those who are seeking election or appointment to the Board
- d. Discuss ways to augment limited staff resources
- e. Establish ways to report and measure progress of strategic plan goals and objectives
- f. Establish annual fiduciary training tailored for the Association

### **Goal #4: Explore ways to ensure prudent management of contributions and investment of retirement fund assets**

#### **Objectives:**

- a. Continue to explore ways to increase investment returns while managing overall portfolio risk to an acceptable level
- b. Evaluate the risks and returns of shifting the degree of active and passive management of investments
- c. Undertake an asset/liability modeling (ALM); analyze the best case, worst case, and most likely case scenarios and trends
- d. Review the portfolio's asset allocation following the ALM and make adjustments, as appropriate
- e. Re-evaluate the existing actuarial funding method and the assumptions
- f. Analyze the potential impact that budget constraints of the federal and state governments will have on the County and the Association
- g. Provide information to the plan sponsors regarding costs of benefit changes (formulas and eligibility) that may stem from PEPRA

**RECOMMENDED ACTION:** Adopt the MCERA Objectives

## 2. MCERA Charters and Policies

<b>TITLE</b>	<b>ACTUAL DATE OF COMPLETION</b>
<del>Board Policy Development Process</del>	<del>Adopted 4/18/2012</del>
Interest Crediting and Undistributed Earnings Policy	Adopted 6/16/2010
Investment Policy Statement	Adopted 9/2010
Overpayment Policy	Adopted 2/15/2012
Placement Agent Disclosure	Adopted 11/09/2011
SACRS Voting Authority Policy	Adopted 9/19/2012
Statement of Funding Policy	Adopted 7/19/2006
Trustee Education and Travel Policy	Board Agenda 12/12/2012
<b>TITLE</b>	<b>PLANNED DATE OF COMPLETION</b>
BOARD OF RETIREMENT CHARTER	<b>JANUARY – JUNE 2013</b>
RETIREMENT ADMINISTRATOR CHARTER	
ACCEPTANCE AND REPORTING OF GIFTS POLICY	
BUDGET APPROVAL POLICY	
<b>TITLE</b>	<b>JULY – DECEMBER 2013</b>
AUDIT COMMITTEE CHARTER	
COMMUNICATIONS POLICY	
ELECTIONS PROCEDURES POLICY	
FACT SHEETS	
<b>TITLE</b>	<b>JANUARY – JUNE 2014</b>
BOARD CHAIR CHARTER	
BOARD VICE CHAIR CHARTER	
INDEMNITY & DEFENSE POLICY	
PLANNING POLICY	
SERVICE PROVIDER SELECTION POLICY	
<b>TITLE</b>	<b>JULY – DECEMBER 2014</b>
GOVERNANCE COMMITTEE CHARTER	
COMMITTEE CHAIR CHARTER	
BOARD DISCLOSURE POLICY	
BOARD PERFORMANCE REVIEW POLICY	
DISPOSITION OF EQUIPMENT POLICY	
<b>TITLE</b>	<b>2015</b>
DUE DILIGENCE POLICY	
EXTRAORDINARY EXPENSE RECOVERY POICY	
LEGISLATIVE POLICY	
MONITORING AND REPORTING POLICY	
PROXY VOTING POLICY	
SECURITIES LITIGATION POLICY	
QUIET PERIOD POLICY	

**RECOMMENDED ACTION:** Direction to Staff on Charter and Policy Schedule

Richard A. White, Jr.  
Retirement Administrator



Telephone: (707) 463-4328  
(707) 467-6473  
Fax: (707) 467-6472

**MENDOCINO COUNTY**  
EMPLOYEES' RETIREMENT ASSOCIATION  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: December 12, 2012  
To: Board of Retirement  
From: Richard White, Retirement Administrator *RAW*  
Subject: Monthly Financial Report

The Association's accountant, Scott German, was in our office on November 19-21, 2012 and worked on the final close of the September financial statements, the preliminary financial statements for October and other reconciliations and reports for the Association. Mr. German has also been available to staff for consultation and information during the times between the physical visits to our office.

**A. Financial Reports**

The monthly reports for October, 2012 are included for your review. Please note that these are *preliminary reports*:

- ◇ Statement of Plan Net Assets.
- ◇ Statement of Changes in Plan Net Assets.
- ◇ Cash Flow Analysis

**B. Trust Fund Assets**

At the last Board meeting, it was requested that information about the sales of trust fund assets be provided to the Board as an informational item. As you are aware, the Board adopted a **Cash and Rebalancing Policy** which describes the purpose and objectives of the cash management policy and guidelines to be followed in implementing the asset rebalancing policy. The Board approved a **cash management plan** for Fiscal Year 2012-13 which anticipates the cash balance position of the fund and the need to replenish the cash balance account through the sale of trust fund assets. The Board also receives a monthly report on the cash flow of the Association and the monthly balance of cash. Additionally, staff monitors the cash flow on a regular basis, in conjunction with the Auditor's Office, to ensure that there are sufficient funds in the cash accounts to pay benefits and expenses of the Association.

The **Cash and Rebalancing Policy** states that "the projected balance of cash at the end of any calendar quarter will not fall below \$1 million". The policy also states that the "quarterly sales of investments" is considered a primary source of cash for the Association.

With the policy and objectives in mind, the Association has sold \$2 million of trust funds assets in order to replenish the cash balance account since the beginning of the Fiscal Year 2012-13, as follows:

- ◇ Vanguard Growth & Income - \$1 million (09-26-2012)
- ◇ Harbor Capital Appreciation - \$1 million (10-19-2012)

These sales of trust fund assets are consistent with the adopted Fiscal Year cash management plan which projected a three million dollar sale of investments as of October, 2012.

Attachment(s).

**MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION**  
**STATEMENT OF PLAN NET ASSETS**  
**OCTOBER 31, 2012**  
**(PRELIMINARY)**

**ASSETS**

<b>CASH AND EQUIVALENTS</b>		
TRUST CASH-HELD AT COUNTY	\$ 2,083,657.75	
		<u>2,083,657.75</u>
<b>TOTAL CASH AND EQUIVALENTS</b>		<b>2,083,657.75</b>
<b>CURRENT ASSETS</b>		
ACCOUNTS RECEIVABLE	3,000.00	
RECOUPMENTS	2,030.64	
		<u>5,030.64</u>
<b>TOTAL CURRENT ASSETS</b>		<b>5,030.64</b>
<b>PROPERTY AND EQUIPMENT</b>		
EQUIPMENT	3,786.40	
		<u>3,786.40</u>
<b>TOTAL PROPERTY AND EQUIPMENT</b>		<b>3,786.40</b>
<b>INVESTMENTS, ADJUSTED TO MARKET</b>		
UNREALIZED GAIN/(LOSS) INVESTS	44,218,233.06	
BONDS	87,511,500.33	
INTERNATIONAL EQUITIES	76,620,569.17	
SMALL CAP EQUITIES	21,383,960.85	
MID CAP EQUITIES	36,105,372.85	
LARGE CAP EQUITIES	59,022,401.40	
REAL ESTATE	29,484,293.23	
		<u>354,346,330.89</u>
<b>TOTAL INVESTMENTS, AT MARKET</b>		<b>354,346,330.89</b>
<b>TOTAL ASSETS</b>		<b>\$ <u>356,438,805.68</u></b>

**LIABILITIES**

<b>CURRENT LIABILITIES</b>		
CURRENT LIABILITIES	\$ 300.60	
AMCRE DUES	799.78	
WAGE ATTACHMENTS	176.74	
WAGES ACCRUED - 1920 ACCOUNT	118,844.15	
PEDIT TRUST DENTAL	18,163.89	
AFLAC INSURANCE	3,037.03	
BUCK SETTLEMENT RESERVE	248,092.50	
		<u>389,414.69</u>
<b>TOTAL CURRENT LIABILITIES</b>		<b>389,414.69</b>
<b>TOTAL NET ASSETS</b>		<b>\$ <u>356,049,390.99</u></b>

**MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
STATEMENT OF CHANGES IN PLAN NET ASSETS  
FOR THE FOUR MONTHS ENDED OCTOBER 31, 2012  
(PRELIMINARY)**

	<b>CURRENT MONTH</b>	<b>YEAR TO DATE</b>
<b>ADDITIONS</b>		
<b>CONTRIBUTIONS</b>		
EMPLOYER	\$ 1,030,849.63	\$ 4,500,810.69
PLAN MEMBERS	349,513.28	1,316,493.23
	<u>1,380,362.91</u>	<u>5,817,303.92</u>
<b>TOTAL CONTRIBUTIONS</b>		
<b>INVESTMENT INCOME</b>		
UNREALIZED GAIN/(LOSS) INVESTS.	0.00	15,339,051.12
RENTAL INCOME, NET OF EXPENSES	4,169.23	8,561.34
INTEREST	2,490.04	13,819.04
DIVIDENDS	0.00	1,195,716.60
CAPITAL GAINS	0.00	201,389.91
	<u>(65,652.86)</u>	<u>(176,452.03)</u>
<b>LESS INVESTMENT EXPENSE</b>		
<b>TOTAL INVESTMENT INCOME</b>	<u>(58,993.59)</u>	<u>16,582,085.98</u>
<b>TOTAL ADDITIONS</b>	<u>1,321,369.32</u>	<u>22,399,389.90</u>
<b>DEDUCTIONS</b>		
BENEFIT PAYMENTS, SUBSIDIES, & REFUNDS	(2,118,083.60)	(8,871,986.62)
ADMINISTRATIVE EXPENSES	(78,313.92)	(214,823.26)
	<u>2,196,397.52</u>	<u>9,086,809.88</u>
<b>TOTAL DEDUCTIONS</b>		
<b>INCREASE (DECREASE) IN NET ASSETS</b>	<b>(875,028.20)</b>	<b>13,312,580.02</b>
<b>NET ASSETS</b>		
<b>BEGINNING OF YEAR</b>	<u>356,924,419.19</u>	<u>342,736,810.97</u>
<b>END OF YEAR</b>	<u>\$ 356,049,390.99</u>	<u>\$ 356,049,390.99</u>

**MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
CASH FLOW ANALYSIS  
FOR THE FOUR MONTHS ENDED OCTOBER 31, 2012  
(PRELIMINARY)**

	CURRENT MONTH	YEAR TO DATE
<b>ADDITIONS</b>		
<b>CONTRIBUTIONS</b>		
EMPLOYER	1,030,849.63	4,500,810.69
PLAN MEMBER	349,513.28	1,316,493.23
<b>TOTAL CONTRIBUTIONS</b>	<b>1,380,362.91</b>	<b>5,817,303.92</b>
<b>INVESTMENT INCOME</b>		
RENTAL INCOME, NET OF EXPENSES	4,169.23	8,561.34
INTEREST	2,490.04	13,819.04
DIVIDENDS	0.00	776,933.58
CAPITAL GAIN	0.00	0.00
LESS INVESTMENT EXPENSE	(65,652.86)	(176,452.03)
<b>TOTAL INVESTMENT INCOME</b>	<b>(58,993.59)</b>	<b>622,861.93</b>
<b>TOTAL ADDITIONS</b>	<b>1,321,369.32</b>	<b>6,440,165.85</b>
<b>DEDUCTIONS</b>		
BENEFIT PAYMENTS AND SUBSIDIES	(2,061,957.75)	(7,942,953.16)
REFUNDS/ADJUSTMENTS OF CONTRIBUTIONS	(92,810.44)	(1,002,402.64)
ADMINISTRATIVE EXPENSES	(78,313.92)	(214,823.26)
<b>TOTAL DEDUCTIONS</b>	<b>(2,233,082.11)</b>	<b>(9,160,179.06)</b>
<b>OTHER INCREASES/(DECREASES)</b>		
ACCOUNTS RECEIVABLE	261.02	(2,377.15)
ACCOUNTS PAYABLE	(116,420.14)	60,426.23
BUCK SETTLEMENT	0.00	0.00
SALE/PURCHASE OF INVESTMENTS	1,000,000.00	2,110,799.17
<b>TOTAL OTHER INCREASES/(DECREASES)</b>	<b>883,840.88</b>	<b>2,168,848.25</b>
<b>INCREASE (DECREASE) IN CASH</b>	<b>\$ (27,871.91)</b>	<b>\$ (551,164.96)</b>
<b>SUMMARY</b>		
CASH AT END OF PERIOD	\$ 2,083,657.75	\$ 2,083,657.75
CASH AT BEGINNING OF PERIOD	2,111,229.06	2,634,522.11
<b>INCREASE (DECREASE) IN CASH</b>	<b>\$ (27,571.31)</b>	<b>\$ (550,864.36)</b>

UNAUDITED - FOR INTERNAL USE ONLY

Richard A. White, Jr.  
Retirement Administrator



Telephone: (707) 463-4328  
(707) 467-6473  
Fax: (707) 467-6472

**MENDOCINO COUNTY**  
**EMPLOYEES' RETIREMENT ASSOCIATION**  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: December 12, 2012  
To: Board of Retirement  
From: Richard White, Retirement Administrator *RAW*  
Subject: Trustee Education and Travel Policy

**Introduction:**

The existing "Board Education Policy" adopted by MCERA was adopted on December 16, 2009 and was scheduled for review based upon the three-year policy review rule. Additionally, a new law effective January 1, 2013 requires that trustees receive a minimum number of educational hours in general pension related topic areas. This revised policy ensures that board member education and the reporting of that education is compliant with the new statute.

Highlights of the Trustee Education and Travel Policy include:

- ◇ Board members are required to complete a minimum of 24 hours of education within the first two years of assuming office and for every subsequent two-year period in which the board member continues to hold office.
- ◇ The goal of the policy is that all MCERA trustees agree to develop and maintain an adequate level of knowledge and understanding of relevant issues involved in the administration of the MCERA throughout their terms as trustees of the MCERA.
- ◇ Identification of appropriate topics for Board education which may include, but not be limited to, certain defined pension related areas.
- ◇ Establishing a means for determining the programs, training, and educational sessions that qualify as Board member education. Educational seminars sponsored by the state or national pension fund organizations and seminars sponsored by accredited academic institutions shall be deemed to meet board member educational requirements.
- ◇ The requirement that each Board maintain a record of Board member compliance with the Policy and that the Policy and an annual report on board member compliance be placed on MCERA's Internet Website.
- ◇ Mandates that the Board allocate sufficient funds annually in its budget to enable trustees to attend specified conferences.
- ◇ Describes the orientation program for a new board trustees.

**Recommended action:** Approve the Trustee Education and Travel Policy.

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# MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

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## TRUSTEE EDUCATION AND TRAVEL POLICY

### **I. PURPOSE**

- A. This Policy is intended to provide the trustees of the Mendocino County Employees' Retirement Association (MCERA) with guidelines and procedures that recognize and affirm the central role of education in the successful discharge of their duties.
- B. This Policy is not intended to dictate that trustees attend only specific conferences or programs. Instead, it represents a framework for the types of opportunities that trustees may utilize in furthering their fiduciary education. Trustees are encouraged to seek additional education in public pension matters.
- C. Effective January 1, 2013, Section 31522.8 was added to the Government Code. This policy is intended to comply with this section, which requires trustees to complete a minimum of 24 hours of education within the first two years of assuming office and for every subsequent two-year period in which the board member continues to hold office.

### **II. OBJECTIVES**

- A. That trustees gain the knowledge they need to effectively carry out their fiduciary duties.
- B. That trustees possess a common base of knowledge to facilitate group discussion, debate and effective decision-making.
- C. To encourage trustees to seek and maintain a level of familiarity with public pension issues.
- D. That all newly appointed or elected trustees are provided with the general introductory knowledge they need to enable them to actively and effectively participate in board and committee deliberations.

### III. ASSUMPTIONS

A. The Policy rests on the following important assumptions:

1. The role of a trustee is distinct from that of management; therefore the knowledge and educational needs of a trustee may also be distinct.
2. Trustees are responsible for making policy decisions affecting all major aspects of plan administration. Therefore, trustees must acquire a level of knowledge in all significant facets of the plan that is appropriate to policy determination.
3. No single method of educating trustees is optimal. Instead, a variety of methods may be necessary and appropriate.

### IV. POLICY GUIDELINES

#### *A. General Provisions*

1. **Goal.** All MCERA trustees agree to develop and maintain an adequate level of knowledge and understanding of relevant issues involved in the administration of the MCERA throughout their terms as trustees of the MCERA.
2. **Educational topics.** Trustees agree to pursue an appropriate level of training across a broad spectrum of pension-related areas, rather than limiting their education to particular areas. Accordingly, trustees shall endeavour to gain knowledge that is consistent with the Board's role as a high level, policy-setting and oversight body.

Section 31522.8(a) identifies appropriate topics for Board education which may include, but not be limited to, the following pension related areas:

- a. Fiduciary responsibilities
- b. Ethics
- c. Pension fund investments and investment program management
- d. Actuarial matters
- e. Pension funding
- f. Benefits administration
- g. Disability evaluation
- h. Fair hearings

- i. Pension fund governance
  - j. New board member orientation
3. **Compliant educational opportunities.** Section 31522.8(b) establishes a means for determining the programs, training, and educational sessions that qualify as Board member education. Educational seminars sponsored by the state or national pension fund organizations and seminars sponsored by accredited academic institutions shall be deemed to meet board member educational requirements.

The following shall provide guidance with respect to attendance at conferences with preference given to conferences sponsored by educational institutions, Callan Associates, or pension industry associations such as SACRS and CALAPRS.

Appropriate educational tools for trustees may include, but are not limited to:

- a. State Association of County Retirement Systems (SACRS):
    - 1. The Semi-Annual Conferences of the State Association of County Retirement Systems (SACRS);
    - 2. SACRS Public Pension Investment Program
  - b. California Association of Public Retirement Systems (CALAPRS):
    - 1. Board Leadership Institute
    - 2. Principles of Pension Management Program
    - 3. The General Assembly
    - 4. Trustee Roundtables
  - c. CALLAN Associates:
    - 1. Callan College
    - 2. Callan National Conference
4. **Compliance reporting.** Section 31522.8(d) requires each Board to maintain a record of Board member compliance with the Policy. The Policy and an annual report on board member compliance shall be placed on MCERA's Internet Website.

***B. Role of MCERA Management***

1. Management shall identify appropriate educational opportunities and include such information in Board meeting information packages for trustees' consideration, as early in the year as possible to facilitate scheduling on the part of board members.
2. Staff will organize or deliver at least one special in-house education session each year covering one or more topics that would be beneficial for all board members. An example of such a topic would be the Brown Act.
3. Other required training. In addition to the above, mandatory training is required for trustees regarding:
  - a. AB 1234 – Ethics Training: every two years; and
  - b. AB 1825 – Sexual Harassment Prevention Training: within six months of becoming a Trustee and every two years thereafter.

***C. Conferences and Seminars***

1. The Board will allocate sufficient funds annually in its budget to enable trustees to attend specified conferences. Accordingly, Board approval is not required for attendance at such conferences, provided they are held within California. Trustees, however, shall confirm with the Retirement Administrator that there is sufficient space and funding.
2. If a conference is not listed in the budget, or is to be held outside the State of California, attendance at that conference shall require Board approval. In approving a particular educational opportunity, the Board shall consider:
  - a. The extent to which an opportunity is expected to provide trustees with the understanding and information they need to carry out their responsibilities;
  - b. The extent to which the opportunity meets the requirements of this policy;
  - c. The cost-effectiveness of the program in light of travel, lodging and related expenses.
  - d. The timeliness and relevance of the opportunity.
3. Reimbursement for travel and associated expenses relating to educational conferences shall be in accordance with the provisions of the County Travel Policy, unless superseded by a MCERA travel policy.
4. In cases where attendance at a particular conference is limited:
  - a. The Chair and Retirement Administrator shall jointly determine whether it is necessary for management to participate; and then

- b. The Chair shall determine which interested trustees shall attend, on a rotating basis.
- c. If a limited number of trustees attend a particular conference, they will report back to the Board on the conference and provide an evaluation of the conference.

5. Trustees may provide the Retirement Administrator with copies of any educational material acquired at conferences that they deem to be useful. The Retirement Administrator shall in turn make said materials available to the Board for reference purposes.

## **V. Orientation Program**

- A. A formal orientation program shall be developed by the Retirement Administrator for the benefit of new trustees. The aim of the orientation program shall be to ensure that new trustees are in a position to contribute fully to board and committee deliberations, and effectively carry out their fiduciary duties as soon as possible upon joining the Board.
- B. As part of the orientation process, new trustees shall, within 45 days of their election or appointment to the Board:
  1. Be briefed by the Retirement Plan Administrator on the history and background of the MCERA;
  2. Be briefed by the Board Chair;
  3. Be introduced to staff of MCERA;
  4. Be provided a tour of MCERA offices by management;
  5. Be briefed on their fiduciary duties, conflict of interest guidelines and *The Brown Act*;
  6. Receive the following from the Retirement Administrator:
    - a) *The 37 Act*, the *Brown Act* and the MCERA By-Laws;
    - b) Most recent plan description and member handbook;
    - c) Copies of MCERA Board policies;
    - d) Most recent actuarial valuation and financial statements;
    - e) Most recent asset/liability study;
    - f) Most recent investment performance report;

- g) Most recent budget;
  - h) Organizational chart;
  - i) Names and phone numbers of the other trustees and the Retirement Administrator;
  - j) Listing of current committee assignments;
  - k) Listing of current MCERA service providers;
  - l) List of current educational opportunities (including dates of Callan College/Investment Institutes, SACRS and CALAPRS conferences); and
  - m) A copy of the Board's liability insurance policy; and
  - n) Other relevant information and documentation from management or the Chair; for example, disability process guidelines/information.
- C. The Retirement Administrator shall review and if necessary update all orientation material as needed.
- D. During the course of their first year on the Board, new trustees shall endeavour to attend the SACRS New Trustee Training Program and/or the CALAPRS Principles of Pension Management Program.
- E. Prior to their first official meeting of the Board, new trustees shall endeavour to attend a meeting of the Board or a standing committee as an observer.
- F. Within 30 days of being appointed or elected to the Board, trustees must complete a Form 700 *Statement of Economic Interests*. Management shall provide new trustees with all the necessary assistance in properly completing the Statement.

## **VI. POLICY REVIEW**

The Board shall review the Board Education policy at least every three (3) years to ensure that it remains relevant and appropriate.

## **VII. POLICY HISTORY**

The Board adopted this policy on 12/16/09.

The policy was amended on 12/12/2012.

**Assembly Bill No. 1519**

**CHAPTER 15**

An act to add Section 31522.8 to the Government Code, relating to county employees' retirement.

[Approved by Governor June 15, 2012. Filed with  
Secretary of State June 15, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1519, Wieckowski. County employee retirement boards.

The County Employees Retirement Law of 1937 prescribes the rights, benefits, and duties of members of the retirement systems established pursuant to its provisions. The act vests the management of these systems in retirement boards, and sets forth the membership and qualifications of the boards. Existing law authorizes the board of supervisors of any county in which the assets of the retirement system exceed \$800,000,000 to, by resolution, establish a board of investments, which would be responsible for all investments of the retirement system.

This bill would require a retirement board and a board of investments to adopt a policy for providing education for members of retirement boards, as specified, and would require all board members to receive a minimum of 24 hours of board member education within the first 2 years of assuming office and for every subsequent 2-year period in which the person serves on the board. The bill would require each board to maintain a record of a board member's compliance with the policy and to post the policy and an annual report on board member compliance on the retirement system's Internet Web site.

*The people of the State of California do enact as follows:*

SECTION 1. Section 31522.8 is added to the Government Code, to read:  
31522.8. A board of retirement and a board of investments subject to this article shall adopt a policy for providing education to board members. The policy, at a minimum, shall do the following:

(a) Identify appropriate topics for board member education, which may include, but is not limited to, the following:

- (1) Fiduciary responsibilities.
- (2) Ethics.
- (3) Pension fund investments and investment program management.
- (4) Actuarial matters.
- (5) Pension funding.
- (6) Benefits administration.

- (7) Disability evaluation.
- (8) Fair hearings.
- (9) Pension fund governance.
- (10) New board member orientation.

(b) Establish a means for determining the programs, training, and educational sessions that qualify as board member education. Educational seminars sponsored by the state or national public pension fund organizations and seminars sponsored by accredited academic institutions shall be deemed to meet board member education requirements.

(c) Require that all board members receive a minimum of 24 hours of board member education within the first two years of assuming office and for every subsequent two-year period the board member continues to hold membership on the board.

(d) Require each board to maintain a record of board member compliance with the policy. The policy and an annual report on board member compliance shall be placed on the Internet Web site of the retirement system.

Richard A. White, Jr.  
Retirement Administrator



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(707) 467-6473  
Fax: (707) 467-6472

**MENDOCINO COUNTY**  
EMPLOYEES' RETIREMENT ASSOCIATION  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: December 12, 2012  
To: Board of Retirement  
From: Richard White, Retirement Administrator  
Judy Zeller, Benefits Specialist II  
Subject: Medical Advisor Contract

**Introduction:**

The Board is aware that the procedures and practices used at MCERA are under revision in order to update them as necessary to be consistent with current legal standards and practices in other county retirement systems.

It is the current practice of MCERA to utilize independent medical exams for applicants which consist of a review of existing medical records and an independent medical examination of the applicant by a qualified medical provider which is designated and paid for by the Association.

Staff would like the Board to approve the addition of a medical advisor to the resources available to the Association for these reasons:

- The use of a medical advisor is an accepted practice of other 1937 Act pension systems and not currently a part of the MCERA procedures.
- The medical advisor will be an important resource for the staff which will have access to an independent medical professional who will assist the staff in navigating through medical reports, examinations, treatments, diagnosis and be available to make recommendations on the need for an independent medical examination and the specialty area of that examination.
- The medical advisor will be an important resource for the Board of Retirement. The use of an independent medical professional will enhance the quality and reliability of the information used by the Board in the consideration of disability applications.
- It is anticipated that the use of a medical advisor will create a savings in terms of time, resources and money by placing the independent medical review early into the process which is expected to enhance the quality of the medical reports reviewed by staff and relied upon by the Board.
- Staff anticipates that disability applications will be processed more efficiently and thereby increase the service level to MCERA members.

The Medical Advisor will be designated by the Board of Retirement as a third party medical professional to review the application and medical records submitted to the Association and issue an independent report to the Board. The Medical Advisor will not be required to conduct a medical examination or interview with the applicant. The independent report will be an opinion from the medical professional based solely upon a review and analysis of the other medical evidence that has already been submitted to the Association as a part of the disability application process.

The medical advisor will only evaluate the medical reports that are submitted with the application and render an opinion. We will use the medical advisor at the beginning of the process in a manner where the medical advisor may suggest a referral to an MCERA physician to a third-party medical examiner. The medical advisor will also review the application file at the request of the Board - as in the last case we had - to render an opinion. The medical advisor will be used in addition to the independent medical examination where the applicant is seen by a doctor in the specific medical area of concern.

MCERA does not have contracts with the physicians we use for the independent medical examinations. The independent medical examiners are paid directly for their service on a fee basis. The medical advisor contract is a new procedure for us which will allow the medical advisor to be added to the County's medical malpractice insurance and will ensure that the medical advisor demonstrates proof of General and/or Professional Liability Insurance in the amount of \$100,000,000.00.

Staff expects to incorporate the experience of using a medical advisor into the review of the disability process currently underway and report back to the Board on the success of this additional resource.

The Curriculum Vitae for Dr. Rapp is included for the Board's reference. Dr. Rapp was referred to us by Dr. Coursey, a past member of the MCERA Board, and is highly interested in the position. MCERA staff did contact a few medical service providers in the local area and were informed that they either were not interested in the position or were busy enough in their practice and didn't want the additional work.

**Recommended Action:** Approve the Medical Advisor Contract with Dr. Jeffrey Rapp for the term of December 12, 2012 through December 12, 2013 in an amount not to exceed \$20,000.

Attachments.

**MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
STANDARD SERVICES AGREEMENT**

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This Agreement, dated as of December 12, 2012, is by and between the MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION, hereinafter referred to as "MCERA", and Jeffrey Rapp M.D., hereinafter referred to as the "CONTRACTOR".

**WITNESSETH**

WHEREAS, MCERA may retain independent contractors to perform special services to or for MCERA; and

WHEREAS, MCERA desires to obtain CONTRACTOR for Disability Medical Record Review and Recommendation services; and

WHEREAS, CONTRACTOR is professionally qualified to provide such services and is willing to provide same to MCERA on the terms and conditions set forth in this AGREEMENT;

NOW, THEREFORE it is agreed that MCERA does hereby retain CONTRACTOR to provide the services described in Exhibit "A", and CONTRACTOR accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement, the Additional Provisions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

- Exhibit A     Definition of Services
- Exhibit B     Payment Terms
- Exhibit C     Insurance Requirements

The term of this Agreement shall be from December 12, 2012 through December 12, 2013.

The compensation payable to CONTRACTOR hereunder shall not exceed Twenty Thousand Dollars (\$20,000.00) for the term of this Agreement.

**IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.**

**MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION**

**CONTRACTOR/COMPANY NAME**

By: \_\_\_\_\_  
Richard A. White, Retirement Administrator

By: \_\_\_\_\_  
Signature  
Title: Independent Consultant

**NAME AND ADDRESS OF CONTRACTOR:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ATTEST:**

**INSURANCE REQUIREMENTS:**

KRISTIN McMENOMEY, Director  
General Services Agency

By: \_\_\_\_\_  
Judy Zeller, Clerk to the Board

By: \_\_\_\_\_  
Risk Manager

**APPROVED AS TO FORM:**

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

By: \_\_\_\_\_  
Jeff Berk, MCERA Legal Counsel

## GENERAL TERMS AND CONDITIONS

- b. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that CONTRACTOR is an Independent Contractor. CONTRACTOR is not the agent or employee of MCERA in any capacity whatsoever, and MCERA shall not be liable for any acts or omissions by CONTRACTOR nor for any obligations or liabilities incurred by CONTRACTOR.

CONTRACTOR shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

CONTRACTOR shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold MCERA harmless from any and all liability which MCERA may incur because of CONTRACTOR's failure to pay such amounts.

In carrying out the work contemplated herein, CONTRACTOR shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as Independent Contractors and shall not be treated or considered in any way as officers, agents and/or employees of MCERA.

CONTRACTOR does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with all applicable federal, state and County laws, ordinances, regulations, titles, departmental procedures and currently approved methods and practices in his/her field and that the sole interest of MCERA is to insure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by MCERA.

Notwithstanding the foregoing, if MCERA determines that pursuant to state and federal law CONTRACTOR is an employee for purposes of income tax withholding, MCERA may upon two week's notice to CONTRACTOR, withhold from payments to CONTRACTOR hereunder federal and state income taxes and pay said sums to the federal and state governments.

2. **INDEMNIFICATION:** CONTRACTOR shall indemnify, defend, and hold harmless MCERA, its Board of Retirement, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever including damages to property and injuries to, or death of persons, reasonable attorney's fees, expert fees and court costs occurring or resulting, or alleged to be occurring or resulting, to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connections with the CONTRACTOR'S performance or its obligations under this AGREEMENT, and from any and all claims, liabilities, and losses occurring or resulting, or alleged to be occurring or resulting, to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR'S performance of its obligations under this AGREEMENT, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of MCERA. "CONTRACTOR'S performance" includes CONTRACTOR'S action or inaction and the action or inaction of CONTRACTOR'S officers, employees, agents and subcontractors.
3. **INSURANCE AND BOND:** CONTRACTOR shall at all times during the term of the Agreement with MCERA maintain in force those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein.
4. **WORKERS' COMPENSATION:** CONTRACTOR shall provide Workers' Compensation insurance, as applicable, at CONTRACTOR's own cost and expense and further, neither the CONTRACTOR nor its carrier shall be entitled to recover from MCERA any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.
5. **CONFORMITY WITH LAW AND SAFETY:**
  - a. In performing services under this Agreement, CONTRACTOR shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. CONTRACTOR shall indemnify and hold MCERA harmless from any and all liability, fines, penalties and consequences from any of CONTRACTOR's failures to comply with such laws, ordinances, codes and regulations.
  - b. **Accidents:** If a death, serious personal injury or substantial property damage occurs in connection with CONTRACTOR's performance of this Agreement, CONTRACTOR shall immediately notify Mendocino County Risk Manager's Office by telephone. CONTRACTOR shall promptly submit to MCERA a written report, in such form as may be required by MCERA of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address

of the injured or deceased person(s); (2) name and address of ~~CONTRACTOR's sub-contractor, if any;~~ (3) name and address of CONTRACTOR's liability insurance carrier; and (4) a detailed description of the accident and whether any of MCERA's equipment, tools, material, or staff were involved.

- c. CONTRACTOR further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to MCERA the opportunity to review and inspect such evidence, including the scene of the accident.
6. PAYMENT: For services performed in accordance with this Agreement, payment shall be made to CONTRACTOR as provided in Exhibit B hereto.
  7. TRAVEL EXPENSES: CONTRACTOR shall not be allowed or paid travel expenses unless set forth in this Agreement.
  8. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the CONTRACTOR.
- b. OWNERSHIP OF DOCUMENTS: CONTRACTOR hereby assigns to MCERA and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by MCERA, the CONTRACTOR, the CONTRACTOR's subcontractors or third parties at the request of the CONTRACTOR (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

CONTRACTOR also hereby assigns to MCERA and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in CONTRACTOR's information system, respecting in any way the subject matter of this Agreement.

CONTRACTOR shall be permitted to retain copies, including reproducible copies and computerized copies, of said Documents and Materials. CONTRACTOR agrees to take such further steps as may be reasonably requested by MCERA to implement the aforesaid assignment. If for any reason said assignment is not effective, CONTRACTOR hereby grants MCERA and any assignee of MCERA an express royalty – free license to retain and use said documents and materials. MCERA rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and whether or not CONTRACTOR's services as set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

In CONTRACTOR's contracts with other contractors, CONTRACTOR shall ~~expressly obligate its Subcontractors to grant MCERA the aforesaid assignment~~ and license rights as to that CONTRACTOR's Documents and Materials. CONTRACTOR agrees to defend, indemnify and hold MCERA harmless from any damage caused by a failure of the CONTRACTOR to obtain such rights from its Contractors and/or Subcontractors.

CONTRACTOR shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the CONTRACTOR and incorporated into the work as set forth in Exhibit "A", and shall defend, indemnify and hold MCERA harmless from any claims for infringement of patent or copyright arising out of such selection.

MCERA's rights under this Paragraph 9 shall not extend to any computer software used to create such Documents and Materials.

- b. CONFLICT OF INTEREST; CONFIDENTIALITY: The CONTRACTOR covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, CONTRACTOR represents to and agrees with MCERA that CONTRACTOR has no present, and will have no future, conflict of interest between providing MCERA services hereunder and any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to MCERA, as determined in the reasonable judgment of Retirement Administrator.

The CONTRACTOR agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for MCERA, will be kept confidential and not be disclosed to any other person. The CONTRACTOR agrees to immediately notify MCERA by notices provided in accordance with Paragraph 11 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement.

These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to MCERA hereunder.

- b. NOTICES: All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

Facsimile transmission: When sent by facsimile to the last facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To MCERA: Mendocino County Employees'  
Retirement Association  
625-B Kings Ct.  
Ukiah, CA 95482

To CONTRACTOR: Jeffrey Rapp, M.D., F.A.C.E.P.  
429 Sherman Street  
Healdsburg, CA 95448

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

12. **USE OF MCERA PROPERTY:** CONTRACTOR shall not use MCERA property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
13. **EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS:** CONTRACTOR certifies that it will comply with all federal and state laws pertaining to equal employment opportunity and that it shall not discriminate against any employee or applicant for employment on the basis of race, color,

religion, age, sex, national origin, ancestry, marital status, political affiliation or physical or mental condition, in matters pertaining to recruitment, hiring, training, upgrading, transfer, compensation or termination.

- a. CONTRACTOR shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
  - b. CONTRACTOR shall, if requested to so do by MCERA, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Veteran's status, political affiliation, or any other non-merit factor.
  - c. If requested to do so by MCERA, CONTRACTOR shall provide MCERA with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
  - d. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.
  - e. The CONTRACTOR shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.
14. **DRUG-FREE WORKPLACE:** CONTRACTOR and CONTRACTOR's employees shall comply with MCERA's policy of maintaining a drug-free workplace. Neither CONTRACTOR nor CONTRACTOR's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any MCERA facility or work site. If CONTRACTOR or any employee of CONTRACTOR is convicted or pleads *nolo contendere* to a criminal drug statute violation occurring at a MCERA facility or work site, the CONTRACTOR, within five days thereafter, shall notify the Administrator of MCERA. Violation of this provision shall constitute a material breach of this Agreement.
15. **ENERGY CONSERVATION:** CONTRACTOR agrees to comply with the mandatory standards and policies relating to energy efficiency in the State of California Energy Conservation Plan, (Title 24, California Administrative Code).
16. **COMPLIANCE WITH LICENSING REQUIREMENTS:** CONTRACTOR shall comply with all necessary licensing requirements and shall obtain appropriate

licenses and display the same in a location that is reasonably conspicuous, as well as file copies of same with the office of MCERA.

17. **AUDITS; ACCESS TO RECORDS:** The CONTRACTOR shall make available to MCERA, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to MCERA, and shall furnish to MCERA, its authorized agents, officers or employees such other evidence or information as MCERA may require with regard to any such expenditure or disbursement charged by the CONTRACTOR.

The CONTRACTOR shall maintain full and adequate records in accordance with MCERA requirements to show the actual costs incurred by the CONTRACTOR in the performance of this Agreement. If such books and records are not kept and maintained by CONTRACTOR within the County of Mendocino, California, CONTRACTOR shall, upon request of MCERA, make such books and records available to MCERA for inspection at a location within County or CONTRACTOR shall pay to MCERA the reasonable, and necessary costs incurred by MCERA in inspecting CONTRACTOR's books and records, including, but not limited to, travel, lodging and subsistence costs. CONTRACTOR shall provide such assistance as may be reasonably required in the course of such inspection. MCERA further reserves the right to examine and reexamine said books, records and data during the four (4) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by MCERA, and the CONTRACTOR shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for four (4) years after MCERA makes the final or last payment or within four (4) years after any pending issues between MCERA and CONTRACTOR with respect to this Agreement are closed, whichever is later.

18. **DOCUMENTS AND MATERIALS:** CONTRACTOR shall maintain and make available to MCERA for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 9 of this Agreement. CONTRACTOR's obligations under the preceding sentence shall continue for four (4) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by MCERA), and CONTRACTOR shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for four (4) years following MCERA's last payment to CONTRACTOR under this Agreement.
19. **TIME OF ESSENCE:** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.

20. **TERMINATION:** MCERA has and reserves the right to suspend, terminate or ~~abandon the execution of any work by the CONTRACTOR without cause at any~~ time upon giving to the CONTRACTOR prior written notice. In the event that MCERA should abandon, terminate or suspend the CONTRACTOR's work, the CONTRACTOR shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to CONTRACTOR for services shall not exceed \$20,000.00 payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment.
21. **CHOICE OF LAW:** This Agreement, and any dispute arising from the relationship between the parties to this Agreement, shall be governed by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws.
22. **ADVERTISING OR PUBLICITY:** CONTRACTOR shall not use the name of MCERA, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of MCERA in each instance.
23. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between MCERA and CONTRACTOR relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.
24. **HEADINGS:** herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.
25. **MODIFICATION OF AGREEMENT:** This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.
26. **ASSURANCE OF PERFORMANCE:** If at any time MCERA believes CONTRACTOR may not be adequately performing its obligations under this Agreement or that CONTRACTOR may fail to complete the Services as required by this Agreement, MCERA may request from CONTRACTOR prompt written

assurances of performance and a written plan acceptable to MCERA, to correct the observed deficiencies in CONTRACTOR's performance. CONTRACTOR shall provide such written assurances and written plan within ten (10) calendar days of its receipt of MCERA's request and shall thereafter diligently commence and fully perform such written plan. CONTRACTOR acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.

27. **SUBCONTRACTING/ASSIGNMENT:** CONTRACTOR shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without MCERA's prior written approval.
- a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.
  - b. CONTRACTOR shall use the subcontractors identified in Exhibit A and shall not substitute subcontractors without MCERA's prior written approval.
  - c. CONTRACTOR shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between CONTRACTOR and its subcontractors.
28. **SURVIVAL:** The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 9), and Conflict of Interest (Paragraph 10), shall survive termination or expiration for two (2) years.
29. **SEVERABILITY:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
30. **PATENT AND COPYRIGHT INDEMNITY:** CONTRACTOR represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software ("CONTRACTOR Products") provided to MCERA under this Agreement infringe any patent, copyright or other proprietary right. CONTRACTOR shall defend, indemnify and hold harmless MCERA of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, "Losses") arising out of or in connection with an assertion that any CONTRACTOR Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party.

- a. MCERA will: (1) notify CONTRACTOR promptly of such claim, suit or assertion; (2) permit CONTRACTOR to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable CONTRACTOR to do so. CONTRACTOR shall not agree without MCERA's prior written consent, to any settlement, which would require MCERA to pay money or perform some affirmative act in order to continue using the CONTRACTOR Products.
  - b. If CONTRACTOR is obligated to defend MCERA pursuant to this Section 31 and fails to do so after reasonable notice from MCERA, MCERA may defend itself and/or settle such proceeding, and CONTRACTOR shall pay to MCERA any and all losses, damages and expenses (including attorney's fees and costs) incurred in relationship with MCERA's defense and/or settlement of such proceeding.
  - c. In the case of any such claim of infringement, CONTRACTOR shall either, at its option, (1) procure for MCERA the right to continue using the CONTRACTOR Products; or (2) replace or modify the CONTRACTOR Products so that that they become non-infringing, but equivalent in functionality and performance.
  - d. Notwithstanding this Section 31, MCERA retains the right and ability to defend itself, at its own expense, against any claims that CONTRACTOR Products infringe any patent, copyright, or other intellectual property right.
- b. OTHER AGENCIES: Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The CONTRACTOR is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the CONTRACTOR elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.

[END OF GENERAL TERMS AND CONDITIONS]

## EXHIBIT A

### DEFINITION OF SERVICES

CONTRACTOR, upon MCERA's request, shall review applications for Disability Retirement and all supporting documents provided by MCERA in the role of medical advisor. The CONTRACTOR shall advise the Board of Retirement on medical matters, e.g., by explaining medical terms, interpreting medical reports, and analyzing medical evidence. If requested, the CONTRACTOR may attend Board meetings and meet with the Board in closed session. CONTRACTOR may also attend legal proceedings, depositions, and other events if required to do so.

The CONTRACTOR will prepare detailed written recommendations to MCERA and its Board of Retirement, regarding approval of disability retirement, denial of disability retirement, or the need for additional medical evaluation of Disability Applicants. The CONTRACTOR will use MCERA's Physician Guidelines (EXHIBIT D) to assist in making recommendations. The CONTRACTOR will not be required to meet with applicants in an office setting and/or physically examine applicants.

## EXHIBIT B

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### PAYMENT TERMS

1. MCERA will pay CONTRACTOR at the rate of \$275.00 per hour for services, not to exceed \$20,000.00 dollars. The CONTRACTOR will be reimbursed for travel expense at the same hourly rate if asked to attend Board of Retirement meetings, legal proceedings, depositions, and other events. Mileage will be reimbursed at the IRS Standard Automobile Mileage Rate and other travel expense will be reimbursed using California Per Diem Rates

## EXHIBIT C

### INSURANCE REQUIREMENTS

Insurance coverage in a minimum amount set forth herein shall not be construed to relieve CONTRACTOR for liability in excess of such coverage, nor shall it preclude MCERA from taking such other action as is available to it under any other provisions of this Agreement or otherwise in law.

CONTRACTOR agrees to indemnify and hold harmless MCERA, its elected or appointed officials, employees or volunteers against any claims, actions, or demands against them, or any of them, and against any damages, liabilities or expenses, including costs of defense and attorneys' fees, for personal injury or death, or for the loss or damage to the property, or any or all of them, to the extent arising out of the performance of this Agreement by CONTRACTOR.

CONTRACTOR affirms that s/he is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for the Workers' Compensation or to undertake self insurance in accordance with the provisions of the Code and CONTRACTOR further assures that s/he will comply with such provisions before commencing the performance of work under this Agreement. CONTRACTOR shall furnish to MCERA certificate(s) of insurance evidencing Workers' Compensation Insurance coverage to cover its employees, and CONTRACTOR shall require all subcontractors similarly to provide Workers' Compensation Insurance as required by the Labor Code of the State of California for all of CONTRACTOR'S and subcontractors' employees.

The County of Mendocino (COUNTY) shall provide, at no cost to CONTRACTOR, professional liability (malpractice) insurance protection for CONTRACTOR covering services performed under this Agreement and for which payment is made by MCERA as an additional coverage under COUNTY'S own liability insurance policy. No coverage shall be afforded for any services for which a private billing is made by or authorized by CONTRACTOR.

CONTRACTOR shall furnish to MCERA certificate of Automobile Vehicle Liability/Bodily Injury and property damage liability meeting California minimum statutory liability requirements.

CONTRACTOR shall demonstrate proof of General and/or Professional Liability Insurance in the amount of \$100,000,000.00 as determined by the Risk Manager upon review of the scope of services of the Agreement.

**EXHIBT D**

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**PHYSICIAN GUIDELINES**

Richard A. White, Jr.  
Retirement Administrator



Telephone: (707) 463-4328  
(707) 467-6473  
Fax: (707) 467-6472

**MENDOCINO COUNTY**  
EMPLOYEES' RETIREMENT ASSOCIATION  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

## **PHYSICIAN GUIDELINES FOR EVALUATING MEMBERS FOR DISABILITY RETIREMENT**

### **PLEASE REVIEW BEFORE COMPLETING YOUR REPORT**

The Mendocino County Employees' Retirement Association asks that you answer the following questions for the Board of Retirement as a part of the disability application process.

1. Does the applicant suffer from an injury or disease? If so, please describe.
2. Does the injury or disease render the applicant incapacitated for the performance of any of his/her job duties? If so, which duties can no longer be performed? Please provide a detailed analysis and explanation.
3. Please give us your opinion on the propriety of any treatments already undertaken or completed by the applicant and whether or not the applicant has made adequate efforts to comply with appropriate treatments undertaken.
4. Please explain whether there is any medical treatment currently available for this injury or disease that the applicant has not undertaken or completed for which, in your medical opinion, there is a medical probability that the treatment would succeed in ameliorating the incapacity such that the applicant could again perform the affected job duty. Please also describe the risks and benefits of the treatment or treatments you've described.
5. Assuming the applicant does not receive further treatment, is it medically probable that the incapacity is permanent?
6. Assuming the applicant is permanently incapacitated for the performance of any job duty, please address the following questions in your report:

b. In your medical opinion, is the applicant's incapacity the result of an injury/illness arising out of and in the course of employment? If so, did the employment contribute substantially to the disability? (Employment can be less than a 50% causal factor, but there must be a demonstrated and identifiable, real and measurable, causal connection between the employment and the incapacity.)

b. Is the applicant capable of performing other duties? If so, please specify what medical restrictions would apply.

Your evaluation must be based on:

- ~~Your examination of the applicant (not required)~~
- Your review of the Job Class Specification
- ~~Your interview with the applicant to determine the actual and usual job duties and the physical requirements of the job (not required)~~
- Your review of the medical records

The opinion you provide is restricted to matters within your specialty. However, you may identify medical conditions outside your specialty that you believe need medical attention. If so, include a recommendation in your report.

Your report should include the following:

- Job Description - Your description of the applicant's job duties and its requirements.
- History of Injury/Illness
- Applicant's Complaints - ~~Must be based on your interview of the applicant.~~ (not required)
- ~~Description of Examination - Examination protocol, explanation of tests conducted, if any, and statement of findings.~~ (not required)
- Medical History - Review of applicant's records, medical history, and prior injuries/illnesses.
- Diagnostic Impression
- Conclusions - Present your answers to the questions outlined above. Include the data on which you rely and the reasoning by which you progress to your conclusions.

**If the Board receives a physician's report that is unclear or does not answer a question outlined above, a supplemental report may be requested.**

Please instruct your staff to submit your report and all billing directly to the Mendocino County Employees' Retirement Association at 625-B Kings Court, Ukiah, CA 95482.

Richard A. White, Jr.  
Retirement Administrator



Telephone: (707) 463-4328  
(707) 467-6473  
Fax: (707) 467-6472

**MENDOCINO COUNTY**  
**EMPLOYEES' RETIREMENT ASSOCIATION**  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: December 12, 2012  
To: Board of Retirement  
From: Richard White, Retirement Administrator  
Subject: Administrator Report

I have listed some noteworthy activities which I have participated in since last month's Board of Retirement meeting:

- I met with Thomas Parker, County Counsel, to welcome him to the County and we discussed various items of interest relating to the retirement association, including a review of the County Resolution/CERL reconciliation item.
- As a part of the County PEPRA working group, I participated in an information session of the pension reform legislation which was presented to the Board of Supervisors on November 13<sup>th</sup> and December 11<sup>th</sup>.
- I attended the SACRS Fall 2012 Conference in Hollywood, CA where I had the opportunity to participate in a number of discussions on the PEPRA legislation and learn how other 1937 Act pension plans are implementing it. I moderated a session titled "OCIO: Governance in Practice – Revisiting the Conventional Wisdom" which discussed key governance issues for Boards of Retirement in investing trust fund assets, risk-based investment policy and explored the use of an outsourced CIO model for smaller to mid-sized plans. The presenter was Jeff Scott, CFA, Chief Investment Officer, Wurts & Associates. Mr. Scott was previously the CIO of the \$40 billion investment portfolio of the Alaska Permanent Fund.
- I attended the County CEO's department head and leadership team meeting on December 5<sup>th</sup>.

The following is a summary status report on items of interest for the Board of Retirement:

**Operations and Member Services**

MCERA Senior Benefit Specialist Katy Richardson will meet with members at an off-site location in Fort Bragg during the month of December. This off-site will be a first for MCERA and an experiment for us to explore extending our member services to county employees who work outside of Ukiah. If we receive positive results from this session, we will work on additional dates and other locations in the upcoming months. The initial response we received from the Fort Bragg workforce on scheduling this off-site was very encouraging!

## **Mendocino County Grand Jury**

MCERA received a request from the Grand Jury for additional information to the response we submitted to them in July, 2012. The response asked for documentation to support the steps MCERA has taken to “facilitate better financial management” and our reply to the Grand Jury included copies of our policies, procedures and reports which supports this. A copy of our response is included for your information.

## **External Audit**

The presentation of the external audit from Gallina is expected to be received in January, 2013 which represents a delay of one month. Unfortunately, the timing of the completion of the report is dependant upon other reports which pushed a bit beyond expected deadlines due in large part to the workload associated with the pension reform legislation.

## **Comprehensive Annual Financial Report (CAFR)**

MCERA has requested an extension for the submission of the CAFR to a date beyond the December 31, 2012 deadline as a result of a delay in some of the reports being available, the time available for completion due to the pension reform legislation workload and new staff working on the document.

## **December Holiday Schedule**

The MCERA office will be closed for the Christmas Holiday on Monday, December 24 through Wednesday, December 26, 2012. Normal business hours will resume on Thursday, December 27, 2012.

The MCERA office will be closed for the New Year Holiday on Monday, December 31, 2012 and Tuesday, January 1, 2013. Normal business hours will resume on Wednesday, January 2, 2013.

Richard A. White, Jr.  
Retirement Administrator



Telephone: (707) 463-4328  
(707) 467-6473  
Fax: (707) 467-6472

**MENDOCINO COUNTY**  
**EMPLOYEES' RETIREMENT ASSOCIATION**  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

**COPY**

November 19, 2012

Mr. Don Fosse  
Mendocino County Grand Jury  
501 Low Gap Road, Room 1500  
P.O. Box 939  
Ukiah, Ca. 95482-0939

Via Email and US Post Office

Dear Mr. Fosse:

I received your request dated October 29, 2012 for additional information regarding the MCERA response to the Grand Jury contained in Recommendation 7 of the MCERA Evaluation (April 18, 2012). The Grand Jury recommendation and the MCERA response are copied below:

***7. MCERA produce reports that facilitate better financial management to sustain principle (sic) assets and eliminate the need to sell off investment assets to pay for obligations.***

*The recommendation has been implemented. The Board of Retirement adopted a cash management and portfolio rebalancing policy that includes: (a) adoption of a cash management plan for the upcoming fiscal year; (b) monthly cash management reports; and (c) quarterly rebalancing of investments to targeted levels. The Board's policy recognizes the need to maintain sufficient cash on hand to meet ongoing obligations while meeting its fiduciary responsibility to invest funds in a manner that provides the greatest likelihood of meeting long-term goals for return on investments. The flexibility to sell select investment assets can be a vital strategy in allowing the Board to meet its obligations, or to reinvest its assets for greater return as markets may indicate.*

I have included MCERA reports which will show how the recommendation has been implemented:

(1) Attachment 1: Cash and Rebalancing Policy. MCERA adopted this policy on February 15, 2012. The policy describes the purpose and objectives of the cash management policy and guidelines to be followed in implementing the asset rebalancing policy.

(2) Attachment 2: Cash Management Plan. This report shows the cash management plan for Fiscal Year 2012-13 on a month-by-month basis and anticipates the cash balance position and the need to replenish the cash balance account through sale of trust fund assets.

(3) Attachment 3: Cash Flow Analysis. This report is generated by MCERA on a monthly basis for the Board of Retirement. The report shows the current month and year-to-date figures for additions (Contributions and Investment Income) and deductions (Benefit payments and Expenses) for the Association during the time period. The report shows the cash balance at the beginning and end of the period.

(4) Attachment 4: Actual vs Target Asset Allocation. This report is generated by the MCERA Investment Consultant (Callan Associates) on a quarterly basis. The report indicates the asset class allocation on an actual basis and compares it to the target asset allocation. The MCERA Investment Policy Statement (IPS) directs that rebalancing of assets occur when the asset allocations are outside of the allowable ranges which are defined in the IPS.

This report does not show that the Board of Retirement has established 5% ranges around the target asset allocation with the target falling in the middle of the range. As an example, the IPS established a target percentage for Domestic Equity of 38.0% with an allowable range of 33.0% to 43.0%. The Callan report shows that the actual percent allocation of Domestic Equity was 41.2% which showed a difference of 3.2% which is within the allowable range and thus not subject to rebalancing.

I appreciate the opportunity to provide the Grand Jury with the additional information as you requested and I hope you find the material useful for your review. Please contact me if you have additional questions or request for information.

Very truly yours,



Richard A. White, Jr.  
Retirement Administrator

Attachments

**From:** Donald Fosse <dfossil.fosse@gmail.com>  
**To:** <whiter@co.mendocino.ca.us>  
**Date:** 10/29/2012 7:48 PM  
**Subject:** Request for Data

As per Emily Strachan's email of October 27, I am requesting follow-up data on your implementation of recommendation 7 of the 2012 Grand Jury MCERA report.

Your response states that:

1. You have adopted a cash management plan for the upcoming fiscal year.
2. You have monthly cash management reports
3. You have a quarterly re-balancing investments to targeted levels

If you could send documentation of these implementations, it would be appreciated.

Thank you for the time and effort in lending continuity to this public report.

Don Fosse  
Mendocino County Grand Jury

## **MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION**

### **CASH MANAGEMENT AND REBALANCING POLICY**

#### **I. PURPOSE**

The Cash Management and Rebalancing Policy is intended to expand upon the Investment Policy Statement and provide staff with clear cash management and asset rebalancing guidance for the Mendocino County Employees' Retirement Association (MCERA). As fiduciaries, the Board desires to maintain sufficient cash to pay the administrative and investment expenses of MCERA while endeavouring to meet assumed investment returns by maintaining targeted asset diversification within the total portfolio.

#### **II. OBJECTIVES**

- A. Maintain sufficient cash to pay three months (one calendar quarter) of member benefits, administrative and investment expenses, as well as intermittent expenses, i.e., semi-annual transfers to the County's Debt Service Reserve collected through court payroll, fiscal year-end closing of the Retirement Budget Unit (1920), etc.
- B. Ensure a reasonable contingency of cash is maintained to address minor volatility in cash flows and to maintain a positive cash balance and positive quarterly interest apportionment from the County treasury.
- C. Notwithstanding OBJECTIVES A and B, maximize invested assets to provide the best opportunity to achieve investment returns from asset classes with a higher likelihood of appreciation in market value.
- D. Create a disciplined cycle of rebalancing assets classes to targets.

#### **III. POLICY GUIDELINES**

- A. Not later than the Board's May meeting, staff will prepare a draft cash management plan for the following fiscal year. The plan will include sufficient cash to pay three months of ongoing member benefits, administrative and investment expenses, as well as known intermittent expenses.
- B. The projected balance of cash at the end of any calendar quarter will not fall below \$1 million.
- C. Primary sources of cash will be employer and employee contributions, dividends paid from bond funds, and quarterly sales of investments consistent with these Policy

Guidelines. Primary uses of cash disbursements will be member benefit payments, refunds of contributions, administrative and investment expenses. As fiduciaries, the Board understands that quarterly sales of investments to maintain a sufficient cash balance will occur during downward and upward trends in the market value of assets being sold, but believes it is prudent to assume that over the long-term the trends will be neutral.

- D. The Board will adopt a final cash management plan for the following fiscal year not later than its June meeting.
- E. A cash flow report comparing estimated to actual cash flows, as well as beginning and ending balances, will be prepared for each monthly Board meeting.
- F. Not later than thirty (30) days after the end of a calendar quarter, staff will review the percentage of the total investment portfolio by asset class to the target range of each asset class as established in the Investment Policy Statement. Asset classes that fall outside the target range will be rebalanced.
- G. While staff should understand the potential for an accounting gain or loss resulting from rebalancing asset classes, the primary purpose for rebalancing is to align the asset allocation with the Investment Policy Statement to achieve the long-term investment return contained in the Investment Policy Statement.
- H. At the same time staff evaluates the need to rebalance asset classes to target ranges, they will evaluate the need to sell assets to establish the cash balance in the cash management plan.

**V. POLICY REVIEW**

The Board shall review the Cash Management and Rebalancing Policy at least every three (3) years to ensure that it remains relevant and appropriate.

**VI. POLICY HISTORY**

The Board adopted this policy on 02/15/2012.

ATTACHED

MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
CASH FLOW ANALYSIS

	JULY 2012 (PRELIMINARY)	AUGUST 2012 (PROJECTED)	SEPTEMBER 2012 (PROJECTED)	OCTOBER 2012 (PROJECTED)	NOVEMBER 2012 (PROJECTED)	DECEMBER 2012 (PROJECTED)	JANUARY 2013 (PROJECTED)	FEBRUARY 2013 (PROJECTED)	MARCH 2013 (PROJECTED)	APRIL 2013 (PROJECTED)	MAY 2013 (PROJECTED)	JUNE 2013 (PROJECTED)	TOTAL
BEGINNING CASH BALANCE	2,629,003.95	1,566,610.89	911,710.89	691,810.89	3,000,960.89	2,953,560.89	3,033,660.89	2,342,810.89	1,687,910.89	1,463,010.89	772,160.89	3,117,260.89	2,629,003.95
ADDITIONS													
CONTRIBUTIONS	1,393,563.28	910,000.00	910,000.00	910,000.00	1,365,000.00	910,000.00	910,000.00	910,000.00	910,000.00	910,000.00	910,000.00	1,365,000.00	12,313,563.28
EMPLOYER	263,381.78	365,000.00	365,000.00	365,000.00	547,500.00	365,000.00	365,000.00	365,000.00	365,000.00	365,000.00	365,000.00	547,500.00	4,643,381.78
PLAN MEMBERS													
TOTAL CONTRIBUTIONS	1,656,945.06	1,275,000.00	1,275,000.00	1,275,000.00	1,912,500.00	1,275,000.00	1,275,000.00	1,275,000.00	1,275,000.00	1,275,000.00	1,275,000.00	1,912,500.00	19,956,945.06
INVESTMENT INCOME													
RENTAL INCOME, NET OF EXPENSES	(966.32)	4,200.00	4,200.00	4,200.00	4,200.00	4,200.00	4,200.00	4,200.00	4,200.00	4,200.00	4,200.00	4,200.00	45,833.68
INTEREST	8,375.72	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	19,775.72
DIVIDENDS (PIMCO/DODGE&COX)	105,930.49	120,000.00	120,000.00	120,000.00	120,000.00	900,000.00	120,000.00	120,000.00	550,000.00	120,000.00	120,000.00	550,000.00	3,495,930.49
CAPITAL GAIN	-	-	-	-	-	-	-	-	-	-	-	-	-
LESS INVESTMENT EXPENSE	(5,000.00)	(5,000.00)	(5,000.00)	(5,000.00)	(5,000.00)	(5,000.00)	(5,000.00)	(5,000.00)	(5,000.00)	(5,000.00)	(5,000.00)	(5,000.00)	(400,500.00)
TOTAL INVESTMENT INCOME	113,939.89	119,200.00	554,200.00	29,500.00	89,200.00	854,200.00	29,500.00	119,200.00	549,200.00	29,500.00	119,200.00	554,200.00	3,161,039.89
TOTAL ADDITIONS	1,770,904.95	1,394,200.00	1,829,200.00	1,304,500.00	2,001,700.00	2,129,200.00	1,304,500.00	1,394,200.00	1,824,200.00	1,304,500.00	1,394,200.00	2,466,700.00	20,118,004.95
DEDUCTIONS													
BENEFIT PAYMENTS AND SUBSIDIES	(1,930,750.94)	(1,900,000.00)	(1,900,000.00)	(1,900,000.00)	(1,900,000.00)	(1,900,000.00)	(1,900,000.00)	(1,900,000.00)	(1,900,000.00)	(1,900,000.00)	(1,900,000.00)	(1,900,000.00)	(22,830,750.94)
REFUNDS OF CONTRIBUTIONS	(738,352.92)	(100,000.00)	(100,000.00)	(100,000.00)	(100,000.00)	(100,000.00)	(100,000.00)	(100,000.00)	(100,000.00)	(100,000.00)	(100,000.00)	(100,000.00)	(1,838,352.92)
ADMINISTRATIVE EXPENSES	(11,968.10)	(49,100.00)	(49,100.00)	(49,100.00)	(49,100.00)	(49,100.00)	(49,100.00)	(49,100.00)	(49,100.00)	(49,100.00)	(49,100.00)	(49,100.00)	(1,067,778.10)
TOTAL DEDUCTIONS	(2,681,071.96)	(2,049,100.00)	(2,049,100.00)	(2,049,100.00)	(2,049,100.00)	(2,049,100.00)	(2,049,100.00)	(2,049,100.00)	(2,049,100.00)	(2,049,100.00)	(2,049,100.00)	(2,564,810.00)	(25,736,881.96)
OTHER INCREASES/DECREASES													
ACCOUNTS RECEIVABLE	120.61	-	-	-	-	-	-	-	-	-	-	-	120.61
ACCOUNTS PAYABLE	(152,346.66)	-	-	-	-	-	-	-	-	-	-	-	(152,346.66)
SALE OF INVESTMENTS	-	-	3,053,750.00	-	-	-	53,750.00	-	-	53,750.00	3,000,000.00	-	6,161,250.00
TOTAL OTHER INCREASES/DECREASES	(152,226.05)	-	3,053,750.00	-	-	-	53,750.00	-	-	53,750.00	3,000,000.00	-	6,009,023.95
INCREASE (DECREASE) IN CASH	(1,062,393.06)	(654,900.00)	(219,900.00)	2,309,150.00	(47,400.00)	80,100.00	(690,850.00)	(654,900.00)	(224,900.00)	(690,850.00)	2,345,100.00	(69,110.00)	390,146.94
ENDING CASH BALANCE	1,566,610.89	911,710.89	691,810.89	3,000,960.89	2,953,560.89	3,033,660.89	2,342,810.89	1,687,910.89	1,463,010.89	772,160.89	3,117,260.89	3,117,260.89	3,019,150.89

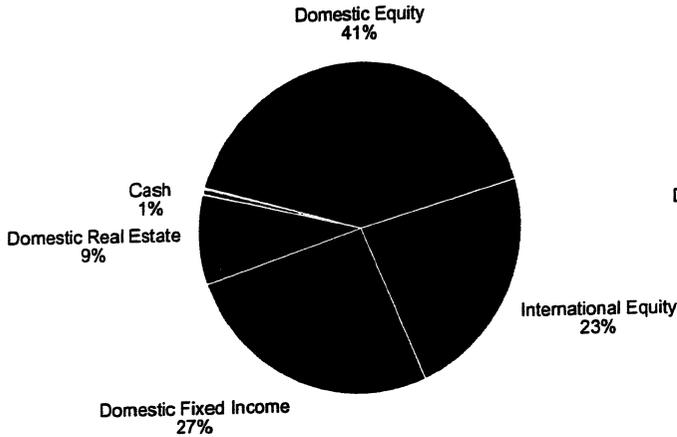
**MENDOCINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
CASH FLOW ANALYSIS  
FOR THE THREE MONTHS ENDED SEPTEMBER 30, 2012  
(PRELIMINARY)**

	CURRENT MONTH	YEAR TO DATE
<b>ADDITIONS</b>		
<b>CONTRIBUTIONS</b>		
EMPLOYER	1,045,158.45	3,469,961.06
PLAN MEMBER	351,024.89	966,979.95
<b>TOTAL CONTRIBUTIONS</b>	<u>1,396,183.34</u>	<u>4,436,941.01</u>
<b>INVESTMENT INCOME</b>		
RENTAL INCOME, NET OF EXPENSES	3,686.26	4,392.11
INTEREST	60.60	11,329.00
DIVIDENDS	556,849.27	776,933.58
CAPITAL GAIN	0.00	0.00
LESS INVESTMENT EXPENSE	0.00	0.00
<b>TOTAL INVESTMENT INCOME</b>	<u>560,596.13</u>	<u>792,654.69</u>
<b>TOTAL ADDITIONS</b>	<u>1,956,779.47</u>	<u>5,229,595.70</u>
<b>DEDUCTIONS</b>		
BENEFIT PAYMENTS AND SUBSIDIES	(1,937,543.31)	(5,844,310.82)
REFUNDS/ADJUSTMENTS OF CONTRIBUTIONS	(36,101.63)	(909,592.20)
ADMINISTRATIVE EXPENSES	(57,656.62)	(136,509.34)
<b>TOTAL DEDUCTIONS</b>	<u>(2,031,301.56)</u>	<u>(6,890,412.36)</u>
<b>OTHER INCREASES/(DECREASES)</b>		
ACCOUNTS RECEIVABLE	120.61	(2,638.17)
ACCOUNTS PAYABLE	215,552.93	140,161.78
BUCK SETTLEMENT	0.00	0.00
SALE/PURCHASE OF INVESTMENTS	1,000,000.00	1,000,000.00
<b>TOTAL OTHER INCREASES/(DECREASES)</b>	<u>1,215,673.54</u>	<u>1,137,523.61</u>
<b>INCREASE (DECREASE) IN CASH</b>	<u>\$ 1,141,151.45</u>	<u>(\$ 523,293.05)</u>
<b>SUMMARY</b>		
CASH AT END OF PERIOD	\$ 2,111,229.06	\$ 2,111,229.06
CASH AT BEGINNING OF PERIOD	970,077.61	2,634,522.11
<b>INCREASE (DECREASE) IN CASH</b>	<u>\$ 1,141,151.45</u>	<u>(\$ 523,293.05)</u>

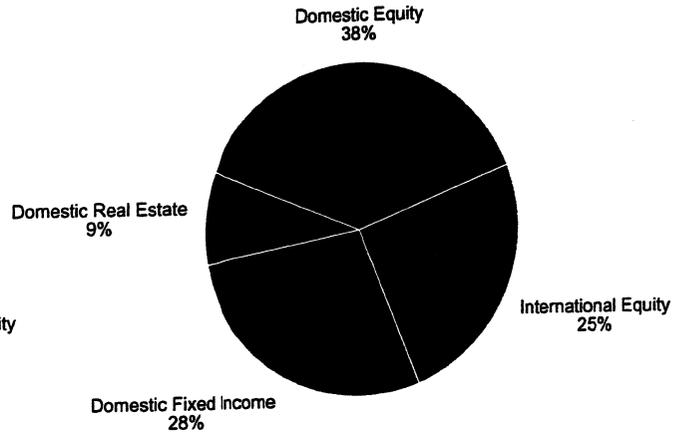
### Actual vs Target Asset Allocation As of September 30, 2012

The top left chart shows the Fund's asset allocation as of September 30, 2012. The top right chart shows the Fund's target asset allocation as outlined in the investment policy statement. The bottom chart ranks the fund's asset allocation and the target allocation versus the CAI Public Fund Sponsor Database.

**Actual Asset Allocation**

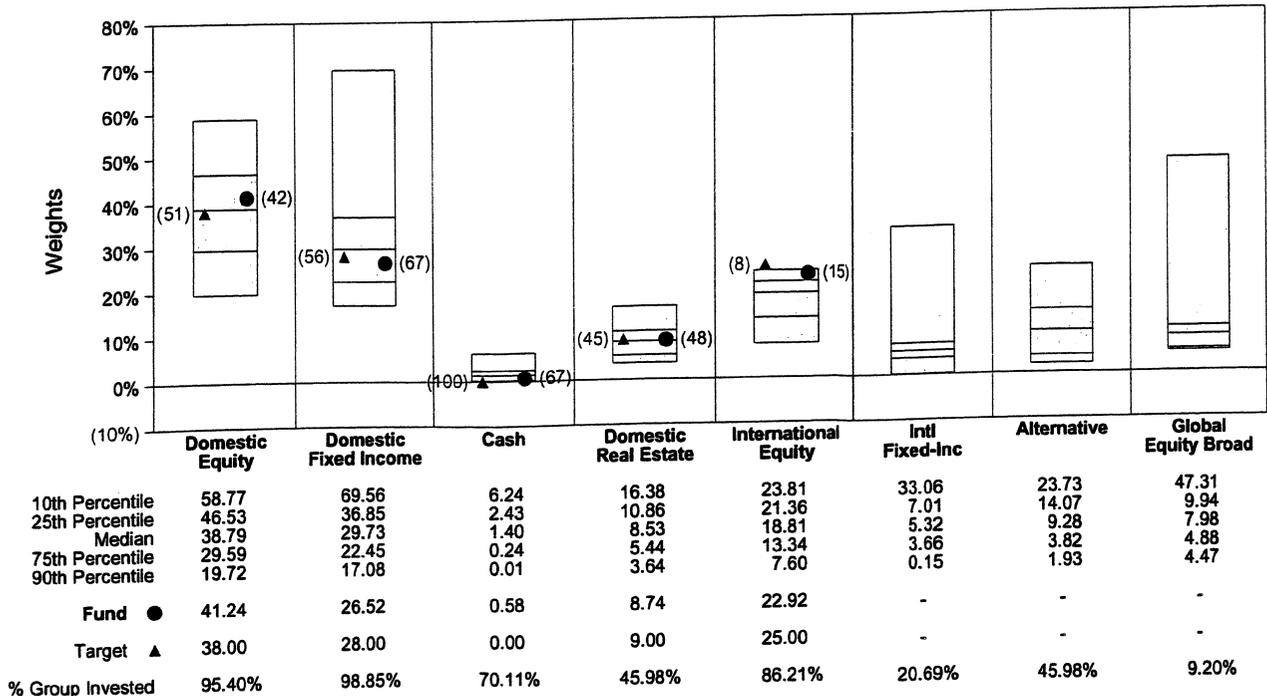


**Target Asset Allocation**



Asset Class	\$000s Actual	Percent Actual	Percent Target	Percent Difference	\$000s Difference
Domestic Equity	147,387	41.2%	38.0%	3.2%	11,571
International Equity	81,930	22.9%	25.0%	(2.1%)	(7,423)
Domestic Fixed Income	94,797	26.5%	28.0%	(1.5%)	(5,279)
Domestic Real Estate	31,232	8.7%	9.0%	(0.3%)	(935)
Cash	2,065	0.6%	0.0%	0.6%	2,065
<b>Total</b>	<b>357,412</b>	<b>100.0%</b>	<b>100.0%</b>		

### Asset Class Weights vs CAI Public Fund Sponsor Database



\* Current Quarter Target = 38.0% Russell 3000 Index, 28.0% Barclays Aggregate Index, 25.0% MSCI ACWI ex US Index, 7.2% NFI-ODCE Equal Weight Net and 1.8% NAREIT.

**From:** Donald Fosse <dfossil.fosse@gmail.com>  
**To:** Rich White <whiter@co.mendocino.ca.us>  
**Date:** 11/29/2012 8:31 AM  
**Subject:** Re: Request for Data

Your speedy response puts mine to shame. Thank you so much for the detailed documentation that was requested. It appears that things are improving on many fronts. You also looked good on the local telecasts. It's a great service that emphasizes the transparency of your organization. Don Fosse, Mendocino Grand Jury.

On 11/20/12, Rich White <whiter@co.mendocino.ca.us> wrote:

> Good morning Mr. Fosse,  
>  
> In reply to your request, I have attached a PDF file with a cover  
> letter and support documents which I believe are responsive to your  
> request for addition information. I appreciate your review of them and  
> please let me know if you require additional information or have any  
> questions.  
>  
> Thank you for your interest in the operations of MCERA.  
>  
> Regards,  
> Rich White  
> Retirement Administrator  
> 463-4328

>  
> Richard A. White  
> Retirement Administrator  
> whiter@co.mendocino.ca.us  
> OFC: (707) 463-4329  
> CELL: (707) 391- 8144  
> FX: (707) 467-6472

>>>> Donald Fosse <dfossil.fosse@gmail.com> 10/30/2012 9:23 PM >>>  
> Thank you for your quick response to our request for documentation. We  
> appreciate your attention to this matter and will await your  
> information at your stated convenience. Respectfully, Don Fosse

>  
> On 10/30/12, Rich White <whiter@co.mendocino.ca.us> wrote:  
>> Good afternoon Mr. Fosse,  
>>  
>> We will certainly provide the Grand Jury with the requested  
> information  
>> though I hope it is acceptable for the Grand Jury to allow MCERA a  
> few  
>> days in order to provide the documentation. The Board of Retirement  
>> will meet in the regularly scheduled meeting on November 7, 2012 and  
>> some of the information you are requesting will be presented to the  
>> Board on that date and thus will allow the Grand Jury to have the  
> most  
>> recent Quarterly reports we have available.  
>>  
>> MCERA will provide the information in a timely manner subsequent to  
> the  
>> November 7th meeting. Please let me know if this creates any issues

> for  
>> the Grand Jury.  
>>  
>> Regards,  
>> Rich White  
>> Retirement Administrator  
>>  
>>  
>>  
>>  
>>  
>> Richard A. White  
>> Retirement Administrator  
>> whiter@co.mendocino.ca.us  
>> OFC: (707) 463-4329  
>> CELL: (707) 391- 8144  
>> FX: (707) 467-6472  
>>>> Donald Fosse <dfossil.fosse@gmail.com> 10/29/2012 7:48 PM >>>  
>> As per Emily Strachan's email of October 27, I am requesting  
> follow-up  
>> data on your implementation of recommendation 7 of the 2012 Grand  
> Jury  
>> MCERA report.  
>>  
>> Your response states that:  
>>  
>> 1. You have adopted a cash management plan for the upcoming  
>> fiscal year.  
>> 2. You have monthly cash management reports  
>> 3. You have a quarterly re-balancing investments to targeted  
>> levels  
>>  
>> If you could send documentation of these implementations, it would  
> be  
>> appreciated.  
>>  
>> Thank you for the time and effort in lending continuity to this  
> public  
>> report.  
>>  
>>  
>> Don Fosse  
>> Mendocino County Grand Jury  
>>  
>

Richard A. White, Jr.  
Retirement Administrator



Telephone: (707) 463-4328  
(707) 467-6473  
Fax: (707) 467-6472

**MENDOCINO COUNTY**  
EMPLOYEES' RETIREMENT ASSOCIATION  
625-B KINGS COURT  
UKIAH, CALIFORNIA 95482-5027

Date: December 12, 2012  
To: Board of Retirement  
From: Richard White, Retirement Administrator  
Subject: Communications to the Board of Retirement

Recommended Action: Informational Item Only

Discussion: Included in this item for the Board of Retirement are articles and items of interest which relate to public pension funds and are presented to the Board as informational items.

1. Wells Capital Management (2012). Gearing for Growth. James D. Paulsen, PhD., Wells Capital Chief Investment Strategist.
2. Baker, D. (2012, October 21). The Washington Post Tries to Scare You on Public Sector Pensions. Center for Economic and Policy Research.
3. Sanders, J. (2012, December 3). California Legislature welcomes largest freshman class since 1966. The Sacramento Bee.



## Gearing for Growth

Due to positive revisions of several economic reports including international trade, construction spending, inventories, and consumer spending, many economists have recently increased estimates for third quarter growth closer to 3 percent. Should this prove accurate when it is revised on November 29, trailing four-quarter real GDP growth will be 2.6 percent—the second best annual growth rate of the entire recovery.

Despite some of the “best growth” of the entire recovery, consensus expectation for economic growth in 2013 is only 2 percent. While there remains plenty to worry over—the ongoing fiscal cliff negotiations, fallout from additional fiscal tightening next year, ongoing weakness among emerging world economies, and a recession in the euro zone—we believe there are six solid reasons to anticipate an improvement in real GDP growth next year to about 3 percent. Such growth would be nearly 1 percent faster than the current consensus expectation and would represent the fastest growth rate of the entire recovery!

### 1. U.S. Economic Recovery Has Geared!

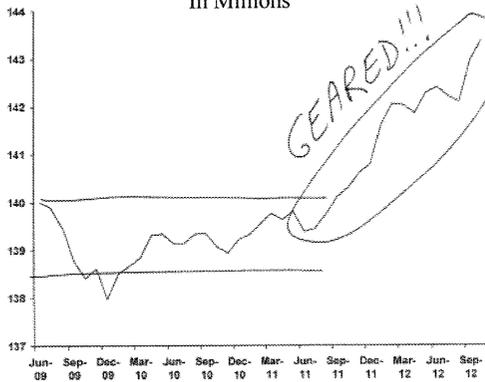
Like the last two economic recoveries, while entering its fourth year, the contemporary recovery has finally “geared.” The early 1990s recovery did not really gear until it reached its third-year anniversary in 1994 and the early 2000s recovery was not perceived as fully engaged until 2004. Although current economic growth is still frustratingly slow, the character of the recovery has broadened significantly in the last year and it is now firing on more cylinders than ever. The following list illustrates how much the “character” of this recovery has improved in the last year (See Exhibit 1).

- Monthly household job gains have averaged 257K in the last year compared to only an 11K monthly average earlier in the recovery.
- The unemployment rate has fallen by 1.2 percent in the last 14 months, its largest decline of the recovery.
- The labor force has finally been growing (averaging 132K new entrants a month) in the last year compared to virtually no growth earlier in this recovery.
- Consumer confidence, after waffling about post-war lows, has surged this year to a four-year high.
- After suffering a record-setting 25 percent collapse in the 2008 recession, household net worth has been almost fully restored.
- While reaching an all-time record high of 19 percent of disposable personal income in 2007, the household debt service burden (financial obligations ratio) has declined again close to a record low below 16 percent.
- While declining throughout most of this recovery, U.S. bank loans have risen persistently in the last year.
- Housing activity, nonexistent until last fall, has risen in the last year.
- Home prices are no longer declining but rather rising steadily this year.
- The S&P 500 Stock Price Index recovered to a 4-year high a couple months ago and came within 100 points of an all-time record high.
- Aggregately, state tax collections recently rose to an all-time record high.
- Finally, while problems remain, panics have lessened considerably. Investor sensitivity to “Armageddon stories or crisis” has diminished as reflected by a low and stable stock market VIX Index this year despite ongoing euro zone, election, and fiscal cliff concerns.

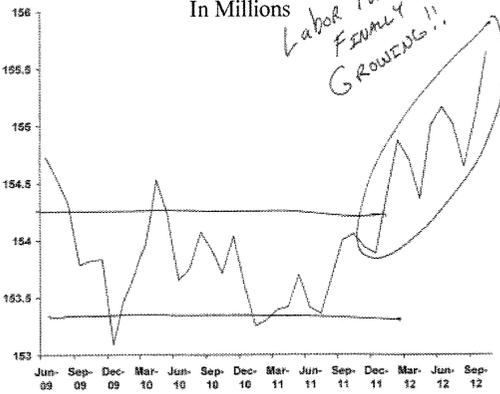
While the pace of economic growth is not fast enough to please anyone, in the last year the character of the recovery has broadened considerably, become much more sustainable, and consequently less vulnerable to external shocks. That is, the recovery has finally geared! The combination of a falling unemployment rate, reviving housing activity, rising home prices, a revitalization of lending, a recovering stock market, and much improved balance sheets should continue to boost confidence helping lift the “pace” of economic growth in 2013.

**Exhibit 1  
Economy is Gearing**

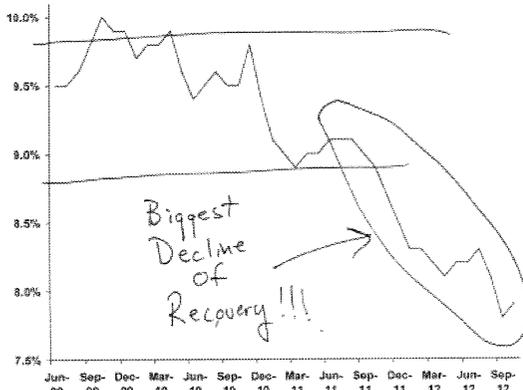
**Total U.S. Household Employment**  
In Millions



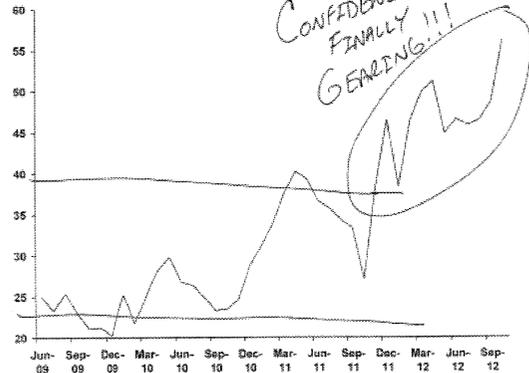
**Total U.S. Labor Force**  
In Millions



**U.S. Labor Unemployment Rate**

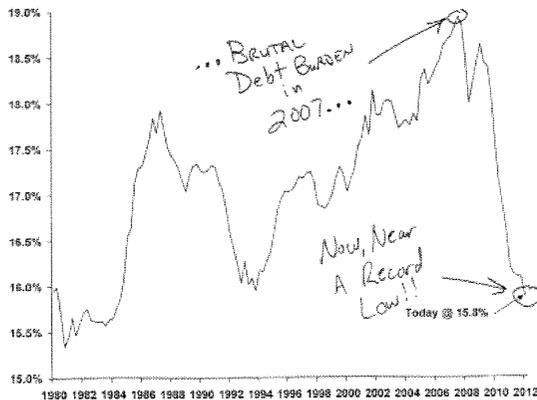


**Conference Board Consumer Confidence Present Situation Index**

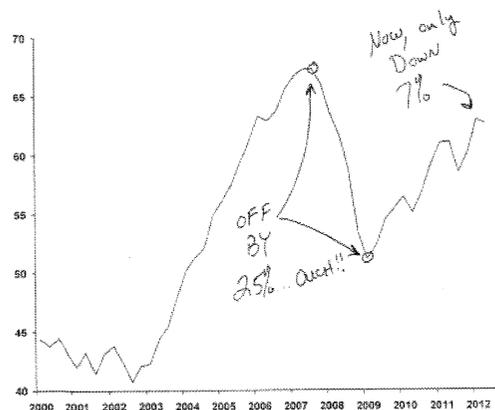


**U.S. Household Financial Obligations Ratio\***

\*Source: Federal Reserve. Includes principal and interest payments on debt, rental and lease payments, property taxes, and homeowner's insurance payments as a percent of disposable personal income.



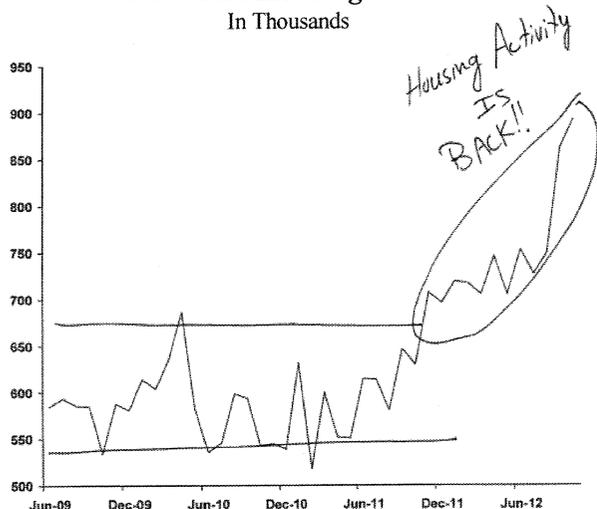
**Total Household Net Worth**  
In Trillions of U.S. Dollars



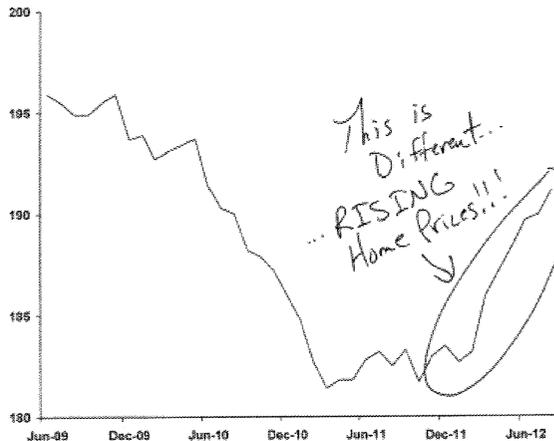
**Exhibit 1 (Continued)**

**New U.S. Housing Starts**

In Thousands

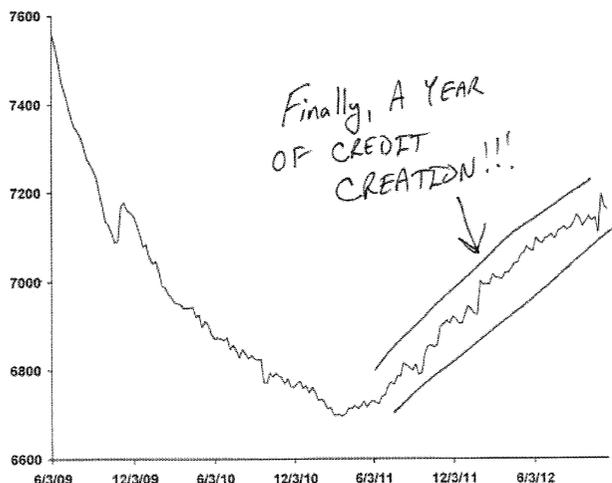


**FHFA U.S. House Price Index**



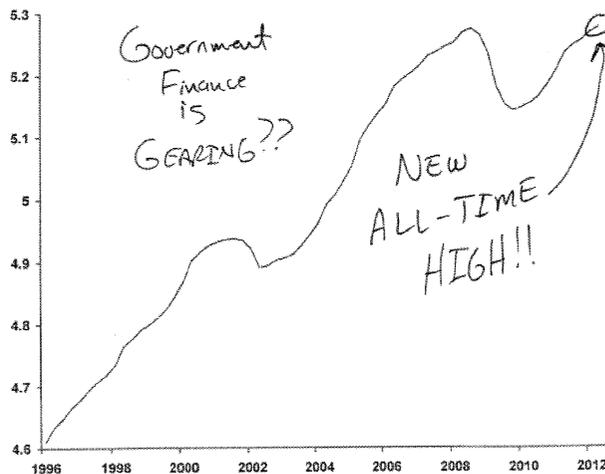
**Total U.S. Bank Loans\***

\*Adjusted for Change in Classification in March 2010

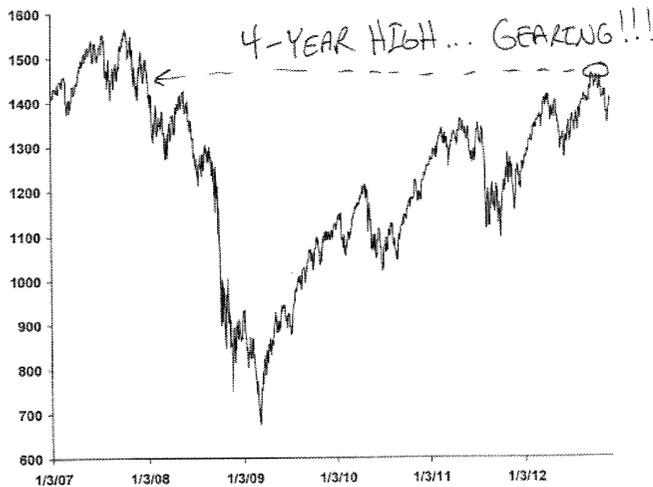


**U.S. State Government Total Tax Collections**

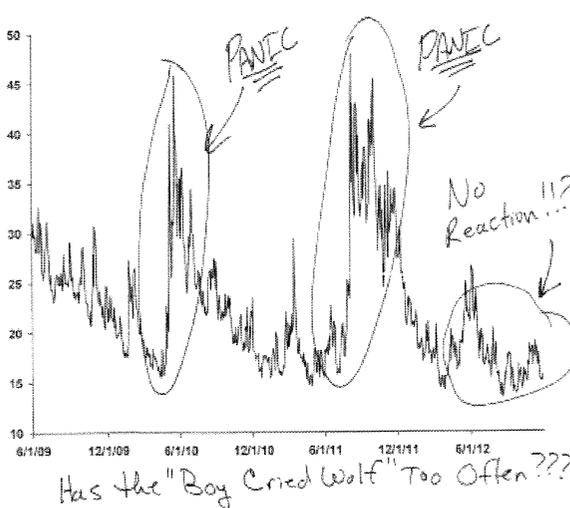
Four Quarter Moving Average, Natural Log Scale



**S&P 500 Stock Price Index**



**CBOE VIX Volatility Index**



## **2. Economy is Still Being Juiced!**

Although fiscal conditions will likely worsen in the coming year, several other economic policies remain conducive to economic growth and should help minimize a more restrictive fiscal environment.

Growth in the M2 money supply remains robust, mortgage yields hover near all-time record lows (keeping refinancing activities, housing activity and home prices rising), gasoline prices have declined just in time for holiday shopping, the U.S. dollar has declined by about 5 percent since the summer and by about 10 percent from recovery cycle highs and finally, consumer price inflation has decelerated from about 4 percent last fall to 2.2 percent helping to boost real income growth.

Most forecasters seem obsessed with the potential economic fallout from current fiscal negotiations and may be underestimating the positive impact the economy continues to enjoy from ongoing accommodative policies.

## **3. Revival of Emerging World Economic Growth!**

The 2013 U.S. economic outlook will likely be much more impacted by whether emerging world economies reaccelerate than by the fiscal circus in Washington. Already economic conditions in this part of the world are beginning to show signs of revival, which if sustained, could provide a big boost to both global and U.S. economic growth.

We believe the Chinese (and broader emerging economies) economic slowdown was self-induced by restrictive policies implemented between 2010 and early 2012 aimed at avoiding an overheated recovery. By contrast, emerging world economic policies have turned increasingly aggressive in the last year which should orchestrate a resurrection of the recovery in 2013.

The relationship between two key policy instruments (interest rates and money supply growth) and China's leading economic index is illustrated in Exhibit 2. The solid line in both charts is the leading economic index recorded on the left scale. As the charts show, Chinese economic momentum peaked in mid-2010 (when the solid line rolled over) and economic activity slowed significantly by late-2011. Chart 1 compares the leading economic index with the Shibor short-term policy interest rate. The policy interest rate is illustrated on an inverted scale and is pushed forward (leading) by one year. While the relationship is far from perfect, it does appear changes in the policy interest rate tend to inversely impact economic activity with about a one-year lag. Chart 2 shows a similar relationship between growth in the real money supply and subsequent (six months later) economic growth. Combined, both charts clearly demonstrate why the boom in the Chinese economy was so strong following the 2008 recession and also why the economy slowed so profusely in the last year.

The "boom-bust" policy approach employed by Chinese officials (30 percent real money growth and a 1 percent interest rate followed by 7 percent money growth and a 6.5 percent interest rate) has produced a volatile recovery. Looking ahead, however, the economy appears headed for another boom cycle (or at least a period of faster growth again). Interest rates have declined since mid-2011 and significantly since early-2012. Similarly, growth in the M2 money supply has risen sharply since the spring 2012. Both aggressively lowered interest rates and faster monetary growth suggest improved Chinese economic momentum as we head into 2013.

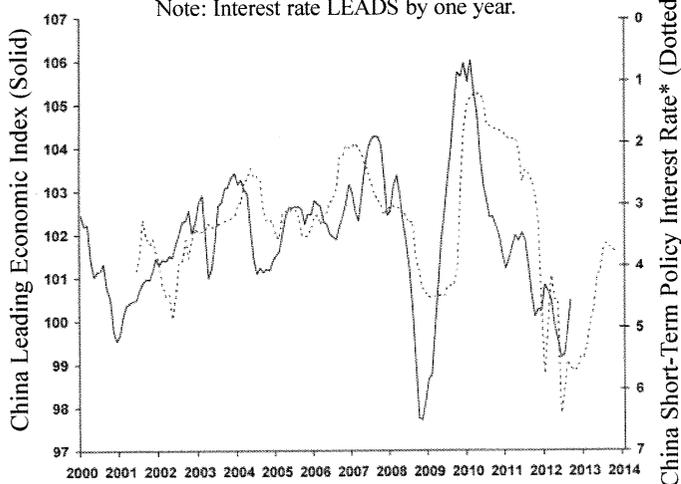
Better growth in emerging world economies would help the U.S. recovery in a number of ways. First, it would likely dissolve global recession fears (with both U.S. and emerging economies growing the global recovery would appear sustainable) helping to boost business confidence and adding to overall U.S. growth. Second, a revival in emerging world growth would reduce concerns about ongoing problems in the euro zone. With a sustained recovery in emerging economies, chronic problems emanating from Europe are simply less daunting. Lastly, an improvement in emerging world growth would restart the global manufacturing cycle. As emerging economies led the globe out of the 2008 recession, the manufacturing sector led the U.S. recovery. Similarly, once emerging economies slowed, so did the U.S. manufacturing cycle. Indeed, in the contemporary recovery, manufacturing in the U.S., Germany, and other developed economies has been tied closely to economic growth in the emerging world. Consequently, not only will improvement in emerging economies add directly to global growth, but it would also boost the pace of growth throughout the developed world (including the U.S.) by restarting manufacturing activity.

**Exhibit 2**

**Chart 1**  
**China Leading Economic Index vs.**  
**Short-Term Policy Interest Rate\***

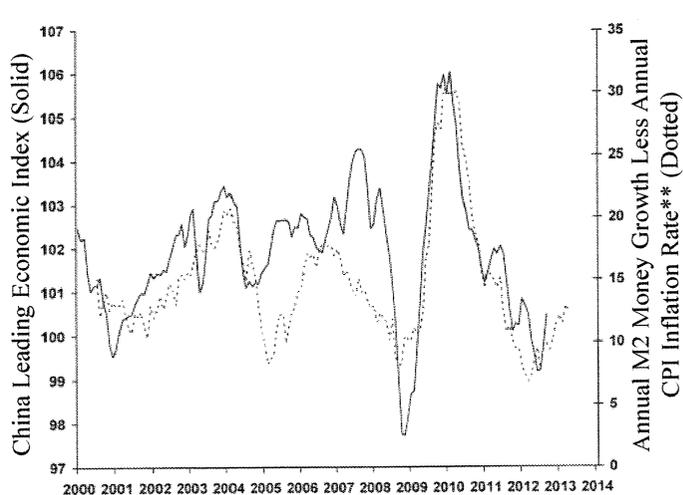
\*China CHIBOR three month interest rate (six month moving average) until 7/2002 and China SHIBOR three month interest rate thereafter.

Note: Interest rate LEADS by one year.



**Chart 2**  
**China Leading Economic Index vs.**  
**Real Annual M2 Money Growth\*\***

\*Note: Interest rate LEADS by one year. Annual Real Money Growth (dotted line) LEADING by Six Months.



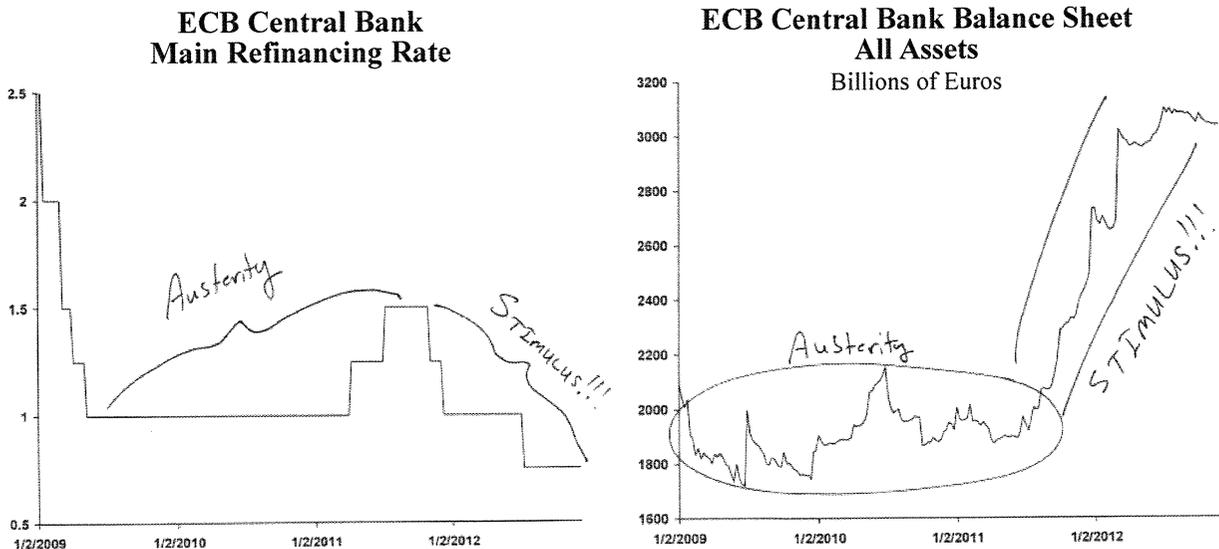
#### 4. Euro Zone to Finally Improve?

Problems in the euro zone have become chronic and will likely persist for many years. However, policy officials in the region have noticeably altered their approach in the last year and their new approach has a much better chance of eventual success. Until the fall of 2011, the approach to euro zone fiscal woes was to enforce aggressive austerity programs. Predictably, tightening fiscal conditions on economies which were already failing simply worsened economic growth. Last fall, however, a newly installed ECB chairman promptly altered economic policy in the region from austerity to stimulus (see Exhibit 3). Policy interest rates have since been reduced three times, the ECB balance sheet has been aggressively expanded (similar to the approach taken by the U.S. Federal Reserve), a liquidity ring has been established about troubled financial institutions and the central bank has begun direct buying of periphery bonds.

For the first time since the euro crisis surfaced in early 2010, austerity (a contractionary program) has been replaced by “growth promoting” economic stimulus. Since the euro zone crisis was allowed to worsen for too long, it will not quickly be solved. However, while currently in recession, the recently adopted pro-growth policy approach should improve euro zone economic performance in 2013. Germany should directly benefit as global manufacturing improves and the rest of the region should exhibit some signs of economic improvement even if it only amounts to rising from 10 feet to only 5 feet under ground.

Most importantly, economic fears surrounding the euro zone which have already lessened this year should calm even further in 2013. Perception of the euro zone issue is being successfully transformed from a crisis to simply a chronic problem. A growing U.S. economy, a revitalized emerging economic cycle and a less calamitous euro zone should help calm fears, accentuate business animal spirits, and perhaps awaken pent-up investment and hiring demands.

Exhibit 3



## 5. The “Cliff” Overstates Likely Fiscal Contraction

The consensus forecast for only 2 percent U.S. economic growth in 2013 is tied importantly to an expectation of significant fiscal tightening. However, the degree of fiscal drag next year is probably overstated.

First, the economic recovery has dealt with increased fiscal tightening each year since it began. It is not like a “grand bargain” before year-end will suddenly subject the economy to its first dose of austerity. Exhibit 4 shows the deficit as a percent of GDP has contracted each year of this recovery by about 1 percent annually. Despite persistent fiscal tightening, the recovery has persisted and broadened. While a legislated fiscal austerity action would represent a negative force for economic growth, it is really nothing new for a recovery which has been facing fiscal tightening every year of its existence and it must be weighed against other positive forces which also will be at work in 2013.

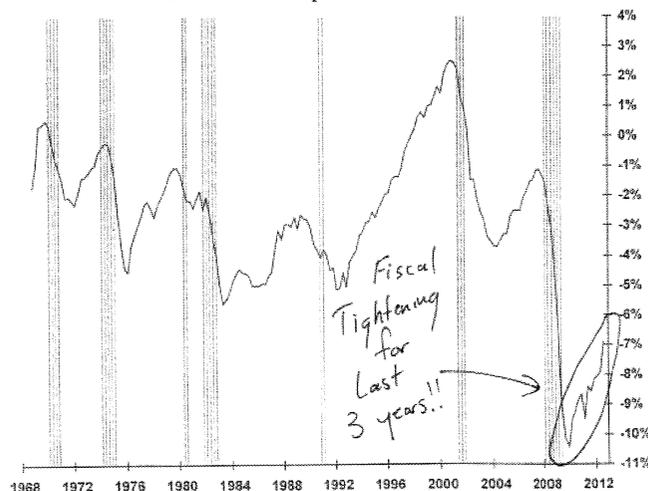
Second, the media popularized “Fiscal Cliff” has over-emotionalized and probably overemphasized the real risk it represents to economic growth. While a recession would be inevitable should complete congressional gridlock result, the odds of this outcome seem far more remote than widely portrayed. The much more probable outcome is the implementation of some austerity programs implemented slowly over many future years. Some additional fiscal tightening in 2013, not much more dramatic than what the recovery has already faced, should not overwhelm economic growth.

While fiscal tightening is almost ensured in 2013, will it really represent a fiscal cliff or will it be more like a fiscal molehill? When examining the outlook for 2013, the focus cannot be solely on fiscal conditions (even if media and political outlets suggest otherwise). Rather, any fiscal tightening must be weighed against several other forces, which only when combined, ultimately will determine the speed of economic growth in 2013.

### Exhibit 4

#### U.S. Government Deficit as a Percent of Nominal GDP\*

\*Trailing Four Quarter Deficit Sum as a Percent of Current Quarterly GDP.  
Shaded areas represent recessions.



## 6. A Calm after the Sandy Storm!

Super-storm Sandy makes interpretation of the economic data difficult during the next several months. It will lower fourth quarter economic growth but will also boost first quarter performance as the rebuild begins. The storm effectively will force wealth from the national balance sheet into the spending stream whereby the “multiplier effect” will boost growth (much like the money or fiscal multiplier) and help to improve confidence. In an economic sense, Sandy represents a joint private/public sector fiscal stimulus in 2013, which while admittedly small, may be underestimated.

## Summary

U.S. real GDP growth (probably about 2.5 percent in the last year) will likely approach 3 percent in the coming year, far outpacing the current consensus forecast of only 2 percent. Too much attention has been focused on the potential negative impact of the pending fiscal cliff and not enough recognition has been given to several positive forces which are likely to have substantial impact in shaping the economic environment next year.

Although fiscal policy will undoubtedly tighten next year, the degree of fiscal austerity actually hampering the economy in 2013 is probably grossly overstated. The widely feared fiscal cliff this year will likely resolve into a fiscal molehill in 2013. The economic recovery has dealt with persistent fiscal tightening every year since it began in 2009 and some additional mild fiscal austerity should not be overwhelming.

Most important for the 2013 outlook may be the “gearing” of the economic cycle during the last year. The recovery has finally broadened significantly, is now firing on more cylinders than ever and is therefore much less vulnerable to external shocks. Perhaps, the biggest challenge in this recovery has been persistent fear. The lack of confidence has kept animal spirits reserved. “Economic gearing” could continue to boost confidence in 2013 adding more to economic growth than currently appreciated.

Outside of fiscal policy, most other economic policies remain accommodative. Rapid money growth, record low mortgage yields, lower gasoline prices, a weaker U.S. dollar, and a lowered inflation rate should continue to promote growth if only by offsetting fiscal restrictiveness.

Already emerging world economies are showing increasing signs of revival. As growth in China and other emerging economies reaccelerate in 2013 global recession fears should fade and both U.S. exports and the U.S. manufacturing sector should improve. Indeed, could 2013 represent the first time in the U.S. recovery when both housing and manufacturing activity rise together?

As we end 2012, the euro zone appears far less frightening—more a chronic problem than a crisis. If fears surrounding the impact of the euro zone on the global recovery continue to fade and confidence in a sustained recovery improves, business spending, and hiring decisions could strengthen significantly next year.

Finally, while Sandy will depress fourth quarter growth, it will act like a mild fiscal stimulus next year which because of the multiplier effect could last longer than most now appreciate.

Investors may want to ponder how much stock market valuations and bond yields may rise next year if real economic growth proves to be 50 percent stronger than most now anticipate?

*Thanks for taking a look!!*  
*dlp*

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## The Washington Post Tries to Scare You on Public Sector Pensions

Sunday, 21 October 2012 08:38

The Washington Post rarely tries to conceal its contempt for unions or middle class workers. In keeping with this spirit it ran a column today that was intended to scare readers about the extent to which public sector pensions will impose a burden on taxpayers in the years ahead. The column projects that the unfunded liabilities of public sector pensions will require:

"on average, a tax increase of \$1,385 per U.S. household per year would be required, starting immediately and growing with the size of the public sector."

Now that's pretty scary, right? It sure looks like we better go after those public sector workers and their generous pensions.

The column, by two finance professors, Robert Novy-Marx of Rochester University and Joshua Rauh from Stanford, uses two simple tricks to generate its scary projections of household liabilities. First it assumes that pensions will receive impossibly low returns on their assets. The piece notes:

"These findings were calculated assuming that states invest somewhat cautiously and achieve annual returns of 2 percent above the rate of inflation. But even if states continue to make massive bets that the stock market will bail them out, and if the market were to perform as well over the next 30 years as it did over the past half-century (an unprecedented bull market), the required per-U.S. household tax increase would still amount to \$756 per year."

Actually, all the stock market has to do to get us to this \$756 per year figure is to grow at the same pace as the economy. Using the standard growth projections from the Congressional Budget Office and other official forecasters, if the price to earnings ratio in the stock market remains constant over the next 30 years then we will see the lower liability figure than the pension funds themselves project.

This is hardly a heroic assumption. In fact, unless Novy-Marx and Rauh want to dispute the official growth projections, it is almost impossible to construct scenarios in which stock returns will come in much below the levels assumed by the pension funds. The point is simple, it was absurd to project high returns in the stock market in the late 90s, when the ratio of stock prices to trend earnings was over 30 to 1 or even in the last decade when it was still over 20 to 1. However with a current ratio that is close to the historic average of 15 to 1, real returns of 7 percent are very reasonable. People who understand the stock market and saw the stock bubble could have explained this fact to Post readers, but such views are excluded from the pages of the Post in order to avoid embarrassing its writers, editors, and columnists, all of whom completely missed both the stock and housing bubbles.

The other trick in this piece is to implicitly compare averages to medians. Undoubtedly many people would look at this \$756 per year number and still find it to be a big hit that they have not budgeted for. Let's put this in a slightly different context. There are a bit less than 120 million households in the country, which means that average income per household is around \$120,000 a year. This means that the unfunded liability from public sector pensions will cost an average household a bit

more than 0.6 percent of their income. For a family making \$60,000 a year, this would be slightly under \$400 a year.

Does that still sound like a lot? Let's make a couple of comparisons. At their peak, the wars in Afghanistan and Iraq were costing an average family about 2 percent of their income or around \$2,400 a year in the current economy. In the same vein the patent protection that we give to drug companies costs the average family around \$1,800 a year in higher drug prices. The implicit subsidy that the government gives large banks by protecting them against failure costs an average family around \$500 a year. This is in effect the money that we are being taxed to help the struggling CEOs and top executives at the major banks.

The other part of this story is that workers did work for these pensions. This was part of their pay package, which is generally comparable or even slightly less than the compensation of private sector workers with the same education. Most public sector pensions are relatively modest, with the median less than \$20,000 a year.

The pensions are underfunded in part because policymakers would not take seriously those of us who warned that pensions were making overly optimistic assumptions about stock returns before the market crashed. Returns have been well below expectations in the dozen years since the peak of the stock bubble in 2000.

The other reason is that some politicians, like New Jersey Governor Chris Christie, think it is really cute to not make the state's required contribution to the pension fund. Not surprisingly, if states get into the habit of not contributing to their pension fund, as has been the case in some states, then pension funds will be underfunded.

However it is more than a bit bizarre that we should therefore ripoff the workers who are counting on these pensions. Suppose state and local governments contract with construction companies for road work or hospitals to treat poor people. If the governments don't put aside the money to pay these contracts would we then think it makes sense to tell the contractors and hospitals to get lost?

That is the view being pushed at the Post, but that is what readers have come to expect, given the papers hatred of middle class workers.

THE SACRAMENTO BEE [sacbee.com](http://www.sacbee.com)

## California Legislature welcomes largest freshman class since 1966

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Published Monday, Dec. 03, 2012

Democrat Jim Frazier's swearing-in as an assemblyman today will climax a 12-year journey in politics that began with the death of his 20-year-old daughter in a head-on traffic accident.

"It's been a long road to get this opportunity to serve the people of my district," said Frazier, a former Oakley councilman. "I just can't wait to start."

Republican Frank Bigelow's swearing-in marks the start of a battle by the lifelong rancher and Madera County supervisor to alter a Legislature that he says "can't keep its word," an institution marked by "empty promises and failure to get the job done."

Bigelow will be easy to spot: Look for his cowboy hat. "Where I go, the hat goes," he said.

Frazier and Bigelow are two of 39 new members to be sworn in today, the largest freshman class since 1966. Bigelow will be part of a Republican caucus that is outnumbered by Democrats by a 2-to-1 margin for the first time since the 1880s.

Democrats will control both legislative houses by a supermajority for the first time since 1883. The party holds 29 of 40 seats in the Senate, 55 of 80 in the Assembly.

Gov. Jerry Brown and legislative leaders have urged restraint, however, saying they have no plans to hike taxes.

The Legislature will mark two other milestones today:

- Term limits for the incoming class will be 12 years in either house, not a maximum of six in the Assembly and eight in the Senate.
- Nearly half the Assembly's seats – 38 of 80 – will be filled by freshmen. The modern high, 39, was recorded in 1934.

The Senate is replacing nine of its 40 members, but only one freshman, Richard Roth of Riverside County, never has been a legislator.

Democrat Ken Cooley is the only Capitol veteran moving from the upper house to the lower. An attorney, he worked as a Senate aide this year before winning a Sacramento County Assembly seat.

Asked why he ran for office, Cooley said, "There's only so much you can do as a capable staff person, and I've always been interested in the Legislature, in government, as a way to touch lives in a positive way."

Cristina Garcia, a college instructor and community activist, said she wants to be part of an Assembly freshman class that boosts the Legislature's sagging public approval ratings.

"I went from being a revered math teacher to being the bottom of the barrel – and that's not the type of career I want for 12 years," the Bell Gardens Democrat said. "So I hope we learn to rebuild some of the public's trust."

Bigelow said today's swearing-in feels like the first day of college.

"There are a lot of new friends you're going to make, a lot of excitement, anticipation, yet a lot of solemnness – there's a huge deficit and a number of issues we have to address," he said.

Frazier dived head first into government after one daughter, Stephanie, was killed – and another critically injured – in a head-on crash sparked by black ice on Highway 50 near Ice House Road nine days before Christmas in 2000.

Frazier, a longtime contractor, pushed successfully for improvements to that stretch of Highway 50. He joined a road safety task force, then a planning commission, then won an Oakley City Council seat.

"I really enjoy helping people and building relationships," Frazier said.

Heavy in local government experience, the Assembly's freshman class features people with backgrounds ranging from teacher to attorney to business owner.

Democrat Ian Calderon, 27-year-old son of termed-out Assemblyman Charles Calderon, was making only \$50,000 a year as a low-level Assembly aide when this year began. Republican Brian Dahle owns a Lassen County seed business. Democrat Adam Gray has managed a public affairs firm and helped teach UC Merced students about the Legislature.

Today also marks the first day for submitting new bills. This year's legislation will include measures to raise the state's minimum wage, regulate medical marijuana sales, improve work standards for domestic workers and expand rights for undocumented immigrants – making them eligible for driver's licenses, for example, and curtailing their deportation after arrests for minor or nonviolent crimes.

Senate President Pro Tem Darrell Steinberg has floated the possibility of lowering the sales tax rate but extending it to professional services.

Assembly Speaker John A. Pérez has said he wants to renew a campaign for middle-class college scholarships.

Freshmen legislators will "come to Sacramento to do grand things," said Dan Schnur, director of the Jesse Unruh Institute of Politics at the University of Southern California. "Now it's up to the governor to convince them to calm down."

Senate GOP leader Bob Huff said not much is likely to change for Republicans under the new supermajority, since Democrats already pass a state budget without negotiating with them.

"When it comes to tough decisions, they're going to run their own stuff," he said.

Steinberg, Pérez and Brown have urged restraint in using the supermajority, or tilting too far left, but analysts say it will be hard to hold that line when wish lists pour in from powerful Democratic interest groups that helped pass the Proposition 30 tax hike.

"The pressure will be the same as parents on Christmas morning telling their kids not to open the presents yet," said Jack Pitney, a political science professor at Claremont Mc- Kenna

College.

Rick Jacobs, head of the liberal Courage Campaign, said the Legislature needs to think big. If it presents a grand vision of a "functioning progressive state," voters will jump on board and pay for it, he said.

"To me, it's about: What would Pat Brown do?" Jacobs said, referring to Jerry Brown's father, a governor who oversaw massive water, school and transportation improvements in the 1960s.

The dwindling number of Republicans places a spotlight on about 20 moderate Democrats in the Legislature – 11 of them freshmen – who could block tax hikes or other measures they deem obstacles to economic growth.

"We'll look to do things that ease the regulatory burden for business and allow for job growth," said Assemblyman Henry Perea, leader of the Assembly's pro-business Democrats.

Roth is expected to be a key moderate Democrat among freshmen senators. He is a business attorney whose wife, Cindy, is president of the Greater Riverside Chamber of Commerce.

"It's an exciting time, I look forward to serving, and I hope I can make a difference," Roth said.

Despite the Democratic supermajority, Allan Zaremborg, president of the state Chamber of Commerce, said he remains hopeful that lawmakers will act to improve California's business climate.

"I don't care if they are Republican or Democrat," he said, "most people who won this year ran on a campaign of making it a better place for jobs and the economy to grow."

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