STATE OF CALIFORNIA

PUBLIC EMPLOYEE
POST-EMPLOYMENT BENEFITS COMMISSION

PUBLIC MEETING

Thursday, December 13, 2007
10:21 a.m.

University of California, Los Angeles
Grand Horizon Room, Covel Commons
330 Deneve Drive
Los Angeles, California

Reported by: DANIEL P. FELDHAUS, CSR #6949, RDR, CRR

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A P P E A R A N C E S

PUBLIC EMPLOYEE POST-EMPLOYMENT BENEFITS COMMISSION

Commissioners Present

GERRY PARSKY, Commission Chair
Aurora Capital Group

MATTHEW BARGER
Hellman & Friedman LLC

PAUL CAPPITELLI
San Bernardino County Sheriff's Department

JOHN COGAN
Stanford University

RONALD COTTINGHAM
Peace Officers Research Association of California

TERESA GHILARDUCCI, Ph.D.
Trustee
General Motors Retiree Health Pensions

JIM HARD
President
Service Employees International Union Local 1000

LEONARD LEE LIPPS
California Teachers' Association

DAVE LOW
California School Employees Association

CURT PRINGLE
Mayor, City of Anaheim

ROBERT WALTON
Retired (CalPERS)

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A P P E A R A N C E S

PEBC Staff Present

ANNE SHEEHAN
Executive Director

JAN BOEL
Staff Director

TOM BRANAN
Policy Director

STEPHANIE DOUGHERTY
Research Director

MARGIE RAMIREZ WALKER
Office Manager

--o0o—

Public Testimony

STEPHEN C. ANDERSON

--o0o—

Presentations

ALEX RIVERA
Senior Consultant and Actuary
Gabriel, Roeder, Smith & Co.

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Subject Matter Experts

PAUL ANGELO
Actuary

JOHN BARTEL
Actuary

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BE IT REMEMBERED that on Thursday, December 13, 2007, commencing at the hour of 10:21 a.m., at UCLA - Covel Commons, 330 Deneve Drive, Los Angeles, California, before me, DANIEL P. FELDHAUS, CSR 6949, RDR, CRR, in the state of California, the following proceedings were held:

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CHAIR PARKSY: I want to welcome everyone, welcome the public, and pay special thanks to UCLA for allowing us to use the facilities here. This is the second hearing that we have held at UCLA.

And this would be our proposed final commission hearing. We always have the option of, as the Legislature and the Congress does, in extending our stays and having meetings over Christmas and things like that if we so choose. But our goal is to have this be our final hearing. And what we're going to try to do here is to, as best we can, take final comments in open session.

We're, obviously, editing and other things; and we'll talk a little bit about that as we get into the discussion.

Once again, I just want to say -- and I've done this at every hearing -- that the policy leaders that established this bipartisan commission -- and the Commission has a very specific charge -- but the policymakers have made it clear from the beginning that the promises that have been made to public employees with respect to pensions and health care will be met. And at each time that the public has come forward, there have been a number of people that have expressed concern to me and other Commission members that the promises or the benefits they've been promised would be taken away.

The policymakers have said no. And our recommendations will all operate under the belief that that commitment by our policymakers will be honored.

Our job is, among other things, to identify the magnitude of the obligations, to evaluate various approaches that have been taken at the state and local level, and to put forward a plan that would address these obligations and assure their funding in a fiscally responsible way.

So with that, if any of the commissioners have any comments that anyone would like to make before we get started?

(No response)

CHAIR PARKSY: Anne?

MS. SHEEHAN: No, I don't.

CHAIR PARKSY: Then we'll have, first, our public comment.

We have one speaker, Stephen Anderson.

Is Stephen Anderson here?

MR. ANDERSON: I have copies of this for everybody.

CHAIR PARKSY: Yes, the staff will take a copy of it.

MR. ANDERSON: I'll go ahead and get started because I'm sure you're anxious to wrap this up. I do not --

CHAIR PARKSY: That's a good assumption. But that's okay, you have the floor.

MR. ANDERSON: Well, I may take a little bit of my wife's time, who couldn't be here today.

Earlier this year, I had the good fortune to address this Commission about an established media blitz that did not allow dissent and that was directed at shocking the public into abandoning or reducing retirement benefits for public employees.

Now, several months later, I am not sure that that problem has been eliminated for the Riverside area, where I come from, even though probably reduced.

I warned that in this atmosphere of contrived economic hysteria, impending disaster, and doomsday scenario, that a responsible response seemed far from reach. Yet in the few meetings that I have been able to attend, I have received hope that this commission has a vision that will not desert a good functioning retirement system in favor of an inferior one.

CalPERS recently documented the acceptability of this approach by quoting the U.S. Government Accounting Office including in their report that most states and local government pension plans are well-funded and on track for full funding in the near future.

Employers are beginning to analyze and address the options of prefunding retiree health-care benefits using investment returns to fund the lion's share of that cost.

You are to be congratulated not only on surviving countless pages of testimony, but for being selected for this commission. Someone, somewhere, has thought that you are suited to care for the weakest employees in the states, those employees that have not yet been hired.

It is not always easy to see issues fairly when proposed action would not affect you, but someone has thought that you should have this responsibility.

Even though I've heard your commission chairman define the extent of authority for this commission, I also see a possible ripple effect that extends beyond the Commission's defined jurisdictional limits.

I see the Commission's finding as possibly being used as a guide to measure current employee retirement benefits and request for additional benefits.

I also see the responsibility for review of retirement benefits for those who have already retired using this Commission's conclusions. Yet my thoughts as a father return to those not hired, those that cannot even see themselves as growing old and in need of retirement income, those that would just be happy to get a job, and those not yet commissioned to defend themselves or their benefits.

They will be the initial losers if this commission buckles and caves into the hysteria and the resulting superstition generated by a misguided press.

I don't intend to comment on all of the wonderful testimony that has been provided this Commission. However, the State Analyst has urged steering from the course to define retirement benefits citing conceptual need to recruit from business.

During my tenure with the State, I have saw outsiders brought into state service for political reasons. They were generously rewarded rather than being lured by the retirement system. And I see that as probable in the future.

However, when this is done, one has to ask: What is wrong with those state employees that are experienced and specialized in these occupational fields and why hasn't the State done something about it?

Additionally, there are specialists in the State systems, university and college systems that have continued in their specialties, and are better-suited and better-qualified for the tasks than outsiders.

Within the State, there are those that have attempted to decrease the generated shock of a new accounting method for retirement benefits. Controller John Chiang is reported as saying that there was a state financial crisis -- there was a state financial crisis before GASB and there is one now.

In announcing his prefunding of health care, he stated in effect, "What I have put into motion today will save the State billions of dollars over the course of its existence."

What it now boils down to is that the choice is yours: To move forward, improving a functioning retirement system; or scrapping that system for an inferior system, yielding to media distortions and claims.

One choice will protect a very special group of our population: The young. That will be our future California state civil servants. And the other is to promote just another tax cut for the rich.

I am here today because I have concluded the best course of action is to sustain our young and future state civil servants without resorting to a cheaper retirement program.

CHAIR PARKSY: Okay, thank you very much.

That's our only speaker. And so we will move into our agenda.

I think what we'd like to do this morning is to go through conceptually and with some language discussion each of the recommendations.

I'd like to start with three that have received the most comment back from what has gone around, and then actually go down each of the recommendations to see if there are comments. And then what we will do is to incorporate -- attempt to incorporate those comments into another draft of everything that will be circulated. And in connection with that, I think that -- I've heard from several Commissioners that incorporating the recommendations that would be included in the executive summary as they will be revised, we would better serve the reader if we reordered them and identified the executive summary as a plan for addressing the issue that we have been asked to address.

So all of the recommendations would be grouped. And I'll go through some of the thoughts about the headings of those groups. But you will see all of that.

Once we incorporate these changes, we'll send it around again regrouped -- and we'll identify for everyone if Recommendation 11 becomes Recommendation 1. You'll see exactly how that would work. So we're not changing -- we wouldn't change the text, but we would reorder them.

And then we would have a broad heading that would say -- and there may be seven headings, there may be eight headings -- that would constitute a plan if you look at them as a whole. And I think that would, at least for the reader, begin to understand that the Commission is trying to come forward with a comprehensive plan, which was the charge that we were given.

So in order to kind of address things, I'd like to focus first on Recommendations 9, 10, and 11, all of which deal with the concept of prefunding.

And we sent around a revised version of 9, 10, and 11 prior to this meeting; and then we received also comments about the revised version. And so what's before you, is the version that we sent around to everyone, and then a slightly revised version marked in red that attempts to deal with some of the commentary that we received.

We apologize a little bit for all of this material moving around so rapidly. But I think it would be important to first focus on these three, and then move right through each of the other recommendations, and pause and see if there are commentary about it.

And I think that in a reordered version, we would move 11 to 1 -- or it would come first, and then 9 and 10 would follow.

So why don't we focus on 11, which is the bottom one?

MR. PRINGLE: It's the new “1.”

CHAIR PARKSY: We have the version that was sent, and we have the version that is now before you.

MR. PRINGLE: And 9 is the new “2.”

CHAIR PARKSY: And I think they're up on the screen.

So you can see -- and our illustrious mayor I've asked to be the keeper of the "shalls" and the "shoulds." Since he was –– and I don't mean to single him out -- he was urging that we focus heavily on the word "shall" or "should." And it may not be appropriate in every instance. I'll let him be the keeper, and we'll see where he thinks it's appropriate or not. And since he has experience on the legislative front, he will also understand that the legislators might be a little bit offended sometimes when the "shall" and "should" was proposed.

So with that introduction, let's turn to 11.

And, Tom, why don't you explain the rationale for the move or the change, and then let's see if we can move on.

Go ahead.

MR. BRANAN: The new version of Recommendation 11 -- let me just read it as it now stands:

"Public agencies providing OPEB benefits shall adopt prefunding as their preferred strategy. As a policy, prefunding OPEB benefits is just as important as prefunding pensions."

CHAIR PARKSY: And one thing I would just say about that: The reason for the move, as commented on by several commissioners, was that the "because" language seemed to be more appropriate in the rationale, and it was moved -- in the version you will see, it will have been moved to the rationale. So it's not that it is eliminated, it's just eliminated from the actual recommendation.

Okay, let's just pause there.

And any comments about that?

Jim?

MR. HARD: Yes, I prefer this version to our previous version.

I guess on the "shall" and "should," I'm not quite clear how we can use the word "shall," since our charge is to recommend to the Governor and the Legislature and the world, I guess. So I'm a little uncomfortable --

CHAIR PARKSY: The world is a little big. We'll take the United States of America.

MR. HARD: Whoever reads this report.

You know, so I just don't want to -- I want people to look at it and not get -- you know, if they have authority to issue "shalls" like a Legislature or a county board of supervisors, then maybe they're the better ones to say that.

Other than that, on 11, I do think this is an improvement. So I'm in favor of this, except for "shall."

On the rationale, I did wonder why we would limit to full -- fully -- first of all, the word "fully prefund" isn't in there. I would suggest that in our rationale, in the sentence -- I don't want to get into wordsmithing too much -- but frankly, it makes a difference, I think. “In the case of the State of California, the recent valuation done by Gabriel, Roeder, Smith and Company shows that immediately beginning to” --

it says "prefund would reduce the State's OPEB."

Basically, the fact is, if you fully fund it -- prefund it, then I think those numbers apply. And if you don't, I don't know that that's technically correct if you don't put in "fully." So "fully."

And then the other thing is that I think the option for partially prefunding should be explicitly stated, I think, in the rationale because I think we're trying to give people ideas of what they can do.

And I'm not so sure how many -- from a practical point of view -- how many entities can just start fully prefunding immediately.

So those are my recommendations.

CHAIR PARKSY: Well, I think, Tom, two elements before we continue. One, is to make sure that the words that link into the magnitude of the liabilities and the rationale are appropriate. If the magnitude of the liabilities relate to fully prefunding, that should be indicated.

And then second, to indicate that -- whether you identify partially or whether you identify beginning in some other parts of the rationale, it seems that we ought to include that in the rationale.

MR. BRANAN: That's fine, Mr. Chair.

CHAIR PARKSY: Okay.

MR. PRINGLE: Mr. Chair?

CHAIR PARKSY: Yes, Curt?

MR. PRINGLE: I think Jim's point is one that I guess I've been challenged with in a lot of this whole prefunding discussion for a long time, and that is, when I talk about beginning to prefund or starting to prefund or prefund, those are all synonymous terms to me.

Saying that a government should prefund its obligation doesn't mean that it should have it all done next week. We know, in fact, it can't be. But to start talking about prefunding to me means you start prefunding.

And yesterday, in a meeting with Mayor Sanders from San Diego, he specifically talked about that they felt, with that obligation, outstanding -- over a billion dollars outstanding in San Diego for public health -- or health benefits for retirees. That their first year, they said all they could afford in the budget was 5 million bucks. Some people would say, "You've got a billion-dollar obligation. How silly." But to me, what I see in that is that that is starting the process of prefunding. You're saying, "Yes, we see why there's value in funding this obligation." And even if it's $5 million to a billion dollars obligation, that's a start.

And as he suggested, that established the credibility of the concept.

The next year, this current budget year, they put in $50 million to prefund based upon their economic budgetary constraints that they have, and we all know the State government has and local governments have as well.

So, you know, I don't want to say that when -- Jim, I don't ever want to use "fully prefund" as an alternate phrase with "prefund," unless we really mean in the -- the goal is to get to a point of fully prefunding. And a plan needs to be established to get to that full prefunding.

But in the initial stages -- in this one and in 9 and 10 -- in my opinion, I think we should be consistent in the words prefunding, meaning, you create a prefunding strategy. And that means if you start with a few million bucks in the first year, identify what that obligation is and start moving to that level of, you know, making sizable contributions to a prefund model so you know where you're ending up.

So, you know -- I know this is part of a discussion for later, when we talk about a lot of what the State should do, but I kind of wanted to lay my mark out right now that whenever I talk about prefunding it is, yes, you identify your problem, but you identify that need, and prefunding could be a very small monetary contribution based upon where the economics are of your budget at the time. But it really is making the progress towards addressing that whole. And I think that's what -- I think this is good, as it states that in this regard.

CHAIR PARKSY: John?

MR. COGAN: I echo what Curt is saying. I think the important thing for this Commission is to recommend that prefunding begin. But I'm very comfortable with the idea that that does not mean that you have to begin fully prefunding right away. So that's sort of my overall comment.

On 11, I'm a little bit concerned that if we, as a commission, believe that employers should begin to prefund -- and we're not setting a time on that -- but that they should prefund, but that prefunding is the right policy, then we don't want to be ambiguous about it. And I'm a little bit worried when we talk in terms of preferred strategies. That is, as it reads now: “Public agencies providing OPEB benefits shall adopt prefunding as their preferred strategy." It's a little bit ambiguous to me. I'm not sure what we might mean by that. So I'd like maybe a little clarification as part of the discussion as to what people think we mean by that.

The way I see it is what we should be recommending, is that the prefunding commence as soon as possible. And that if a public employer does not commence prefunding, then they should, as Curt said, at least provide the public rationale for their reasons for not funding and, at the same time, provide a public plan or strategy for the future.

But I would worry that our language here in using the strategy and the recommendation might be a little bit misconstrued or too loose.

CHAIR PARKSY: Maybe we should separate a little bit the distinction between "fully" and "beginning” prefunding.

I think Jim's comment, and the reference to "fully" related to the rationale and the linkage between the numbers that were used in the rationale --

MR. COGAN: Correct.

CHAIR PARKSY: -- and the words. And I think we can address that in one sense, and turn a little bit to two concepts with respect to 11.

One concept is, do people feel that -- I think at the last meeting, we all agreed -- or no one disagreed with the concept of prefunding is the right policy.

So the question -- and irrespective of timing, irrespective of, obviously, when you start, but it's the right policy. So I guess the comment that John's making is, is it possible to strengthen the sentence to make that clear, in that we -- instead of as a "preferred strategy," "as their policy," which is consistent, I think, with what everyone said; and then have the second sentence be there, and then we can address the "shall" or "should" which Jim mentioned.

Matt?

MR. BARGER: The one thing I don't want to let get away, though, is beginning prefunding is better than the not beginning prefunding; but giving $5 million a year to a problem that's a billion dollars in total is not a sound policy over the long term.

And so those things are not in the least synonymous to me in terms of sort of the fig leaf of doing something rather than nothing, great. But it's not as good as a financially sound doing, you know, the full prefunding, actuarially you would say you need to do. And as we do this, I don't want to lose the distinction that what we're recommending is actually full prefunding.

CHAIR PARKSY: Okay.

MR. BARGER: Two -- because come back to this probably at some later point, I used back in this preamble the notion that the reported OPEB liability would go down, whatever it is, $10 billion for you to do this, although the actual liability would not change one iota.

CHAIR PARKSY: Right.

Did you catch that, Tom?

MR. BRANAN: Yes.

CHAIR PARKSY: Yes, Bob?

MR. WALTON: I think in Recommendation 11, which would become 1, as I understand it, I think simply stating very directly that prefunding is the strategy that should be undertaken by public agencies, period.

When you get into the other two recommendations, I think you can perhaps make a distinction between fully prefunding, which I have a little trouble with that, but I think you could describe it -- and Paul and John might be able to help -- by paying the actuarially required contribution. That would be full funding. Anything paying less than the actual required contribution would be partial prefunding.

And I don't know if, in the narrative, we can just make a distinction between those two.

And our point is, in 9 and 11, if you can't fully prefund, using that term, you ought to have a plan to get there.

CHAIR PARKSY: And explain your rationale?

MR. WALTON: And explain your rationale.

CHAIR PARKSY: That's the whole theory.

MR. WALTON: That's the whole purpose.

I think 11, which becomes 1, is simply state, "Everybody should prefund," period. And then 9 and 10, becoming 2 and 3, should then go into more detail about what that means.

CHAIR PARKSY: Exactly. That's exactly the approach.

MR. COGAN: Can I follow up on something that Matt said?

CHAIR PARKSY: Sure.

MR. COGAN: One way to get at what Matt said is in this recommendation, to have a second sentence that says, "The ultimate goal of the prefunding policy should be full funding. Again, we're not setting a timetable here.

We're saying that the ultimate goal of the prefunding policy should be to achieve full funding.

CHAIR PARKSY: Okay. Comments about that or anything else on this, in this area?

Yes, Dave?

MR. LOW: I just -- as we start getting into some job terminology, full funding is not really a defined term. If you look at pensions, most of them aren't fully funded. Some of them are -- a percentage are funded, some of them are in an overfunded status. And I just think we have to be a little cautious about the terms we have to use here as we define these things because they're not really terms of art sometimes.

MR. COGAN: I think that's a very good point, actually. Maybe a goal is not a well defined term, either, so maybe they go hand in hand.

CHAIR PARKSY: Jim?

MR. HARD: Well, just to follow up on that. Yes, because the actuarial report out of CalPERS or CalSTRS changes every year. So you could be doing the right -- the government entity could be doing the right thing all along and, boom, that year they're not fully funded, they're not doing -- you know, so it just changes annually because of the actuarial report.

So I want to be really careful about what the words are in here, too.

CHAIR PARKSY: Okay, Dave?

MR. LOW: Along the same line of Matt's issue on the cost. I think we also have to be careful in this text about saying things like "over the long term, the total cost to prefund benefits will be less."

The cost is the same, you know. It depends on your earnings on your interest. You could actually pay more if you're losing money on your investments. So it depends on a multiplicity of factors. I think we have to be careful to talk about the cost of the benefit is the cost of the benefit. How much is being paid out of your general fund might change based on your interest earnings. So I think we have to be accurate in how we describe those. And right now, they're not.

CHAIR PARKSY: Tom, did you get that, in terms of rationale?

MR. BRANAN: I understand the comment, but it's not clear to me exactly what change you want.

Well, it sounds like if you put in too many qualifications about the result of prefunding, I'm not sure what you have.

MR. LOW: Well, what you have now is a totally inaccurate statement -- or not totally, but possibly inaccurate statement. So I think you need to say something about maybe the total cost to the public entity or general fund should be less, and then leave the rest. It should be less because basically if you're earning interest on it and you're paying some of the cost out of interest instead of out of your general fund, then the general fund cost would be less. The cost of the benefit is not less. And it also assumes earning money.

CHAIR PARKSY: Yes, John?

MR. COGAN: One alternative, Dave -- and I agree with you, the use of this term "cost" is not really appropriate in this context. And I think what prefunding really does, is enables a system to provide higher benefits at a lower cost to the taxpayer because we are using not only the proceeds of taxes, but the proceeds of investments. And I think that's the real benefit in this regard. And so maybe that's a way to handle it.

(Cell phone ringing)

CHAIR PARKSY: Okay. Any elected official is allowed to have a cell phone. No one else is allowed.

MR. PRINGLE: It could be an emergency in Anaheim.

CHAIR PARKSY: Matt?

MR. BARGER: There actually is a further rationale that goes beyond just do you have investment earnings and the rest of it. It's a matching concept that as you incur the benefit, you pay the cost, which you know, it's a generationally accurate thing to do.

So I don't know if that's in here. But you were sitting here talking about what are the rationales. That's an important rationale.

CHAIR PARKSY: Well, we took the part of the sentence that was in 11, in terms of the reasons; and that has been incorporated into the rationale.

Okay, let me just move to the "shall" "should."

As the keeper of the "shalls" here, how do you feel about the "shall-should" in that Recommendation 11?

MR. PRINGLE: I actually think this is one you could give up a "shall" on because a "should" should do

CHAIR PARKSY: All right, so I think for now -- and again, you'll have another crack at this -- but I think for now, why don't we leave it because of a little bit of the concerns about "goal" and "full funding" and what that all means. But we can come back, but let's leave it as two sentences. But let's change the "shall" to "should" and eliminate the word "preferred strategy" and substitute "policy."

So it would read "Public agencies providing OPEB benefits should adopt prefunding as their policy. And as a policy, prefunding OPEBs is just as important as prefunding pensions," period.

Does that seem okay?

MR. COGAN: Do you want to not include any statement about the goal?

CHAIR PARKSY: Well, I'm just a little concerned about -- "goal" is a little bit hard to -- I mean, I'm not quite sure between full funding and "goal." Where --

MR. COGAN: I was going to ask Dave. It seems to me -- Dave's right, when he says that, "Look, at any point in time, whether you achieve your goal or whether you achieve prefunding is dependent upon a host of factors.

CHAIR PARKSY: That's the point, right.

MR. COGAN: Right. But what guides -- I believe, Bob, you might want to weigh in here -- but I believe what guides CalPERS and what should guide any pension fund is that goal. You may not always be there, you may not always get there, you might be over that goal sometime, you might be under the goal sometime. But when you think about your policy from year to year and your decisions from year to year, you have a goal in mind. And so I sort of see it as sort of --

CHAIR PARKSY: I guess what John is saying is, does the insertion of the word "goal," which doesn't carry with it a definitive or a quantitative concept, does that alleviate your concerns about the use of the word "full funding"?

MR. LOW: It depends on the sentence, I think.

CHAIR PARKSY: Well, if we said, maybe as a third sentence, "The ultimate goal should be to achieve full funding"?

MR. LOW: I think I'm comfortable with that.

CHAIR PARKSY: Let's try that as a third

sentence and --

Lee? I'm saving you for 9, but that's okay. If you want to weigh in on 11, that's perfectly okay.

MR. LIPPS: Quite frankly, Gerry, because of the way that the conversation has evolved up to this point, Recommendation 11, blending that with 9, makes to me actually an awful lot of sense; because we've talked about, particularly the last sentence on Number 9. The only thing we haven't really talked about is whatever this anticipated liabilities are so small, and I do have some questions about that.

CHAIR PARKSY: Yes, I figured you would. But I'm more than happy to address that.

MR. LIPPS: But in terms of Number 11 -- actually, before I make a comment, could you read that first sentence as you just reproposed it?

CHAIR PARKSY: Yes, it would read "Public agencies providing OPEB benefits should adopt prefunding as their policy."

MR. LIPPS: Okay.

CHAIR PARKSY: And then the second sentence, "As a policy, prefunding OPEB benefits is just as important as prefunding pensions." And then as a third sentence, "The ultimate goal should be to achieve full funding."

MR. LIPPS: Okay, I sort of reserve judgment. I need to think about that third sentence.

CHAIR PARKSY: On all of this, you reserve judgment on. We're not -- we're just trying to see if we can pull together the next draft. So nobody is signing off on this at all yet.

MR. LIPPS: The first sentence as amended is a lot more acceptable to me because it goes more closely in line with what John Cogan said earlier; although John used a phrase that I would like to see incorporated in that first sentence, and that is "as soon as possible." And I think that's to make it clear what the stated intent is.

We may not be able to do it -- you know, you may have a goal, first of all, of full funding, but you may not be able to begin trying to full-fund this year at all, for whatever, you know, fiscal reasons are. You may ease into it. But "as soon as possible," that's what the goal should be.

At that point, I don't have any objection to sentence -- or to Recommendation 11, with the inclusion of the "as soon as possible."

CHAIR PARKSY: Well, I think -- at least what was intended -- was 9, which we'll talk about next, was meant to take into account some of the concerns at the local level that would prevent you from either beginning right away or doing it at all for any period of time.

And so it was supposed to be kind of from the general to the specific.

MR. LIPPS: And although that may be good for us not only as commissioners but also the members of the audience who have attended a lot of these hearings, and we're pretty well steeped in things, we're perhaps not as well steeped in before we started some one year ago, for those members of the public who are just going to be reading this executive summary, sometimes, as we learn in teaching, it's best to say the same thing two or three different ways, so that --

CHAIR PARKSY: I now know why you're a teacher.

MR. LIPPS: -- so that people understand.

Not everybody reads things in context and remembers things. Some people are selective in their memories. And just to make it clear, we're not -- we're saying, if you can do it, this is the way to go. I don't have any problem with that.

And you should make it your goal to do it by whatever means you can. But you shouldn't do it at the expense of the current year's either program or infrastructure in any kind of a -- I want to say "fatal" way, but that would be too strong -- but in any kind of way that is going to irretrievably harm your program.

You do it as it's possible, and it should be possible sooner rather than later. Then I have no problem, really, with the series of statements.

CHAIR PARKSY: Well, maybe there's a timing condition that should be attached to the third sentence, "the ultimate goal."

If we said that "the ultimate goal should be to achieve full funding as soon as possible," that introduces the element of timing.

And, again, we're going to address timing very specifically in 9 and 10.

MR. PRINGLE: Mr. Chairman, if I could.

CHAIR PARKSY: Yes.

MR. PRINGLE: I just don't think -- a goal is the goal. That local agencies in the state can determine when they can achieve that as a goal. And their timing is going to be different from a small school district to a medium-sized city, to the State.

So if you say, "This is your goal and this is the overriding policy," how you get there is going to be determined through that legislative process, through the deliberative process, during budget times. And it's going to affect different people in different ways. We don't have to tell them to not decimate other programs to prefund. That's their job, those bodies and all of the employees that make them up.

So I don't see any entity that will decimate the program to prefund pension benefits.

And it's interesting that we're not -- if we just swapped health benefits with pension benefits, we would have -- there would be no questions that we would say, "Yes, we have a goal to prefund pension benefits," then we should have that same goal to prefund OPEB benefits.

And, you know, so I don't have that fear that everybody's going to, you know, fall apart or read more into this; because we're not hitting a hard line, we're just saying, "Have a goal."

And then in 9 and 10, we say, "Start," and then create a plan. And creating a plan is, "This is how we wish to achieve that goal." And that's, I think, a proper structure.

CHAIR PARKSY: Lee?

MR. LIPPS: Curt, while I entirely agree with what you just said, including that everybody will not do this, you are correct. But I do have to say that I have seen some school districts do it, hurt their program, by beginning to prefund retiree health because they thought GASB was coming as early as 1994.

MR. PRINGLE: Yes.

MR. LIPPS: And we're talking more than a dozen years ago.

MR. PRINGLE: Right.

MR. LIPPS: And they would put money away. It was to the denigration of their program.

And then they would take it out when they suddenly had some sort of special project that they sort of liked because it wasn't irrevocable at that point.

MR. PRINGLE: With all due respect, I sat in the Legislature when the Legislature didn't necessarily feel that prefunding of the pension was the highest obligation. If they had to pay their full pension obligation, then it would decimate programs, so the Legislature chose not to do that and then they were sued. And then they had to repay that shortage on the pension system.

And I see the equality in these benefits. So I don't necessarily think that it's all that much of a floating position and, therefore, just asking to set a goal and creating a plan to get there.

MR. LIPPS: Okay, and, again, I think I'm on record as saying I don't have a problem with setting a goal, having a plan to get there, and to do it with all due speed as it is possible. And that's going to vary, as you pointed out, from local public agency to local public agency.

MR. PRINGLE: Right.

MR. LIPPS: I don't have any problems with that.

The problem I have is the interpretation that some people will make of this statement and say, "This now makes it into the realm of a requirement." And they will argue that it's a requirement, even though any plain reading by some people would be clear in their mind that it is not a requirement.

And this comes from good, honest people. It's just how they would interpret things.

And if you recall, Curt, when the GASB 45 regulations first came out and were actually officially announced three years ago, there were a number of public agencies and management advisory agencies that said that prefunding of OPEBs was a requirement. That took a long time to get resolved between both -- among the public agencies as to whether or not it was a requirement or not, even though the language of GASB 45 is pretty plain.

So that's the kind of thing that I would like us as a commission to be careful of, is that whatever we write, let it be clear what our intent is. I'm not having any problems so far with the intent; I'm having a problem with the wording and how it might be interpreted even among honest, well-meaning people.

MR. WALTON: Mr. Chair, I think your suggestion to add the proviso, the ultimate goal -- in the third sentence – "is to begin prefunding as soon as possible," or wording to that effect, it addresses those concerns. I think that is certainly satisfactory with me, and I think it's appropriate to put it in that context.

MR. LIPPS: And I don't disagree, but I would rather have it sooner rather than later.

MR. WALTON: Well, having it at the end of Number 1 is better than having it somewhere in 2 and 3.

CHAIR PARKSY: Right.

Why don't we -- and again -- first of all, I think we should --

MR. LIPPS: We'll have a chance to make the edit comments. I understand that.

CHAIR PARKSY: I think we should bear in mind that, with all due respect, this commission has no ability to direct anybody to do anything. We are here to put forward the best recommendations that we can make. People will take the recommendations and do with it as they wish.

So we're not imposing -- I don't think we should step back and say whatever we put in here is imposing something on a district or anything, because it clearly is not.

MR. LIPPS: Well, actually --

CHAIR PARKSY: And the "as soon as possible" language was not meant to condition the ultimate goal, but only when you got to full funding.

Why don't we try that?

Yes, Matt?

MR. BARGER: I actually -- you know, the fun thing about "as soon as possible" is it's actually subject to interpretation. Whatever -- my interpretation of “as soon as possible” is as soon as possible.

CHAIR PARKSY: You think it's stronger and places more of a burden?

MR. BARGER: Yes.

So, you know, I don't have any problem with that at the end of the first sentence.

MR. LIPPS: No, but I guess, Mr. Chair, we are telling people that they have to adopt a prefunding policy. We are telling them that they specifically have to do something, which is as opposed to identifying prefunding options, and then deciding is one of them appropriate for you; you know, something that the original recommendation, Number 9 I think really spoke to and that I was wholly on board with.

If we're telling public agencies -- this is ranging a little afield on these two recommendations, but it's going back to the earlier discussion. If we're telling public agencies that they should identify all the prefunding options that are available to them and decide is one of them appropriate for you, and if so, pick it and start prefunding, because that is the ideal goal, with the goal to get to full funding.

But we're not even telling them that. We're telling them they have to choose prefunding as their policy, and that is a very specific recommendation.

CHAIR PARKSY: Well, and again, I start with what we had talked about at the last meeting, where we said, "Does anyone" -- and obviously anybody can have a different view -- but does anyone reject the notion that prefunding is the right policy?

Now, options relating to prefunding -- you have to start with the proposition that prefunding is the policy. That's what the first sentence was intended to do. And just the same way it applies to pensions: It has no less importance to OPEB liabilities than it does to pensions.

Now, once again, when we get to a discussion of how local agencies will deal, I think it's important to take into account your concerns. And we tried to -- or

I think it's important to get to specifically what those concerns are, and then a different approach with respect to the State.

So I think Matt thinks that if we add "as soon as possible" it's a stronger statement, and you may think that it is not quite as strong a statement so…

MR. BARGER: Beauty is in the eye of the beholder.

CHAIR PARKSY: Beauty is in the eye of the beholder.

MR. LIPPS: It's a matter of practicality.

CHAIR PARSKY: Pardon me.

MR. BARGER: “As soon as possible” is nice because it doesn’t --

MR. PRINGLE: Mr. Chairman, I would argue against it, including any of those time qualifiers in there. Because I think what you're seeing is people who have lived in the government world know, "as soon as possible" is so subjective, it will mean whenever you get around to it. And some that may live in a different world, "as soon as possible" means now -- "as soon as possible."

CHAIR PARKSY: I heard the pounding.

MR. PRINGLE: I believe “as soon as possible” dealing with some folks that I've dealt with, that's whenever you get around to it. Therefore, why do we need to put a time qualifier on any of this? Just say that should be a goal.

CHAIR PARKSY: A "goal" is definitely not a time qualifier.

Well, why don't we try for this draft just to have the three sentences, and then let's see if, as everyone reads it in the quiet -- in quiet, whether it really poses a problem, as it is seen in relationship to 9 and 10.

MR. COGAN: Exactly, exactly.

CHAIR PARKSY: John?

MR. COGAN: Gerry, maybe one solution that we could think about after we go away is whether the discussion of timing couldn't go in sort of the rationale. That is, we have the recommendation as it is, and then we have a rationale or a discussion of that recommendation where we can elaborate a little bit. And maybe in that elaboration section, we can deal with some of the issues relating to timing.

I don't know, Lee, if that would work; but it might be another way of coming at the same thing. Because having been the one that suggested the language, I'd like to see it in there.

But I do see where Curt's coming from. And so maybe the bridge, the compromise, could be along the lines of including it in the discussion section. Let's just think about that, and then come back to that, and see when we come back to it.

CHAIR PARKSY: Okay, all right. Let's move on from that recommendation to Recommendation 9, which, under the reordering, would be 2.

And here, I'll give a little bit of the reason for the change, and that was that there were comments that came back from the version that went around previously, that the "unless" issue -- in other words, the adoption of a prefunding strategy would be deferred, or not adopted unless.

And it was a little unclear -- and I think Lee did make this point -- it was a little unclear what would cause -- again, if prefunding is the right policy, what would cause it not to be adopted other than the anticipated liabilities are so small that they indicate otherwise? And if we can hear a little bit about that -- it just seemed to some that "plan design, available assets" seemed quite broad, and we want to try to understand what would cause a local authority not to adopt a prefunding strategy.

We're not talking about fully prefunding, we're just talking about a strategy.

Is that so, Lee?

MR. LIPPS: As I recall, when I spoke about this at the last meeting, I put it into the context that a public agency may have offered its employees an OPEB, but it may be a very, very manageable cost. And prefunding, given the nature of its budget, prefunding doesn't make a whole lot of sense because they have more than ample funds to work a pay-as-you-go strategy for -- you know, to use pay-as-you-go each year due to the impact, or the relative little impact that retirement health benefits have on its individual budget.

It may not, for example, make sense, if you've got a $10 million or a $15 million budget and you've got an annual OPEB -- an annual OPEB liability of $50,000 to fully fund something up to the tune of, you know, $4 million.

Now, I heard on the flip side of that from Teresa and others good arguments that, well, that creates -- by prefunding, if nothing else, you create sort of a vesting, which you might create a vesting expectation; but I think so far we haven't heard anything definitive about whether or not retirement benefits are a vested right universally. So that’s sort of a different question in my mind.

The purpose of the discussion last time -- and it got translated into here -- is that anticipated liabilities are so small.

And I think we would have problems with, what is the standard for that that we are talking about? What the full liability is, or are we talking about the impact on the local agency's budget in a given year or projected impact, you know, over the course of some period of time.

To me, it's a little ambiguous.

CHAIR PARKSY: John?

MR. COGAN: Yes, I share Lee's view, it is ambiguous. And I'm not sure, I think I said this the last time -- Teresa and I talked about it, that the size is not really an issue here in terms of cost.

I was looking at some of the material that had been sent around to us; and one of the case studies is the Alameda County Mosquito District. It has 13 employees and 11 retirees. And they have told us that they're going forward with prefunding their health benefits. And so there's a very good example of how size, in and of itself, should not be regarded as a determinant of whether we prefund or not. So as far as the specific exception here, I don't think it's a particularly good one, I guess.

And I would also -- while I've got the mike here –- just make one other point.

CHAIR PARKSY: You can make a substitute suggestion, though, if --

MR. COGAN: Yes, let me --

CHAIR PARKSY: Go ahead.

MR. COGAN: First, are we talking here about a prefunding strategy, or would we substitute "prefunding policy" here as we did under --

CHAIR PARKSY: Under 11?

MR. COGAN: We need to clarify that.

And I don't know what the condition is yet that would -- or whether there is a condition that would result in an exception.

I don't like the use of the word "unless," though. "Unless" clearly implies that there will be exceptions.

I think what Lee is saying, in a way, is that, "Look, there may be budgetary considerations, fiscal emergencies," so on and so forth, "that affect the timing of your prefunding.” They don't affect the wisdom of prefunding as a policy. It is the right policy. But the budget emergency or budget circumstance might affect the timing of that policy or the rapidity with which you achieve your goal.

So I don't really like the word "unless" to qualify the policies, as I think the policy is right in all cases.

And what's at issue here is the timing of how much you set aside in any given year. That might be affected by -- for example, Lee, your point about decimating other government programs. If that's the alternative that someone faces because of a tight budget, then they may choose not to prefund in that given year.

CHAIR PARKSY: Is that -- is John's characterization what you are concerned about, Lee?

MR. LIPPS: There is one element that John left out, and it's not an element that it's really -- that we've had a lot of discussion about.

Part of what concerns me is the irrevocability of prefunding if you choose to put it into an irrevocable trust, and then you have a fiscal emergency.

Under current law, at least for school districts, there are two different types of post -- excuse me, employee retirement fund accounts. One is irrevocable and the other one is, you know, you can take money out of there if you want.

Let's just look hypothetically at where we are with this year's state budget. And we're talking about 10 percent across-the-board cuts, even for education next year, that's in the current talking stage.

If a district had money in an irrevocable trust and now has to cut 10 percent out of a budget perhaps that's already lean, it could have a severe impact on its educational program. At the same time, it's got a fairly large sum of money that won't be touched for some time.

The irrevocability is a concern that I would like to raise, but it's not really part of this recommendation. But it is something in terms of -- as we're thinking about school funding, I think we have to recognize that it is sort of a different animal than many other public agencies, if not most.

CHAIR PARKSY: Well, I was just trying to understand what qualifier.

John doesn't seem to like the word "unless." But if you wanted to say something to the effect of "taking into account," and then finish the thought.

John?

MR. COGAN: I don't like the qualifier on the policy. I mean, that's a bigger concern. It's not the word "unless." It's any qualifier. If it's the right policy, it's the right policy.

But I agree with Lee that there are times in budgetary emergencies that you may not want to prefund in that year. But it's not qualifying the policy -- the policy is the right policy, that's my point, I guess.

CHAIR PARKSY: Well, maybe -- and, again, Lee, you correct me --

MR. LIPPS: Now that I more clearly understand your question, Gerry, if Number 9 -- if it were to say, in sort of parallel language that we sort of tentatively agreed to in Number 11 --

CHAIR PARKSY: Right.

MR. LIPPS: -- that "each public employer shall identify its OPEB liability," I don't know why we have to have "as the State has done and thereafter…" That phrase makes no sense to me.

"Each public employer shall identify its OPEB liability and adopt prefunding -- and should adopt prefunding as its policy."

And then you skip all the rest of that "unless" stuff, and just say "if a public agency chooses not to establish prefunding as its policy, it should explain why."

MR. PRINGLE: Mr. Chairman --

DR. GHILARDUCCI: That's it. That's it.

MR. PRINGLE: I'm concerned that two people mentioned taking out the word "prefunding strategy." I mean, that is here differently than Recommendation 11, specifically because it is for them to create a plan to prefund. So I don't want to take out that and replace it with "policy" again. The bottom one just says that's their policy.

CHAIR PARKSY: Right.

MR. PRINGLE: But this one says look at your obligation and then create a strategy to fulfill that obligation.

MR. COGAN: I thought what Lee had said was that you have a policy, and that's prefunding. That's sentence one.

MR. PRINGLE: Recommendation 1.

MR. COGAN: No, I'm talking about Recommendation 9 now.

MR. PRINGLE: But what's different than Recommendation 11, which we just got done with, which will precede this in the order?

MR. COGAN: Let me address your point.

MR. PRINGLE: Okay.

MR. COGAN: And then I thought what Lee said was that if a locality chooses not to prefund, then it must tell everybody why in public. It has to submit a public document, which I think is a terrific way of coming at it.

If a locality doesn't choose to prefund, let's say next year, then, by golly, it, number one, should have to explain to the public why; and, two, it should also provide a plan for prefunding.

MR. PRINGLE: But, John, read what it says.

I'm just saying, this "first adopt a prefunding strategy" is adopting that plan.

And if they don't even want to do that -- if they're a small district or if they're another district that doesn't want to go forward with prefunding, then they just have to explain why. But this addresses them preparing a plan.

They've adopted as a policy, as Recommendation 11 --

MR. COGAN: Right.

MR. PRINGLE: -- which will precede this.

CHAIR PARKSY: All right. Let's just get a couple more.

Dave?

MR. LOW: To put this in context, if we're moving 11 to 1 --

CHAIR PARKSY: Right.

MR. LOW: -- and we're saying they should have a policy.

CHAIR PARKSY: It's the overall policy question.

MR. LOW: If you adopted a prefunding policy, I think that presupposes you're going to have a prefunding plan. You're not going to say prefunding is our policy, and not have a plan to prefund. You can't. I mean, you have to have some sort of program for prefunding once you've adopted it as your policy. So I sort of feel like some of this is extraneous. I think that first sentence is basically a statement of not law, but of the GASB requirement.

Every agency under GASB now has to identify their OPEB liability. This second part about a prefunding strategy, I believe that the only really relevant part here is that if you don't have a strategy, then you should clearly identify an alternative approach and make it public.

And I think that that basically presupposes that you otherwise have a strategy because you've adopted prefunding as your policy.

MR. COGAN: I guess I think of a policy as kind of an overarching statement; and I think of a plan as containing some specifics. I guess that's my distinction between the two.

As I said, everybody's going to read these things a little bit differently, and that's why I was thinking that both were necessary; that it is your policy, but if you choose not to do it, boy, you should nevertheless have a plan for doing it.

I'm thinking along the lines that the only reason you wouldn't do it is you have a budget emergency this year that precludes you from doing it. That was my thinking, Dave.

CHAIR PARKSY: Yes, Jim?

MR. HARD: Well, I think I agree with Curt, though, because -- and it seems to be endorsed by a couple speakers -- a policy is one thing; a strategy is theoretically to get to that policy or if you want to translate it to a goal --

MR. COTTINGHAM: Jim, we can't hear you down here.

MR. HARD. I’m sorry.

MR. COTTINGHAM: If you could speak into the mike.

MR. HARD: I'm not so sure it's on.

DR. GHILARDUCCI: It's on.

MR. HARD: I'm agreeing with Mr. Pringle about the strategy, it seems to me, to be your plan to achieve a policy or a goal. And I think that the two sentences, the first and the third, the current third, would be good.

And I do think that the strategy word is more accurate. Otherwise, 9 becomes redundant following what will be 1, Number 11. So that's my thoughts on it.

CHAIR PARKSY: Well, maybe conceptually, that we can separate out a recommendation that aimed at identifying what is the right policy. And that comes first, with a more specific approach to how you plan to implement the policy, and deal 9 and 10 on the implementation.

And so maybe what we could do is to say -- leave 11 as we have tentatively addressed it, namely, incorporating the concept of a policy; and 9 would then read something like, "Each public employer shall identify its OPEB liability and should adopt a prefunding plan." And then go on to say, "If a public employer does not establish a prefunding plan, it should clearly identify an alternative approach to addressing its OPEB liabilities and make public its reason for not prefunding."

MR. COGAN: Wait a minute. That doesn't make any sense. If you have a -- it allows agencies -- the second sentence, “If a public employer does not establish a prefunding plan” --

CHAIR PARKSY: Right.

MR. COGAN: -- well, aren't we going to recommend that they have a plan?

CHAIR PARKSY: We do.

MR. WALTON: We do. That's the first sentence.

CHAIR PARKSY: But we're trying to take into account what Lee said, which is that a local agency might not be able to do so.

MR. COGAN: Great, okay.

So now, we then say, "If you don't have a plan, the local entity shall clearly identify an alternative approach."

DR. GHILARDUCCI: Yes, yes.

MR. COGAN: Well, that sounds to me like a plan, which is my point.

MR. PRINGLE: But it may not be a prefunding.

MR. LIPPS: But it might not be a prefunding.

CHAIR PARKSY: I'm sorry. You make a good point. Let me correct what I said.

The second sentence would read, "If a public employer does not establish prefunding" --

DR. GHILARDUCCI: Period, right.

CHAIR PARKSY: If it doesn't establish prefunding, then --

DR. GHILARDUCCI: Right, right.

CHAIR PARKSY: -- period, "then it shall clearly identify," and finish the sentence.

DR. GHILARDUCCI: Exactly.

MR. PRINGLE: Mr. Chairman, I don't really like that. Because I believe that even when they adopt the policy to say, "We want to prefund," I want them to say, "and this is how we believe we can accomplish it." We may put a little bit in this year, we might advance it next year. I believe that's the definitive aspect of a plan.

DR. GHILARDUCCI: I have an idea.

MR. PRINGLE: I want to make sure we say, “You have to come up with a plan to prefund.” Not just, "We have to agree that prefunding is acceptable."

And you know what? I think the second sentence is just a wiggle-room sentence that some people worry about the wiggle room. But if it's a way to say, yes, you've got to come up with some kind of a plan in some fashion, and if you're a public agency that doesn't think they are going to prefund and they want to tell your constituents, “We don’t need to prefund because we have six retirees, and we'll never have more than six retirees and we'll live with it,” then at least they're making that statement.

I don't believe the State of California or any larger agencies could get away with making that statement. So I think it's a way to mandate it without -- you know, but still giving it a little wiggle room on some of those other agencies that may need that.

CHAIR PARKSY: Yes, Teresa?

DR. GHILARDUCCI: I thought you were going to say -- and I hope that we can agree -- that we actually want every entity to have a plan, and we want every entity to make that public.

CHAIR PARKSY: Right, right.

DR. GHILARDUCCI: Why don't we just say that?

MR. COGAN: Right.

DR. GHILARDUCCI: And in that plan will be their schedule.

CHAIR PARKSY: Well, maybe -- I don't know whether there is --

MR. LIPPS: Having a plan and having a prefunding plan are two different things.

DR. GHILARDUCCI: No, no, we want the prefunding. We've said that in 1. And we're saying in the -- in the recommendation. And we're also saying as a commission, that we want that prefunding plan identified to the public.

CHAIR PARKSY: Well, I guess the only caveat there is if -- and what you're saying is the plan could take into account --

DR. GHILARDUCCI: Exactly.

CHAIR PARKSY: -- not beginning to prefund now, or in any given year?

DR. GHILARDUCCI: And this comes just from doing what Curt said, substitute "OPEB liability" with "pensions." Actuarial plans to fund a future liability has in it the flexibility that we're all talking about here.

And so what this commission -- I think what we've done over this past year, is say that these retiree health promises are just as important as pensions. And, therefore, we're just going to direct every entity to fund it like pensions. And we're now saying we want that plan to be public.

CHAIR PARKSY: Well, Lee, if the sentence -- maybe this is now one sentence, in one sense. "Each public employer shall identify its OPEB liability and should adopt" -–

MR. PRINGLE: “Shall.”

CHAIR PARSKY: -- “and shall" -- we haven't gotten to the "shalls" and the "shoulds" yet.

MR. PRINGLE: No, this is one that we --

CHAIR PARKSY: Yes -- "and shall adopt a prefunding plan, including timing, and make it public."

DR. GHILARDUCCI: Well, we don't even need that. A plan has timing in it.

CHAIR PARKSY: A plan would include timing.

DR. GHILARDUCCI: Yes, yes, you don't even need it.

CHAIR PARKSY: And make it public.

MR. LOW: Gerry?

CHAIR PARKSY: Okay, Dave?

MR. LOW: As we kind of go through this, more things are kind of popping up. For example, what does "make it public" mean?

My understanding is that everything we do is public. I mean, it's a matter of public record, there's the Public Information Act provisions. So I don't understand what we mean by "make it public," first of all.

And then secondly, I just wonder if it will simplify things just to say something like, "The public agencies should adopt a strategy to fund OPEB either through prefunding or an alternative approach," and that if they adopt an alternative approach, they should include the reasons for not prefunding?

CHAIR PARKSY: Well, I think, again, this is supposed to be the recommendation that follows the broad-reaching policy that everyone wants -- I think is in concurrence about.

So it's meant to be a directive to the local agencies that we have -- we're telling you that the policy is the right policy. Now, you should come up with a plan that would implement that policy, and make the public aware of the plan -- announce to the public the plan, however we want to say that.

Lee?

MR. LIPPS: Your first amended reading is something that I can go along with entirely, notwithstanding, you know, Curt's "shall" and "should." If it says, "Each public employer should identify its OPEB liability and adopt a prefunding strategy.”

If it does not --

CHAIR PARKSY: I used the word "plan" instead of "strategy."

MR. LIPPS: "Plan" is fine. "Plan" or "strategy," either one works for me. But they should do that.

And then the next sentence, "If they choose not to adopt a prefunding plan, then they should stand and report," essentially, what are they doing alternatively and why aren't they prefunding?

I have no problem with that statement whatsoever, and it's consistent.

You can't say "shall" and then give -- and then in the second sentence say, "But if you don't do it, then you have to report to somebody.”

CHAIR PARKSY: How do --

MR. HARD: Well, I'm more comfortable with your first edit on it. I agree with Lee. I like that better.

Because even though the one example of the mosquito district or whatever, you said --

CHAIR PARKSY: You said that's going to come back to haunt you.

MR. HARD: -- they did take up prefunding. That could have been with 13 employees and 11 retirees, they might not have taken that option. And maybe -- I wouldn't know, but maybe that would be the best option. So I'm kind of with Lee on the wording.

CHAIR PARKSY: Just reword your second sentence.

The first one would read, "Each public employer should identify its OPEB liability and adopt a prefunding plan," period.

The second sentence -- how was it?

MR. PRINGLE: This one that we have here is what --

CHAIR PARKSY: No, no, that Lee just read.

MR. LIPPS: It’s identical --

CHAIR PARSKY: Oh, I’m sorry. Okay.

MR. LIPPS: -- except changing the word "strategy" to "plan," just to make it consistent.

CHAIR PARKSY: Oh, I see. I'm sorry, I wasn't following you.

"If a public employer does not establish a prefunding plan, it shall clearly identify an alternative approach for addressing liabilities and make public its reason for not adopting such a plan"?

MR. LIPPS: For not prefunding, yes.

CHAIR PARKSY: For not prefunding? That's fine.

Is that -- Tom, have you got that?

MR. BRANAN: I think so, Mr. Chair.

MR. COTTINGHAM: I just have one wording. Since we're giving them some leeway here, saying if a public employer does not establish, it sounds like they are intentionally avoiding establishing it. So if you change "does" to "can": "cannot establish."

MR. PRINGLE: I like that, but I don't think that's possible, that they all can establish a prefunding plan. So I'll second it.

CHAIR PARKSY: All right, Tom, do you want to read what you have?

MR. BRANAN: Sure.

CHAIR PARKSY: Let's try it.

"Each public employer should identify its OPEB liability."

MR. PRINGLE: That, you can say "shall" because it shall be a requirement; right?

MR. BRANAN: I think we had "shall" there.

CHAIR PARKSY: "Each public employer shall" -- if any of the public is getting a little bored with all this, that's okay.

"Each public employer shall identify its OPEB liability and adopt a prefunding plan," period. Then pick up -- excuse me.

MR. LIPPS: No, no, no.

CHAIR PARSKY: "If a public employer does not establish a prefunding plan, it shall clearly identify an alternative approach for addressing its OPEB liabilities and make public its reason for not prefunding."

MR. LIPPS: Gerry, you left out the "should" before "adopt." "Should adopt a prefunding plan."

CHAIR PARKSY: Oh, yes, it should. Okay.

Tom, have you got that?

MR. BRANAN: I do have exactly that.

CHAIR PARKSY: I should ask Stephanie.

Stephanie, do you have that?

MS. DOUGHERTY: *(Nodding head.)*

MR. BRANAN: That's who I was depending on.

CHAIR PARKSY: We're all depending on Stephanie.

MR. PRINGLE: Mr. Chairman, could I ask one question?

CHAIR PARKSY: Yes.

MR. PRINGLE: Could I ask Teresa, on the first sentence, how to make the first sentence stand alone to get back to your suggestion. Because if you change the word "strategy" to "plan," can a prefunding plan include a determination that -- I mean, the challenge to me is how it's consistent with Recommendation 11 --

DR. GHILARDUCCI: Exactly.

MR. PRINGLE: -- when you say "agencies shall adopt it as a policy."

If it is a policy, then they can come up with a plan.

If they're prefunding of their plans says “We'll prefund it 15 minutes before the obligation is due,” then that's still a plan, right --

DR. GHILARDUCCI: Right.

MR. PRINGLE: -- even though it may not be prefunding in the next year or the next year or 20 years.

So I believe there is enough ability to just say, "Hey, create a prefunding plan." And if they don't even want to fund it or may want to phony it up in their plan or if they don't feel they even have to necessarily go much different than a pay-as-you-go system, they could write that up as their prefunding plan; couldn't they?

DR. GHILARDUCCI: Right, right.

MR. PRINGLE: So I don't know why creating the second sentence, that allows a lot of doors to possibly be open and even challenging the concept of prefunding is beneficial here.

DR. GHILARDUCCI: Right. I think we're going to be sorry if we have that second sentence, where it says, "If employers do not choose a prefunding strategy."

CHAIR PARKSY: No, no, “plan.”

DR. GHILARDUCCI: Or "plan," we are opening it up for that being another possibility. And I think this Commission wants to say "prefunding." And I think that we should just direct public employers to make that plan public, which includes the timing.

CHAIR PARKSY: Well, I do think the way it is written -- and maybe this is more conceptual -- there is -- I do not believe that this would say that a public agency could have succeeded in adopting a prefunding plan and continue pay-as-you-go. That, I don't think would be consistent with this.

I think that --

DR. GHILARDUCCI: Right, right.

CHAIR PARKSY: A prefunding plan might not include full prefunding.

DR. GHILARDUCCI: It could be partial prefunding, basically.

CHAIR PARKSY: It could be partial prefunding, it could start at a later point.

DR. GHILARDUCCI: Right.

CHAIR PARKSY: But I think we've drawn a sharp distinction between prefunding as a concept and pay-as-you-go.

DR. GHILARDUCCI: Right.

CHAIR PARKSY: And so I --

DR. GHILARDUCCI: Oh, I see.

CHAIR PARKSY: And I think that is pretty clear.

DR. GHILARDUCCI: But isn't it synonymous to say, "If a public employer does not establish a prefunding plan," we're also saying, "If a public employer chooses to pay-as-you-go, then they announce it to the public," and do we really want to say that?

CHAIR PARKSY: Well, we were trying to take into account the comment Lee made, that it is possible, whether it's the magnitude of the liabilities or otherwise, that they could continue to meet their obligations on a pay-as-you-go.

Isn't that, Lee, what you were saying?

MR. LIPPS: Yes.

DR. GHILARDUCCI: So could anybody.

CHAIR PARKSY: Well, I'm not sure that that's true.

DR. GHILARDUCCI: Yeah, right.

CHAIR PARKSY: I think the magnitude of the liabilities might be quite different.

Bob?

MR. WALTON: Well, I think you need the second sentence in 9, what's now 9, because I think you're saying, you adopt it as a policy, adopt a plan to meet that policy.

CHAIR PARKSY: Right.

MR. WALTON: But there's no -- but if you don't adopt a plan, what do you do? And that's what that third sentence says. There's a next step. There's actions you take if you don't adopt the plan.

DR. GHILARDUCCI: So if you do pay-as-you-go, you have a special obligation to report it?

MR. WALTON: Or something that isn't prefunding. You know, funding 15 minutes before it's due.

DR. GHILARDUCCI: That's pay-as-you-go, yes.

MR. WALTON: Well, five years before it's due.

DR. GHILARDUCCI: That's prefunding. That's prefunding.

MR. WALTON: No, it is not. It's not actuarially sound prefunding.

MR. PRINGLE: We ought to use that qualifier.

DR. GHILARDUCCI: It depends on the liability. It depends.

MR. WALTON: Then that's the point. That's why you have to have the third sentence -- or the second sentence in this case now.

CHAIR PARKSY: Ron?

MR. COTTINGHAM: I don't know if it's been overlooked or if I'm just missing it, but when you're giving them direction, I mean, obviously they have to take this into their chambers and just decide what they're going to do. And we can't lose sight of the fact that there are ramifications if they don't make the right decision, because they have to look at their bond rating, their credit rating for not doing this, not coming out with something. And this is something that was pointed out by both the GASB panel and the Standard & Poor’s panel. That, again, not that they had to -- well, I won't say that “not that they had to do prefunding,” but the prefunding as an option, but also that they had to have a viable plan.

So if in this direction if they don't come up with that, then the onus is on them if they fail to follow direction.

So there's a responsibility on their part that they have to take. So I don't know that we have to explain to them what the responsibility is exactly. We've given them the leeway. They're the ones that have to consider the ramifications if they don't take the proper steps.

CHAIR PARKSY: Okay, let's give it a try this way.

Let's move on to the State. And here, the editing focuses heavily on our mayor, since the words "shall" and "should" he needs to focus on in connection with this statement. But let's -- there were some changes that were suggested and the one change in the introduction to the second sentence was meant to make it clear -- the concept wasn't changed, it was just meant to be editing, and make it a little clearer on what we were saying about the coming year, and to obviously open up the possibility that, in the coming year, the State may decide not to prefund.

MR. PRINGLE: Then why are we giving them the out? I mean, why are we starting by saying -- and, actually, the way it's written, just grammatically, it says, "Should the State choose not to prefund in the coming year, it shall develop a plan." Basically, it says "only develop a plan if you don't fund this year." I mean, the concept there is, you want to make sure they have a plan under every circumstance, and hope that the plan starts in this current budget year.

CHAIR PARKSY: Okay, well, let's just kind of take it one kind of sentence at a time as we work our way through.

How do people feel about the first sentence? The first sentence says, "The State of California" -- then we'll come to the word "shall" or "should" -– “establish prefunding as both a policy and budget priority and begin prefunding its OPEB liabilities."

Any problems there?

Curt, how do you feel about "shall" or "should" on that?

MR. PRINGLE: I think "shall" is certainly appropriate there.

CHAIR PARKSY: Any problems on the first sentence?

(No response)

CHAIR PARSKY: Okay, let's move to the second sentence.

MR. LIPPS: Just kind of a quick clarification question, Gerry.

Do we need both policy and budget priority? Are those separate concepts?

DR. GHILARDUCCI: Yes.

MR. BRANAN: Mr. Chair, we treated them as separate concepts just because, as you've covered in your earlier discussions, that you can have a policy and not implement it. And in this case, implement it through the budget.

CHAIR PARKSY: Again, I feel a little bit differently about what we're saying to the State because they asked us to speak to them. And so here, I think we want to be as direct and straightforward as humanly possible.

Okay, let's move on to second sentence where there may be comments.

MR. PRINGLE: Mr. Chairman, if I could interrupt? I apologize.

I actually think all three of the following sentences really basically say, "the Governor and the Legislature shall work together to develop a prefunding plan." And I don't know, really, if we need to say much more than that as to when they -- we're going to spend a lot of time arguing about should we kind of put them on record to do it this year or not. But if we just say "create a plan and do it," then I think the first sentence is basically using the word "budget priority." It says what we -- our intention is hoping to do it as soon as possible but without pushing -- you know, even referencing the current budget, the upcoming budget, and all of that.

I think what I'd like to just see is asking them to come up with -- to work together and come up with a plan.

MR. LIPPS: That simple sentence by Curt works perfectly.

CHAIR PARKSY: So you would have only a second sentence, is it?

You would have the first sentence as is, and then you would add a second sentence that would direct or --

MR. LIPPS: Curt, I understood you to just give one sentence. "The Governor and the Legislature shall work together to establish a prefunding plan," period.

CHAIR PARKSY: Well, I do think that the first sentence does deal with the issues of -- I'm not quite sure the state has adopted a policy.

MR. PRINGLE: No, no, no. But that would be the second sentence on this recommendation.

The first sentence would be as the first sentence is here.

CHAIR PARKSY: Okay, that's what I –- all right.

MR. PRINGLE: The second sentence referencing the development of a plan by the Governor and the

Legislature.

CHAIR PARKSY: So we would leave the first sentence as written, but there would be one more sentence in this recommendation?

MR. PRINGLE: Right.

MR. COGAN: Something like, "The State should -- shall develop a plan for carrying this policy into effect."

DR. GHILARDUCCI: And carrying -- and do it.

MR. COGAN: Yes, or something like that, at the end of the second sentence; right?

MR. PRINGLE: “The Governor and the Legislature shall develop a prefunding plan” --

DR. GHILARDUCCI: And do it.

MR. PRINGLE: -- “and implement it. “

CHAIR PARSKY: Good.

DR. GHILARDUCCI: Yes. So it's still one sentence.

CHAIR PARKSY: Jim?

MR. HARD: Well, I think I'd like to hear that again better than this newest version, because I like the older version better. I don’t -- so I'd like to hear Mr. Pringle's sentence.

CHAIR PARKSY: Well, I think all he was saying was that the Governor and the Legislature shall develop and make public a prefunding plan.

MR. COGAN: Period.

MR. HARD: I like that. And it's a little briefer, and it doesn’t -- you know, that's who does that. So we don't have to tell them that's who does it, because actually that's who does it all the time on such things.

I just -- again, I don't know how we say “shall“ when, in fact, we're supposed to make recommendations.

So I guess I won't have -- I just don't think it makes sense to say "shall" to the Governor and the Legislature, first of all, from a practical point of view. But even from kind of a stylistic kind of relationship point of view, we’re appointed by the Governor to recommend to them. So I don't know how you recommend with "shall." They shall do this and that.

But I like the second sentence.

CHAIR PARKSY: Well, before we sign off on "shall" or "should," how do people feel about a two-sentence recommendation along those lines?

Dave?

MR. LOW: I'm comfortable with two. I think you can almost do it all in one sentence. I think you can almost say -- on the “shall” or "should" I sort of agree with Jim. But you could say, “The Governor or the Legislature should establish prefunding as both the policy and budget priority, begin prefunding its OPEB liabilities and develop and make public a prefunding plan." And I think that encompasses all of it.

DR. GHILARDUCCI: That's beautiful.

MR. LOW: I think that it is a little presumptuous -- I mean, Curt's position has changed since he's been in the Legislature. Now he can tell them what to do. But we were telling them what to do, saying “shall” –- “you shall do this.” We don't have the authority to tell the Legislature or the Governor they have to do this so I'm a little less comfortable saying "shall" here.

CHAIR PARKSY: Everyone around this table in one form or another are advocates of different points of view. And I'm sure the Legislature is used to hearing from any number of us.

Well, how do people feel about that one sentence as the recommendation?

DR. GHILARDUCCI: I like it a lot.

MR. LIPPS: Except, Dave, the way that I'm hearing that, the interpretation I'm going to get that we will hear a lot of, is that one little phrase you added about "begin prefunding" means begin prefunding this year. And that may not be practical this year.

CHAIR PARKSY: It just picks up on the sentence that is already here.

MR. CAPPITELLI: Mr. Chairman?

CHAIR PARKSY: Yes?

MR. CAPPITELLI: I get a little concerned when we start talking too much about whether or not the Legislature or the Governor are going to make it a priority to do it or not.

That's not our charge. Our charge is to say based on all of our months of research and analysis, this is what you should do, or shall do, or however you say that.

We should not get too caught up in whether or not, "Well, if you decide not to do it this year, then maybe you should" -- plain and simple, our direction or our suggestion or whatever we want to call it from this commission, after everything we've heard is, prefunding is the way to go.

Now, however we say that -- I'm concerned when we start watering it down and we start giving these avenues or ways out to say, "Because we read the paper two days ago, it said something that was worse than what we had last week now that we're giving these outs," the problem is not going to go away. It's going to be worse next year. And if they put it off two years, it's going to be even worse then.

Our task was to figure out a way to do it. We come up with what we believe is the best suggestion. However we couch that is what we need to do, but we should not be watering it down in any way.

CHAIR PARKSY: Well, let's see. If we had as the recommendation here, "The State of California shall establish prefunding as both a policy and budget priority, begin prefunding its OPEB liabilities and develop and make public a prefunding plan," does that meet it, Bob?

MR. WALTON: That's fine.

CHAIR PARKSY: Does that seem fine?

Stephanie, have you got that?

MS. DOUGHERTY: Right.

CHAIR PARKSY: Did you give it to Tom?

MR. BRANAN: She will.

MR. PRINGLE: Mr. Chairman, could I hear it one more time?

CHAIR PARKSY: Do you want to read it back, now that you say you have it?

MR. BRANAN: “The State of California shall establish prefunding as both a policy and budget priority, begin prefunding its OPEB liabilities and develop and make public a prefunding plan."

CHAIR PARKSY: It seems pretty direct. It gives plenty of opportunity, and I think it does meet all the things we've heard.

MR. CAPPITELLI: I'd add the word "immediately." If you want to be --

MR. LIPPS: And I would add "as soon as practicable."

MR. CAPPITELLI: I'd add "immediately."

CHAIR PARKSY: Let's circulate it and see how it -- Curt, you're okay here?

MR. PRINGLE: Yes.

CHAIR PARKSY: That takes care of the big three.

All right, now, let's go back now. And I would just urge everyone in terms of -- we didn't hear too many comments about the rationales that were circulated. So once we recirculate everything in reordered form, please take a look at the rationales and provide editing that Tom can use.

MR. BRANAN: And Mr. Chair, we'll also do that. As these things have changed from hearing to hearing, the background or rationale has not always been updated to keep up with a change in the recommendation.

CHAIR PARKSY: Great.

Okay, let's kind of take them one at a time, and just kind of go down each of the recommendations and see what hesitation, what commentary. The changes that were circulated -- and there are no new circulations, just what we circulated around to everyone -- try to identify changes in the language.

So, Tom, why don't you take everybody and let's go down them one at a time.

MR. BRANAN: All right. There is one thing I'd like to point out, and that is I think in recognition of agreement by the Commission at the previous hearing, some of these changes are simply to make the format the same for each recommendation, so it starts off with a subject and eventually a verb.

CHAIR PARKSY: Okay.

MR. BRANAN: Number --

CHAIR PARKSY: Eventually?

MR. BRANAN: Yes.

CHAIR PARSKY: Do you have to find it there?

We have a teacher down here. If you need some grammar lessons, well, he'll give them to you; right?

MR. LIPPS: I have one of the world's funniest stories along those lines.

MR. BRANAN: That was our goal, but sometimes the strategy was lacking.

CHAIR PARKSY: Okay. Proceed ahead.

MR. BRANAN: "An employer making a contribution to retiree health care should make that contribution proportionate to the number of years of employment and should reward longer careers. This recommendation should be implemented through collective bargaining and should be applied to newly hired employees. The use of proportionate credit to earn the employer contribution for retiree health care should apply only to service retirement."

And that last change was made at the suggestion of a commissioner who thought that it, as it did read, was not clear enough.

CHAIR PARKSY: Okay, any concerns, questions on Recommendation -- it will be renumbered, we'll come back to that in a second -- but anything on that one?

MR. LOW: Just one comment, not on the recommendation.

CHAIR PARKSY: Yes, Dave?

MR. LOW: Not on the recommendation, but in part of the background.

There's a sentence that says, "This serves to increase the cost to the employer and provides no incentive for employees to work longer." I think that's a pretty broad categorical statement.

There's plenty of other incentives for employees to work longer. I just don't like that sentence, and I would ask that you delete that.

CHAIR PARKSY: Okay, let's go on. Keep going.

MR. BRANAN: Number 2, there was no change from the previous wording.

CHAIR PARKSY: Yes, Jim?

MR. HARD: I had mentioned this before, but I noticed it's 120 days the person to file. And it seems to me, then it really wouldn't have a big effect on OPEB costs to give another 60 days for the individual to file. And it seems like, you know, that would be more reasonable in terms of an individual retiree public employee.

And if I could hear the effect on a retirement OPEB, then I might think it was a shorter period would be better; but I don't see it right now.

MR. BRANAN: Mr. Hard, as staff, we're not advocating 120 days, but it's put in there as a commonly used deadline, just so that the reader would understand what we were talking about.

MR. HARD: Okay, right.

I guess I have some of these same kind of concerns.

MR. LOW: So are you recommending, Jim, 180?

I'd support that.

MR. HARD: Yes, I want 180, but I read the sentence the way you're saying it. But I'm concerned with how people are going to interpret things.

CHAIR PARKSY: Bob?

MR. WALTON: Along with those concerns, it may be better to put that second sentence as part of the rationale as opposed to the recommendation. That’s just a thought.

The other thing, I don't think 120 days is currently what's required at CalPERS under PEMHCA. And there's been talk over the years on whether, on some occasions, that that actually costs the employer money.

We have people that leave state service, they're retirement age but still 50, 55, go on to a different career. They don't need to draw the retirement nor continue health care at that time. But this 120-day requires them, in essence, otherwise they lose their lifetime health care.

And so there could be the possibility in the rationale about there ought to be exceptions to the 120-day or 180-day rule for what I would consider a career employee, 25 years or something like that. Because again, I think that could be a cost savings to the employer.

That's a thought we haven't talked about but it's something I know has come up in the past at CalPERS.

MR. HARD: Actually, I think Bob is right, that actually this isn't part of a recommendation, anyway. And so I would really prefer that it be moved down into rationale, but it's not a recommendation, right, that sentence?

MR. BRANAN: You mean, the 120 days? Oh, yes.

MR. HARD: The 120-day sentence is not a recommendation.

MR. BRANAN: No, it was just an example.

CHAIR PARKSY: I think that makes sense to move that.

MR. BRANAN: Yes.

Recommendation Number 3, we had no suggested changes.

CHAIR PARKSY: Any comments on Recommendation Number 3?

(No response)

CHAIR PARSKY: Okay, proceed.

MR. BRANAN: Recommendation 4, also no suggested changes.

CHAIR PARKSY: Any on 4?

DR. GHILARDUCCI: We're not displaying the rationale, but I sent you, Gerry, suggested changes for the rationale.

And I don't know if you got them, Tom.

Is it appropriate to talk about them now?

CHAIR PARKSY: Sure. Conceptually, and then we'll edit it.

DR. GHILARDUCCI: Okay.

CHAIR PARKSY: All of the comments that are made about the rationale we'll try to take all those into account in the next draft.

DR. GHILARDUCCI: All right, and because of our procedure in not e-mailing every commissioner together, I'll just say this publicly because the rest of the commissioners didn't know what my objections were.

If you have in front of you the rationales, you had listed in the rationale the reasons why public employees may not want to join Social Security. And you had listed four reasons:

One was the uncertain future of Social Security.

The fact that agencies can still join but they can't withdraw, the idea that it's an irrevocable decision.

Third, that the relative expense of buying a Social Security benefit compared to buying it through their already existing plan is such that they would rather stay in their existing plan.

And the fourth one was that Medicare was often seen as the benefit for being in Social Security; but now people can be in Medicare and not in Social Security diminishes the value of being in Social Security.

I would like the first two, that the reasons they don't want to go in is because of Social Security's finances and because of its irrevocability just be dropped, because I didn't hear any evidence in testimony that that was a reason. And in all that I have read, those really aren't important reasons.

The last two are probably very important, and I would just like to see them in the rationale rather than the first two. So I just suggested that we just drop those two.

CHAIR PARKSY: Tom?

MR. BRANAN: We certainly can drop them if that's the wish of the Commission.

I do think they do play a role --

DR. GHILARDUCCI: Yes, but the first two -- the last two are just so much more important, you know, that you can get into Medicare without being in Social Security and that because of the historical evolution of the California plans versus Social Security, now that you're already in the California plans, it just makes more sense to stay in rather than go into Social Security. I think those are the reasons.

Because public opinion about Social Security's finances have been stable for the past 30 years, basically.

CHAIR PARKSY: I think if you changed the word "four" to "two" of the most important, you could accomplish that. It's not that they're the only ones.

MR. BRANAN: That's fine.

CHAIR PARKSY: Okay, proceed.

MR. BRANAN: Recommendation 5, we had no suggested changes.

MR. WALTON: Mr. Chair?

CHAIR PARKSY: Yes, Bob?

MR. WALTON: In reading this, the only concern I have -- and I don't have a better substitute -- is that at the very end of the first sentence, "which retiree health care is earned," how you define "earned." Do you mean vested? Do you mean -- I'm not sure what is meant by "earned."

MR. BRANAN: Well, we used the word "earned" kind of as a generic because it was clear in testimony that that was something that at least some people who testified from the public did not understand that just the way they earned a pension, they could also earn health care. But that part of it didn't seem clear, at least to the people who came before you.

We're certainly -- if you have a better word --

MR. WALTON: I wish I did. “What they're entitled to” or something like that. But I'll think about it.

DR. GHILARDUCCI: It's better than “vested.”

MR. WALTON: Right. I don't like “vested.”

DR. GHILARDUCCI: Yes, so let’s stick to it.

MR. WALTON: "Vested" means too many things to people.

DR. GHILARDUCCI: Right.

MR. BRANAN: And "earned" to us, that meant something different than what they're entitled to as well. It was directly related to what they did during their career.

MR. WALTON: Okay.

DR. GHILARDUCCI: Right, right.

CHAIR PARKSY: Okay.

MR. BRANAN: Recommendation Number 6 --

CHAIR PARKSY: Yes, Lee?

MR. LIPPS: Does the word "accrued" work better than "earned"?

CHAIR PARKSY: Accrued?

MR. BRANAN: It's entirely up to the

Commission. We could go either way.

MR. LIPPS: Is it more clear?

MR. WALTON: It’s no more clear.

CHAIR PARSKY: I’m not sure it’s any clearer.

DR. GHILARDUCCI: Just leave it.

CHAIR PARSKY: I think for the moment leave "earned." That's fine.

MR. BRANAN: Recommendation Number 6, we had no suggested changes.

CHAIR PARKSY: Any comments, 6?

(No response)

CHAIR PARSKY: Proceed.

MR. BRANAN: Recommendation 7, Commissioner Lipps had some suggestions.

CHAIR PARKSY: Commissioner Lipps?

We're on your suggested changes to Recommendation -- 7, is that where you are?

MR. BRANAN: Yes, Number 7.

MR. LIPPS: Tom, I did send you some suggested wording for the recommendation and also in the rationale.

Do you have that with you?

MR. BRANAN: I don't. I ran out of the office without it.

I do remember -- well, you remember what it was about as well.

MR. LIPPS: The general concern on Recommendation 7 is that benefits or contribution levels for people who are actually already in the retirement system would be changed significantly or altered significantly to their detriment by however means, whether it was done through negotiations with an existing public employees group or whether it was done unilaterally, you know, in the event of no collective bargaining -- whatever the reason was.

And so my changes in terms of the recommendation was that “Public employers should provide timely notification to active employees” -- and eliminating “retired” – “when negotiating a change,” not "proposing a change" -- "when negotiating a change in retiree health-care benefits." And then the rest of that would remain as it is.

And then in the rationale -- Recommendation Number 8 was fine with me, by the way. But the rationale is, at least in my speaking with several members of the Commission, I do believe that we were troubled in some of the testimony that we heard, particularly where contribution levels were changed significantly for people already in the retirement system and consuming large parts of their actual take-home income compared to the relatively small amounts before. And I think we should go on record as being troubled about that.

Changing -- the only time I see benefits changing for people in the retiree system is if that's part of the collective bargaining agreement and they can understand at the time that they retired and they could understand that it could happen. Or if their benefit contribution goes up because they have to -- it's an 80/20 premium co-pay. Well, they know that when the premium goes up, that their out-of-pocket is going to go up. I'm not trying to eliminate that or freeze that. It's the other changes that we heard about that I have a concern about.

CHAIR PARKSY: But you would not provide notification to retired employees?

MR. LIPPS: Wouldn't allow the benefit to change or the contribution level, except what was -- to the extent of what was in the collective bargaining agreement at the time that they retired.

MR. WALTON: Mr. Chair?

CHAIR PARKSY: Bob?

MR. WALTON: I think -- I was troubled by this one for a different reason. Lee helped me focus on it.

I think, at least in part, the recommendation in my mind was trying to address what my understanding was happened in Orange County. And they didn't change the benefits. They didn't change the employer contribution, per se. What they did was negotiate with the active, that the retired group would be rated separately. And that's the type of notification that if I was a retiree, I'd want to know about.

So that's why I think the wording -- I'm not sure "retiree health-care benefits." I would think the change in the plan or something broader than just benefits.

MR. BRANAN: I do have Commissioner Lipps' language here, due to modern technology -- except it just went away.

MR. LIPPS: Thanks to modern technology.

CHAIR PARKSY: And it's less than current modern technology.

MR. BRANAN: Yes. But, in essence, it said that there was a final sentence on Number 7 that said that there should be no changes to the benefits or contributions of retired members, or substantial changes, yes.

CHAIR PARKSY: We're going to take the position that as part of the bargaining process there should be no changes?

DR. GHILARDUCCI: Do you want to do that?

That's interesting.

MR. LOW: On that topic, I believe that the statement that Chairman Parsky reads at the beginning of each hearing sort of says that, that we shouldn't be comparing the existing benefits of people who have earned them. And this is the situation where essentially those people in Orange County that testified, they had their -- they've retired in good faith and have had their benefits impaired after they've retired.

CHAIR PARKSY: I see.

Well, I wasn't repeating my statement. I was repeating the Governor and the Legislature's statement.

MR. WALTON: I also have a concern about Lee's, because that infers that you can't negotiate and include retirees in benefit improvements: Different coverages, different -- better co-pays, that type of thing. That would be excluded also if they're frozen at the time of retirement.

MR. BRANAN: Actually, I think he used the word "to the detriment" in his -- just my brief vision of it.

MR. WALTON: Okay.

MR. BRANAN: We included active and retired in here, because we certainly -- from the testimony you've received, that it was -- the retirees were the ones who were suffering from these changes after they retired.

MR. WALTON: I think, in my mind, perhaps a better order of things is to say, one, first, you shouldn't change the benefits given to retirees; but if you do, you've got to tell them.

MR. PRINGLE: Well, Mr. Chairman, I don't know if people were not told. I believe they didn't have a seat at the bargaining table and they got rolled. So, I mean, it's not that people weren't necessarily even uninformed; it's just that -- and I guess -- you know, I'm from Orange County. I don't like what was done. I'm not happy about that. And I think that was a bad practice.

But it's awfully hard to say that since those are controlled in the collective bargaining process, that, in fact, we are injecting here to say that if we wish to modify the collective bargaining process and say everyone should be represented who has the risk of receiving additional benefits or losing benefits at the bargaining table, that's a labor issue, and I don't necessarily know if there's more than one vote to agree with me on that. So I don't know where we would even go on this.

I guess I kind of like just talking about notification. I also think we can say it might not be a good way to solve a problem of current employees by reducing benefits of retirees, but I don't necessarily know where the teeth is in any of that.

MR. WALTON: Certainly. Because by saying you shouldn't, or "shall not change the benefit" is inserting yourself into the collective bargaining process because certainly they can and did.

And what we're saying, you shouldn't do it; and if you do it, you've got to give them timely notice -- not notice after the fact -- in order to provide their input. That's the point. That's the purpose of the notice.

It isn't, "Oh, by the way, here's what happened." It's to tell you, "This is what we're negotiating," and give those affected people time to --

MR. PRINGLE: Say that again. Your first sentence is -- you're suggesting we should just add to this and say, "It should not be done”?

MR. WALTON: It should not be done.

MR. PRINGLE: Therefore, then I would add an amendment to that, "a reduction of retirees’ benefits should not be done to increase the benefits of active members without the timely notification."

I mean, the reason why that was done wasn't because everybody was reducing benefits, it was because the active members were receiving an increase in benefits.

MR. WALTON: It was shifting costs, in my mind.

MR. PRINGLE: Yes, but because of a new retirement system.

MR. WALTON: Yes, that's right.

MR. BRANAN: Just by way of background, the reason -- Number 7 is based on a piece of legislation from probably six or seven years ago that was run by the county -- the California county retired employees.

And because this had happened before with changes being made without notification. And so that bill was signed, it got through the Legislature, and that's what this is based upon, with a realization that the Commission really can't change the collective bargaining process.

CHAIR PARKSY: Yes?

MR. CAPPITELLI: The only comment that I would make is, when I read our rationale, our recommendation should be more reflective of the rationale, and I don't believe that it is.

And without getting into whether or not this undermines the collective bargaining process or not, if I understand correctly -- and I think what I'm hearing from everybody, or what I sense is that the voice of the people who came and testified before this commission about how changes in the retirement health care affected them has been heard and, therefore, our recommendation should reflect their testimony somehow.

And I don't think there's anything wrong with us as a commission making a statement or a recommendation that says, "As a matter of policy, you should not be changing the benefits of retirees," period. I mean, why is that difficult? Help me to understand.

MR. WALTON: I agree.

CHAIR PARKSY: Jim?

MR. HARD: I would agree as a recommendation for that sentence. But I would not agree with further sentences that talk about the collective bargaining process because, frankly, we don't have authority to change it.

CHAIR PARKSY: I agree.

MR. HARD: I am not interested in, right off the top of my head, thinking of changes to collective bargaining law that I'd like to recommend.

CHAIR PARKSY: I think the next commission --

MR. HARD: So I would stick with the next sentence.

CHAIR PARKSY: I think the next commission you're on this, you can deal with that subject.

MR. HARD: Thank you.

CHAIR PARKSY: Could you -- was Lee's sentence an attempt to deal with that concept?

MR. LIPPS: Paul's amendment is actually very acceptable to me, because I recognize -- I'm not incognizant of the danger of bringing collective bargaining into this whole discussion. And I thought a lot about in terms of making the recommendation constant with the rationale; but the rationale was important to me that we say, and that is that we did hear some testimony, and it was troubling.

CHAIR PARKSY: Right.

MR. LIPPS: And essentially, we disapprove of what happened.

And I thought Paul put it very, very well. And at that point -- the problem I have with timely notification -- a number of those sentences in there just simply has to do with, okay, you get notified, you don't have any leverage, you're not at the table, and you may not have any alternatives. You know, so you've been notified. It just gives you a little longer time, I guess, to anguish.

MR. WALTON: Mr. Chairman?

MR. BRANAN: Well, there have been times in the '37 Act when the bill I mentioned only applied to the '37 Act. And those changes previous to the bill were made with no notification.

And there have been times since then that that bill, like this language, caused notification, and the retirees were able to mobilize in front of the legislative body and stop the changes or reduce them.

So it doesn't prevent it, per se, but it does allow them to become more active in their own defense.

CHAIR PARKSY: Bob?

MR. WALTON: I would concur with Paul's suggestion.

What I would add is in the rationale -- and it makes perfect logic to me -- is what we're really recommending to local government, is to adopt the same policy that the Governor adopted for State employees, i.e., the promises made to retirees shall be honored and met; and we're recommending to everyone else that they adopt a similar policy. That's, in essence, what we're suggesting.

CHAIR PARKSY: Tom, do you have the change then?

MR. BRANAN: I do. We'll rewrite it with a version of the Governor's statement preceding it.

MR. WALTON: Well, or in the rationale.

CHAIR PARKSY: I think separate out into the rationale what you've just said from the actual recommendation.

MR. BRANAN: Yes.

CHAIR PARKSY: But the recommendation would have one additional sentence to it.

Is that what you're recommending, Paul?

MR. CAPPITELLI: Yes. I'm just suggesting that the recommendation -- and I don't know the exact wording, I can't remember exactly what I said -- but it should be strong enough so that we send the message that it should not be a practice in any way to mitigate or to reduce or to tamper with -- you know, in a negative or detrimental fashion -- the benefits of retirees.

CHAIR PARKSY: John?

MR. COGAN: Look, I think we all find the behavior of CBs in some respect of reducing benefits to be deplorable. And so I agree with Lee. I go further than saying that. It really is deplorable, in a sense.

But I would hope that the Commission wouldn't recommend -- or wouldn't have its recommendation construed as one in which we are saying to the Legislature or to cities that they codify a collective bargaining benefit that's been promised to retirees. That's a very, very dangerous step to take.

So I like language that says how concerned we are, how troubled we are. But if you're going as far as to say that public employers or cities or the State in some way that they codify a provision of collective bargaining, that's a very, very serious step to me, and I'd have to think about it before doing it.

Because, Lee, once you take that step, you go -- you know, you're down a slippery slope, and it could actually turn very, very bad.

So I'm wondering if there's some way that we can soften the recommendation and strengthen a rationale, I guess is the way I think about it -- I don't have the words to do it.

CHAIR PARKSY: Yes.

MR. COGAN: But I think the Commission should, as its policy at least, clearly go on record that we find the behavior deplorable of cutting benefits to current retirees. Taking the rug out from under them, in a way.

MR. LIPPS: John, just so that I can be clear, the Recommendation 7, as it is currently written, I mean, is that acceptable to you?

CHAIR PARKSY: That's just a notification recommendation.

MR. LIPPS: Right.

CHAIR PARKSY: And I think it is.

MR. LIPPS: And I guess what I'm saying is, given this discussion, if we keep this recommendation, I can go with this recommendation as long as we strengthen the rationale to reflect the things that a number of people have said, and be very, very clear -- I actually can think of probably several different synonyms for "deplorable" that are even stronger. But, obviously, we don't want to go there. But to reflect the things that Paul and Bob and several others have said, that would be fine with me to strengthen the rationale and make it clear that this idea that if we're making a promise, and we should keep the promise, that should apply to the local municipalities as well.

CHAIR PARKSY: I think, Tom, if after the first sentence of the rationale you insert some language -- in the rationale, leaving the recommendation alone -- some language that makes clear, that the reason for this recommendation is what we were just saying, right after the first sentence.

MR. PRINGLE: Mr. Chairman?

CHAIR PARKSY: Yes?

MR. PRINGLE: I'd feel much more comfortable with this being articulated in the rationale. I guess I get a little queasy about pointing out the situation in Orange County without fully exploring what that situation is. And that situation was, there was a collectively bargained agreement with the existing workers, with the existing labor pool to add a new retirement benefit that was not actuarially sound. And two years later, they had a hole because of that added new benefit. Therefore, they had to find money someplace else. Since the added retirement benefit increased an obligation that could not be reduced, they had to find other places where they could bring about those dollars. And, therefore, they went to retirees.

I don't like it, but probably what I don't like is moving forward with a new retirement benefit that was not fully funded at the time that was done. So the outcome of that action is what led to a retirement board having to find out alternatives.

So we could focus on Orange County as, you know, how terrible it was to take from retirees health benefits -- which I think it was. But it wasn't because people were being cruel. It was because through a collective bargaining process, they give a benefit that they couldn't afford. And I guess I worry about getting too far down in saying how bad they were for choosing that as a way to fund that, as opposed to -- without fully vetting the story.

So maybe the story isn't something we wish to vet. Maybe we want to talk about some basic principles in that rationale as some '37 Act counties have chosen this as a path to pay for new benefits, and that is not an acceptable practice.

CHAIR PARKSY: Yes, I don't think that we would incorporate a specific reference to Orange County in the rationale, but we would leave it general, as it is written now, but be more direct about how we feel it's not sound policy and see if we can't incorporate that.

Yes, Matt?

MR. BARGER: What strikes me as deplorable in the situation is that it was done on the backs of retirees.

CHAIR PARKSY: Right.

MR. BARGER: A notion that I don't want to be critical of, that there might be things that are altered in the design plan of retiree health that are -- you know, affect both retirees and active that were negotiated in collective bargaining. We shouldn't be critical of that, I don't think. That seems to me to be one of the things, bringing out the ways to use generics instead of brand names and those sorts of things. Those are important. We shouldn't be in any way, shape, or form critical of the ability to do that.

CHAIR PARKSY: I don't think the addition would do that.

Okay, Tom?

MR. BRANAN: Recommendation Number 8, we had no suggested changes.

CHAIR PARKSY: Any comments on 8?

(No response)

CHAIR PARKSY: Okay, I think just bear in mind -- and you'll see this in all the reordering -- I think preliminarily we tried to group Recommendations 1 through 8 under some kind of part of a plan. This would be kind of a group that would have as a heading something like, "Improve plan design and communicate with employees," something like that as a step in a seven- or eight-step plan.

Okay, proceed ahead.

MR. BRANAN: Recommendation Number 12, this change was made for formatting.

CHAIR PARKSY: Any comments on 12?

MR. BARGER: Yes.

CHAIR PARKSY: Okay, two comments.

We didn't put these together under the larger three, but proceed ahead.

MR. BARGER: I don't personally think there's any circumstance that's an appropriate funding vehicle. And sort of sticking in that, I think, gives the sense that the Commission is that it is.

I'm okay with Recommendation 12, that you strike that parenthetical -- or, I mean, the line which "may be an appropriate funding vehicle in some cases."

CHAIR PARKSY: Who would like to include that reference?

MR. COGAN: To approve it?

MR. COTTINGHAM: We couldn't hear what you were saying down here.

CHAIR PARKSY: I think Matt was saying was that the notion that the use of OPEB bonds is an appropriate funding vehicle is not something that we should acknowledge.

MR. WALTON: We would eliminate part of the first sentence. And it would read, "Any employer considering the use of OPEB bonds should fully understand and make public the potential risk" –-

CHAIR PARSKY: Right.

MR. WALTON: -- and eliminating "which may be an appropriate funding vehicle in some cases." We're eliminating those words.

DR. GHILARDUCCI: I agree with that.

MR. WALTON: Is that right?

CHAIR PARKSY: Okay, with that change, I think you can move on.

And that recommendation, along with the other three that we talked about earlier, 9, 10, and 11, would also be grouped under a heading. I'm not quite sure what the heading will say, but something like, "Identify financial obligations and prefund," or something like that, and then list the recommendations as you see them.

So it would be a grouping. And, again, the whole purpose being, we're putting forward in the executive summary a plan, which may have seven or eight components to it, then group the recommendations under that.

Okay, proceed ahead.

MR. BRANAN: Recommendation 13, we had no suggested changes.

CHAIR PARKSY: Any comments on 13?

Bob?

MR. WALTON: Only to make it consistent with 14. I think the word "asset" should be added before "smoothing": "…longer asset smoothing periods to lessen…," because that's what you're smoothing.

MR. BRANAN: That's right.

MR. WALTON: And it doesn't make that much difference to me. But I would combine 13 and 14. But it's fine separate, too.

CHAIR PARKSY: I think we can -- it's okay to be separate.

MR. BRANAN: Okay.

CHAIR PARKSY: John?

MR. COGAN: In 14, what did we mean by "short-term gain," Tom?

MR. BRANAN: We were looking at events in the past where the shorter -- well, two things: Where shorter smoothing periods had been used, that generated lots of surplus. That could be used then for new benefits or whatever the system wanted.

MR. WALTON: Well, perhaps it would be better stated: "…alter the method for short-term rate reduction, employer contribution reduction," or something like that, because that's what the game comes from.

DR. GHILARDUCCI: No, but it also could have been benefits.

MR. BRANAN: That's the use of the gain.

DR. GHILARDUCCI: Yes.

MR. COGAN: Well, I like Bob's formulation as well. And I would add to it benefit changes and/or rate reductions -- right?

I guess my point would be more explicit -- be more explicit about what the alteration in the way you calculate assets is -- what the alteration is designed to achieve and what in the past it has been designed to achieve is to justify contribution-rate reductions and to justify benefit changes.

Right?

MR. WALTON: I'm comfortable with that.

MR. LIPPS: Could we do that, John, by keeping this as it is and then just adding it after "short-term gain, including but not limited to," so we don't have to put a whole laundry list of --

MR. WALTON: That's fine.

CHAIR PARKSY: That's fine.

MR. WALTON: That's fine. Good suggestion.

CHAIR PARKSY: Tom, do you have that?

Stephanie?

MS. DOUGHERTY: *(Nodding head.)*

MR. BRANAN: Recommendation 15, we had no --

MR. LIPPS: No, no, no, no.

CHAIR PARKSY: I'm sorry, Lee?

MR. LIPPS: Recommendation 13, I'd actually like to refer to the rationale and make a suggestion to the paragraph that starts, "Many retirement systems have smoothing periods."

MR. BRANAN: Yes.

MR. LIPPS: And we've mentioned CalPERS with 15 years, and some as short as three years.

If we're going to have that in there, I would recommend that we put what the most standard period is, which would be five years, just for some frame of reference, since we're talking about longer smoothing periods -- or we're suggesting them.

CHAIR PARKSY: A comment, Dave?

MR. LOW: If you're done with that --

CHAIR PARKSY: Is that -- how do people feel about that?

DR. GHILARDUCCI: Yes, that's fine. That's fine.

CHAIR PARKSY: Tom?

MR. BRANAN: Sure, we can show 3, 5.

DR. GHILARDUCCI: If that’s right. Is five years the most common one or seven?

MR. LIPPS: I see Paul Angelo shaking his head, “yes.”

DR. GHILARDUCCI: Seven?

MR. LIPPS: Five years?

MR. ANGELO: Five.

DR. GHILARDUCCI: Five.

MR. LIPPS: Five is the most common.

CHAIR PARKSY: You look like a basketball referee.

MR. LIPPS: Who fouled out?

CHAIR PARSKY: Dave?

MR. LOW: Could you read he me what the changes -- what the new recommendations on 14 are?

CHAIR PARKSY: The recommendation? Okay.

MR. LOW: On 14.

MR. BRANAN: On 14, at the end of the sentence, "…to alter that method for short-term gain, including, but not limited to, rate reductions in benefit increases."

CHAIR PARKSY: And, again, everyone's going to have a chance to see this one more time. Okay -- or several more times, if we keep getting comments. Don't worry about it.

Okay, proceed ahead, Tom.

MR. BRANAN: 15, we had no suggested changes.

CHAIR PARKSY: Any comment?

Yes, Bob?

MR. WALTON: I have one.

To me, I think we ought to reword it to say, "Employer rate holidays should not be permitted." It's a stronger statement. And then say "unless," or "only when a plan is substantially overfunded."

By saying, "An employer should be permitted to have contribution holidays" makes it sound like it's an okay thing, and it's not.

DR. GHILARDUCCI: No, it's not.

MR. WALTON: And I think we ought to make a more positive statement that it's a bad thing.

DR. GHILARDUCCI: Good, Bob.

CHAIR PARKSY: Have you got that?

MR. BRANAN: I do have that.

MR. LIPPS: Tom, I thought I had sent you a change on that, eliminating holiday and talking about rate deductions.

So is that in a different one?

Was that a different recommendation that I amended?

MR. BRANAN: No, no. It probably was this one because I think it's the only place we used the word "holiday" in a recommendation.

MR. LIPPS: Okay, because what I -- first of all, I had two basic amendments to Recommendation Number 15. And besides "employer," I added "employee." And I eliminated the word "holiday," and just talked about contribution reductions, particularly because of the statement about the 30-year amortization period basically would allow for minor rate reductions. And that's okay, as long as they apply equally to the employer and to the employee and it's short-term as a result of substantial overfunding, however that's defined.

But what I don't really like to see is when the employee, even though it can be to the benefit of the -- excuse me, when the employer gets the holiday, or the reduction, but the employee doesn't. When they're both contributors to a substantially overfunded system.

MR. PRINGLE: Mr. Chairman?

CHAIR PARKSY: I guess the one question about holiday, I mean, we heard a number of -- we've heard quite a lot of testimony about how establishing holidays is not good policy.

MR. LIPPS: Right.

CHAIR PARKSY: And I'm wondering if we shouldn't recast this a little bit.

DR. GHILARDUCCI: Yes.

MR. COGAN: Bob had a suggestion along those lines.

DR. GHILARDUCCI: Yes, Bob did.

CHAIR PARKSY: Bob?

MR. WALTON: That's what I was saying, is that an employer should not be given a contribution holiday, period.

CHAIR PARKSY: Period.

MR. WALTON: But then add a qualifier and say, "unless they're substantially overfunded." That's the point of what I think we were --

DR. GHILARDUCCI: And then Lee wants something very different.

MR. WALTON: And Lee wants to add, I think, that if you do have a contribution holiday ––

MR. LIPPS: No, not a holiday, a reduction. If there's a contribution reduction --

DR. GHILARDUCCI: That it be shared with the employees.

MR. WALTON: Well, I can tell you why that’s not done, but that may not be the best place to do that.

CHAIR PARKSY: The only caveat I would give you is that the University of California established a holiday --

DR. GHILARDUCCI: Yes, that's not a good plan.

CHAIR PARKSY: -- when they thought they were overfunded, in I think 1991, and they haven't been able to take it away ever since.

DR. GHILARDUCCI: Right.

CHAIR PARKSY: And so I'm -- I mean, it's -- I'd be interested in the views of whether or not we want to open up the possibility of any holiday.

Matt?

MR. BARGER: I have two points. One is, I don't think Lee wants actually to go where the other logical conclusion of that is, which is if they're short, the contribution should be more. I mean, I think the State is the one that's sort of topping it off. Not there's no extrication that anybody else is.

Two, I would be fine with just saying, you know, we deplore the concept of --

CHAIR PARKSY: You like that "deplore."

Who's going to introduce this concept of "deplore"?

MR. BARGER: The idea of contribution holidays. They're not good long-term policy, period. I mean, why don't we have to even go further?

CHAIR PARKSY: John?

MR. COGAN: Yes, Gerry, with respect to your suggestion, remember that if we were to -- if there were to be a ban on reducing a liability -- I'm sorry, a contribution rate, I don't think entities would be inclined to raise them. And you'd be building in a systematic underfunding; right?

CHAIR PARKSY: Yes, I wasn't suggesting reduction.

MR. COGAN: You're saying zero?

CHAIR PARKSY: Yes, the holiday notion, to my mind, is to stop contributions because you're overfunded. And the University of California is on the road to some real peril here because we are not able to reinstitute contributions.

Dave?

MR. LOW: I'm comfortable with the term of Bob

Walton's change, but I actually prefer that we sort of remain silent on the rest of it.

This issue of shared reductions -- I mean, that's going to happen through the process. But it's -- I'm not sure that we can make a policy statement here that we would all agree with because it's very situational, and it is a very -- a rocky road to travel down. Because the employees like it when they're going down, but when you have to raise it back up, there's no win. Even the union loses when you're raising it back up.

CHAIR PARKSY: Right.

MR. LOW: They forgot that you negotiated the savings by the time you increasing them, so I think it's best left silent.

CHAIR PARKSY: Teresa?

DR. GHILARDUCCI: Yes, I think in benefit design, especially if it's defined benefit, there's always going to be some variability in contributions. It's a good design when the employees and the employers share in funding that, and it's also good design that the employee contribution be more stable than the employer.

So if we say they have to share in the reductions, we're also saying that they have to share in the increases; and that's not good design.

So I agree with Dave, Lee, that we remain silent on that and make just one point, and that is that the employers should always have to contribute something.

MR. PRINGLE: Mr. Chairman?

CHAIR PARKSY: Yes, Curt?

MR. PRINGLE: I believe our contribution rate on public safety personnel got to about 19 percent in one year at one point in time through a PERS plan. I might be a little off, Bob, but is that --

MR. WALTON: That's probably right.

MR. PRINGLE: But within that preceding five years, the City of Anaheim paid zero.

CHAIR PARKSY: Yes, that's not good.

MR. PRINGLE: And what we're talking about here isn't the fact that we've collectively bargained 3 percent or 5 percent contribution from employees -- which we did -- and the City basically covered that difference. That difference was a negative number for three years because it was, quote, fully funded.

And because CalPERS came to a conclusion that there would be a zero contribution because you're fully funded, I think that's what we're trying to get to, that there's some sense in maintaining some minimum level of contribution to ensure that goes on.

By the way, the employees did, but the City didn't have to.

So when we're talking about a holiday, I think we're talking about an employer minimum contribution, really.

And, you know, whatever is collectively bargained between the employees and their employer, that's one thing.

That's not what we're trying to talk about here. What we’re trying to talk about, if the retirement system says, "Hey, you're fully funded on the contribution of the employees and all the past investments, you as the employer don't have to put anything in," that's what's happening presently at the UC, that's what happened for most local governments in California for three, four, five years. That's what I think we're arguing -- we're trying to point out that that is not a good policy. Therefore, reducing retirement systems should not reduce employer contributions to zero under any circumstances, even when reaching a super-funding position is there.

And it's important -- even if it's super-funded, because in the next collective bargaining agreement, that, therefore, is going to be a topic of conversation between the bargaining unit and the employer, if the employee should maintain that certain level of contribution or not.

So in my opinion, I would like to just say there should not -- maybe we should focus on the retirement systems or those -- and we know CalPERS has adjusted that with the smoothing period, but not all '37 Act counties have.

So that's where I would like this to focus on and not go into up-and-downs on employee and employer contributions.

CHAIR PARKSY: John?

MR. COGAN: Can you, Tom, read back Bob's suggestion on the language on this?

MR. BRANAN: He started off with, "Employer rate holidays should not be permitted." And then I think it goes to --

MR. WALTON: “Unless its retirement plan is substantially overfunded."

MR. BRANAN: Yes.

MR. WALTON: But I don't have any problem, if it's the consensus of this group, just to remove that last caveat and say, "Employee rate holiday should not be permitted," period.

CHAIR PARKSY: I think that's sounder policy.

DR. GHILARDUCCI: Good.

MR. PRINGLE: Are we defining "holiday" by

meaning an employer's zero contribution?
DR. GHILARDUCCI: Yes, zero contribution.
MR. BRANAN: Well, actually, that's not how the actuaries define it.
As was just pointed out to me, their use of "holiday" means less-than-normal cost.
DR. GHILARDUCCI: Oh, really?
MR. BRANAN: A contribution of less-than-normal cost, not zero.
In PERS --
DR. GHILARDUCCI: Is that right?
MR. BRANAN: -- the zero contributions are what you hear about a lot. But there also have been times when employers would be given reduction.
MR. WALTON: My intent is zero.
CHAIR PARKSY: That's clearly the -- I think we could reach agreement on saying that zero contributions is not sound policy.
MR. HARD: It’s better just to say that than to use the word "holiday" on what we're recommending.
DR. GHILARDUCCI: But I want to be clear, does the Commission then have agreed that we are recommending that less-than-normal costs be contributed every year? Because we did hear testimony that we thought that that was good policy, that normal cost always be --

MR. WALTON: It's certainly possible. If you're overfunded, you're going to have a contribution of less-than-normal cost.

The point is, it should never fall below zero.

DR. GHILARDUCCI: Right.

MR. PRINGLE: Are you suggesting that we could say "or not less than normal cost, since normal costs are" --

DR. GHILARDUCCI: Yes, I don't think we want to do that. We don’t want to do that.

CHAIR PARKSY: John?

MR. COGAN: We don't want this to apply to a supplemental plan which only has employee contributions; right? Because we want to make sure that we're applying it to a DB plan that has both --

DR. GHILARDUCCI: Got it. Right. Both.

MR. COGAN: -- employer and employee contributions; right?

MR. BRANAN: Well, Bob's language did say “employer contributions.”

CHAIR PARKSY: Employer contributions.

MR. COGAN: What I'm worried about is precluding a type of plan that might be a supplementary plan that would just have employee contributions.

MR. WALTON: Then there's no employer

contributions. It's not relevant. There's no employer contribution.

MR. COGAN: I want to make sure that, yes, that our statement isn't construed --

DR. GHILARDUCCI: That employers should always pay --

MR. COGAN: -- to be that we say that we don't think such supplemental plans might be beneficial.

DR. GHILARDUCCI: Right.

MR. COGAN: I just want to be sure that we're clear on what plans we're applying this contribution rate policy to. That’s all.

DR. GHILARDUCCI: To ones that have them.

CHAIR PARKSY: Well, maybe you want to -- well, maybe you want to introduce it with the reference to the plans.

MR. BRANAN: I think so.

And I assume we're talking about defined benefit plans.

MR. COGAN: Yes.

CHAIR PARKSY: Yes.

MR. BRANAN: Now, it was not clear to me, the second half of this recommendation we said, "unless they're substantially overfunded."

MR. WALTON: We’re removing that.

CHAIR PARKSY: We're removing it. We’re taking it out.

MR. WALTON: Everything.

CHAIR PARKSY: It will be a simple statement with an introduction about the defined benefit plans that --

MR. BRANAN: Zero contributions?

CHAIR PARKSY: Zero contributions is -- and you're not saying "and unless."

MR. COTTINGHAM: So “zero contributions” is replacing "holiday"?

CHAIR PARKSY: Yes. If you want to say zero-contribution holiday, you can say that, in connection with you define it.

MR. WALTON: Holidays is holidays.

MR. COTTINGHAM: The reason "holiday" meant something to this panel is because that was the terminology that kept being used during Senate hearings -–

CHAIR PARKSY: Yes, you’re right.

DR. GHILARDUCCI: Zero-cost holidays.

MR. COTTINGHAM: -- and testimony here, is that during superfunding, employers were given a pension holiday.

CHAIR PARKSY: I think you can -- you can use "zero-contribution holiday."

MR. WALTON: That's good.

MR. COGAN: Just use the rationale section to explain precisely what we mean by it.

CHAIR PARKSY: Go ahead, Tom.

Just so everybody has in mind the method to this process here.

I think what I'd like to do is, we've got one guest commentator for about 15 minutes. And I just want to get through one -- let's see, where are we? On 16 yet?

MR. BRANAN: We are on 16.

CHAIR PARKSY: Let's just do 16, we'll hear for 15 minutes, and then we'll take a break so people can have lunch, and then we'll try to get through the rest in -– well, lunch will be very short.

Yes, Matt?

MR. BARGER: Just as a comment, from my point of view, having sort of a 2:30 where I've got to be out of here --

CHAIR PARKSY: You'd like to keep going?

MR. BARGER: Yes.

CHAIR PARKSY: Is everyone okay with keeping going?

MR. PRINGLE: Could we bring lunch to the table?

CHAIR PARKSY: Yes, yes. If the audience won't be offended by our eating in front of them, yes, we could do that.

DR. GHILARDUCCI: Thank you.

CHAIR PARKSY: Then why don't we just keep going then and not interrupt, and see if we can get through it all?

MR. BARGER: Thank you.

CHAIR PARKSY: Okay, proceed ahead.

MR. BRANAN: Number 16, we had no suggested changes. And the changes you do see are format changes.

MR. WALTON: I had one brief change. It complies with federal law, I would add "and state law." “Federal and state law."

CHAIR PARKSY: Okay, now, again, in terms of groupings, what I was thinking was take -- the heading here is close, but take 13, 14, 15 -- any other comments on 16?

MR. COGAN: I have one.

MR. LIPPS: Just on the note.

MR. COGAN: On the rationale, it seemed that we could be a little bit more balanced here about, when we talked -- right now we just talked about contribution holidays. Maybe we could talk about benefit changes as well to balance it out, if that's what the intent of the recommendation is.

The recommendation doesn't deal with either contributions or benefit changes, and then our focus of the rationale is more on contributions.

MR. BRANAN: For 16?

MR. COGAN: For 16, yes. Just balance it out a little bit.

CHAIR PARKSY: And I don't -- Tom, you did not intend the note to be kind of a separate narrative in the recommendation? This is just --

MR. BRANAN: This is a hold-over from before we had a rationale for what we were doing.

DR. GHILARDUCCI: Right, so it's rationale.

CHAIR PARKSY: I don't think you should focus in on the note but just the rationale.

MR. BRANAN: Yes, we have one sentence.

CHAIR PARKSY: Are we confusing you?

MR. BRANAN: No, you're not confusing me; Stephanie is. She's pointing out reality. I'm trying to avoid it.

16 does make a reference to 15 -- to a part of 15 that has been stricken.

CHAIR PARKSY: So you'd take out the reference.

MR. BRANAN: Okay.

MS. DOUGHERTY: Okay, but keep the definition of "substantially overfunded," move it from 15 to 16?

CHAIR PARKSY: Why don't you read the recommendation so everyone's got it? "An employer…" --

MR. BRANAN: Number 16, "An employer whose pension account is substantially overfunded in accordance with Recommendation 15 and who has an OPEB liability should, as its first priority, use that surplus to address its OPEB liability in a manner which complies with federal and state law."

We could incorporate the description of "substantially overfunded" into the body of 16.

CHAIR PARKSY: I think that's the right way to go.

So you would not reference 15, you'd just move the definition over, and then it would be clear?

MR. BRANAN: Correct.

CHAIR PARKSY: Okay.

MR. COTTINGHAM: What about the rationale where it's still addressing --

CHAIR PARKSY: Are we okay on 16 then?

(No response)

CHAIR PARSKY: Okay, proceed ahead.

MR. COTTINGHAM: Mr. Chairman?

CHAIR PARKSY: Sorry.

MR. COTTINGHAM: In the rationale, we still say, "Employer contribution holidays," and then the first sentence, "should be used sparely."

Should we say "should not be used"?

CHAIR PARKSY: Yes.

I think we have to clarify the rationale to make sure that it's consistent with the change in the recommendation.

MR. BRANAN: We'll do that for all the recommendations.

CHAIR PARKSY: Okay.

MR. CAPPITELLI: Mr. Chairman, before we move on to the tax issues, I wanted to bring it up to the Commission. As I read through this, where we talk about how the Commission -- we envision the Commission writing a letter.

I'd like to put it before us right now that if we're in concurrence at the conclusion of these recommendations, that we state that we have written a letter, and that we have the letter prepared by our contract tax attorney, and that a copy of that letter be sent and be included in within the final report.

I think if we say, "We envision this happening," once the Commission is disbanded, it may not occur, and so I think we need to include it in the report and get the letter written if we agree on the language of the proposal.

CHAIR PARKSY: I think it's a good suggestion.

MR. BRANAN: Yes, I’ve contacted Mr. Blum -- I sent a note to Mr. Blum today asking how quickly he could prepare the letter.

CHAIR PARKSY: Okay, in terms of grouping, 13, 14, 15, and 16, I'd suggest we kind of group under a heading that reflects a little bit of what's been already submitted. But maybe instead of "mitigation," maybe it's "control contribution volatility," or something like that, that would be kind of another step in this plan.

MR. COGAN: Yes, good.

CHAIR PARKSY: Proceed ahead.

MR. BRANAN: This takes us to the tax recommendations.

Number 17, we had no suggested changes.

CHAIR PARKSY: Any comments on 17?

(No response)

CHAIR PARSKY: Okay.

MR. WALTON: Mr. Chairman?

CHAIR PARSKY: Yes, Bob?

MR. WALTON: This deals with all the tax issues, 17 through 22. I've not been comfortable, as I've expressed before, with any of these tax issues.

I'm not sure, with the possible limited exception of 17 itself, that they have anything to do with the task before this commission. I think many of them have nothing to do with identifying and funding OPEB liabilities.

And I'm not comfortable with any of these recommendations going forward.

CHAIR PARKSY: Well, that may be the consensus.

I guess the only question is if, as part of a sound plan to deal with the liabilities -- how to deal with the liabilities, I think we ought to apply the test of, do any of these -- would any of these be appropriately part of such a plan? Because we do have a requirement to come up with a plan that would address the liabilities.

I think that was the rationale for having these tax issues included; right?

MR. BRANAN: That is the rationale. We saw them as either improving the operations or efficiency of the system, or providing benefit to the members.

CHAIR PARKSY: Dave?

MR. LOW: Yes, this is a difficult one. One of the things we said in the previous meetings is that we wanted to check with systems to see what their view was. And I don't know if you've done that, but I've heard from systems -- and there's a mixed view on these issues.

I think that on the individual 17, 18, 19, 20, and 21, I don't have a problem with the recommendations if I would have some level of comfort that the tax ruling would be what we wanted it to be.

The problem with asking for a tax ruling is, you don't have any guarantee that you're going to get what you want. And when you don't get what you want, now they're imposing the alternative on you. And what I'm being told by pension systems is that they're not under great scrutiny right now with regard to many of these issues. But inviting scrutiny could be inviting something that we absolutely do not want. Because what we're going to get is a bunch of negative tax rulings that are going to create more problems; whereas right now, they're at least now able to operate under their current rules and regulations without the tax rulings.

Getting the negative tax rulings says, "It's over, folks. You've got to comply on the negative side." So I'm not sure that we're biting off more than we can chew here, especially as I hear from the different pension systems.

MR. BRANAN: Well, Mr. Chair, I, too, have spoken with the pension systems. And I certainly haven't heard anything that definitive.

For one thing, I don't think anybody can predict that there will be a series of negative rulings.

And for the other, that was the whole idea of having the Commission step forward and ask these questions rather than have individual systems do it.

CHAIR PARKSY: I think that last comment is so, is true. I mean, the notion being that individual systems might be reluctant to proceed ahead but that the Commission -- and, again, we can't ask for a specific ruling on behalf of any taxpayer. All we can do is, where appropriate, ask for the IRS to clarify certain things.

MR. BRANAN: Well, and some of these recommendations, one reason that they may not be causing a problem for the systems now is because they are proposed changes being talked about within the IRS that Bob Blum, through his connections with the IRS, knows about.

They haven't made the changes, but they would be detrimental if the changes were made.

MR. COGAN: Dave, can I ask?

Is there a good example of a ruling that might go adverse to the plan, or to the system? Is there a good example so I can get my hands around this a little bit?

MR. LOW: I guess in each of these cases, we're asking for a ruling -- and there's been a clear case stated that, you know, this is what we'd like to do as a practice. And the reason they're asking for rulings is because they're afraid that they may not be approved of that practice.

So in each case, if practice is not approved, that's adverse.

MR. COGAN: Right.

MR. LOW: And that's what I'm hearing from the systems, is they're concerned about that.

CHAIR PARKSY: Jim?

MR. HARD: These are unusual also in the fact that they're not really a recommendation to anybody; they're an action that this commission is taking, asking the IRS to do something that sounds -- I mean, I remember the testimony of Mr. Blum saying, "This is kind of important, this stuff is happening."

But I'm just wondering, if we're going to adopt this -- and I have heard concerns about the IRS making unhelpful rulings. But in any case, if we're going to keep them, shouldn't there be a recommendation to either the government entities that we're talking about, the public employers of California to do this, maybe the State of California, rather than doing it ourselves? I'm not really clear on why we would do that.

CHAIR PARKSY: Well, I think the testimony, at least as presented, suggested that actions were going to be taken ––

MR. HARD: Right.

CHAIR PARSKY: -- and that the input from this commission could have an impact on those actions.

If we say nothing, it doesn't mean -- I think Dave was commenting that, in a way, that does concern people who raise issues that are dormant. And if all of a sudden you raise an issue and you get an answer but it's not your own answer, I think in all of these areas, I think the concern is that actions will be taken adverse to the public pension funds. And that’s the reason for the input from the Commission. At least that's the way I interpreted the testimony.

MR. BRANAN: Yes. And also as in the case of 17, this is asking to do something that is currently not allowed, asking to do it. And it would benefit those who wish to prefund.

CHAIR PARKSY: Right. And so here, if the status quo was maintained, it's negative; right?

MR. BRANAN: Yes.

CHAIR PARKSY: So, I mean, I think that maybe rather than just remove these, maybe we ought -- I mean, I think everyone individually ought to step back and take a little bit harder look at the individual ones, with whoever you think may be objecting to the submission of a letter.

And certainly if there's a concern that the issue is quiet, nothing is happening around it, or that a change in the current policy would not be beneficial, then we should not address it.

Dave?

MR. LOW: I think I'm comfortable with that, taking all the recommendations through 21, as long as, again, we're going to have to see this letter.

CHAIR PARKSY: Right.

MR. LOW: It will be very important how the letter is drafted, specifically what we're asking for, so that we're not inviting some sort of adverse ruling.

And then I would suggest that maybe we not include 22. I think that this issue of whether systems ask for determination letters is really something that they need to assess themselves.

CHAIR PARKSY: That’s probably --

MR. BARGER: Gerry, could I just --

CHAIR PARKSY: Yes, Matt?

MR. BARGER: I apologize for stepping out.

But the other thing we talked about at one point but didn't happen, is it's a little incongruous that this is four or five or six, I can't remember, recommendations out of however many we do on pretty technical matters that, honestly, I'd probably feel least comfortable about all of the things we're doing, if we could somehow make it, you know, a recommendation that we do something that clarified tax issues in the form of a letter or something, I mean, just make it one.

MR. PRINGLE: Mr. Chairman, on that point. Is there ability -- I mean, I also feel kind of uncomfortable recommending that the IRS follow our recommendation. I mean, I think it's a bit out of our charge.

So is there a way that we could recommend the Governor and the legislative leadership request clarification on these points, so we're talking to the people who have impaneled us here to have this discussion, so we recommend that they take a role?

I also think it’s also kind of awkward, we're going to be out of existence before the answer to the questions come in, so who do they send the letter to?

So I think for us to say, "These are good ideas, we've reviewed these. Governor, legislative leaders, we would recommend you join in and seek this advice or ask these questions and here they are," then at least you have an impressive place from California weighing in on something important over and above what happens with retirement systems.

CHAIR PARKSY: Paul?

MR. CAPPITELLI: Yes, with all due respect, I don't agree, and I'll tell you why. I think it was -- at least it was clear to me in the testimony that we've heard on these issues -- and we could probably come to a comfortable place with which items here that we feel more comfortable with or not -- but in general, I think it was pretty clear in the testimony that we have a unique opportunity that others do not have in other parts of the country or in other areas, which is because of the Commission, because it was formed to look at this issue, and because it's been identified that these other things are on the horizon that could adversely impact our employees and our systems, that we have an opportunity to get ahead of that.

And I think if we leave this to somebody else to follow through on, number one, we're going contrary to the recommendation that was given to us; and we're, more importantly, I think missing out on the opportunity to say, "As a commission, this is what was heard, we've become aware of this, we want to call it to your attention that, as a body, we believe that this is something you should look at and consider before you make any final determination." I think there's great value in that; and I think we'll lose that if we don't do it right now.

CHAIR PARKSY: Well, I think maybe we want to separate out a recommendation about these areas, which would certainly be part of any plan to improve what we've been asked to address, and the submission of a letter to the IRS.

I think that Curt makes a point about that, in the sense that -- I'm not quite sure the status, if you will, of the Commission in submitting an IRS letter as opposed to making a series of recommendations on areas that should be addressed, technical though they may be, and maybe urging that such a letter be provided by the Governor or the Legislature or something.

I think the point about a letter is something we should think about. Maybe it's still appropriate to do. But I think to back away from -- if we've identified areas that really would help our public pension system in the tax area, I don't think it's outside the scope of this commission to make a recommendation about it.

But who should be communicating to the IRS? I do think that's worth thinking about.

Tom?

MR. BRANAN: Well, just to be frank, if the Commission sends the letter, you know what's in it, you know that it's been sent. From my dealings with the Legislature, if you hand this over to them, there will be no letter. So don't -- I think you have to look at your own control over what's in the letter and whether it's sent or not.

CHAIR PARKSY: Why don't we do this then: Why don't we get a draft letter drafted, and circulate it along with these recommendations, except for Recommendation 22, is that the one that Dave suggested we delete?

Yes, John?

MR. COGAN: Can I raise a question about 21?

CHAIR PARKSY: Sure.

MR. COGAN: It seems here like we're recommending a differential treatment between domestic tax treatment. The federal government adopted a differential tax treatment, being domestic partners and people defined as married and family by the IRS now.

And so I think if we're going to -- sort of like we have a half-measure here; right? We're saying, look, one fix would be everybody in the plan, regardless of whether they're a domestic partner or not, would receive the tax benefits that the IRS provides now to plans that don't have domestic partners. But what we've got here is kind of a half-solution, which results in a recommending a differential tax treatment; right? And that bothers me. So I'm wondering how to resolve it.

My own personal preference would be to recommend to the IRS that domestic partners receive the same tax benefits as married individuals, as defined by the IRS. The same thing with stepchildren.

MR. LOW: I agree with John strongly. I think the other way is --

CHAIR PARKSY: Why don't you go back and make sure that our tax advisor understands what we're doing here? But that sounds -- that makes sense to me.

MR. BRANAN: I'll do that --

MR. PRINGLE: On that point, though, I understand what we're saying. So we're saying that the State of California has adopted a certain policy relating to domestic partners, and the federal government must adhere to that? So every other state that may not have chosen that same policy must adhere to that?

Or are we saying that states, in their determination of family benefits, should have a state's rights determination, individually within that state?

I mean, my --

MR. COGAN: I'd be comfortable with just

limiting it to California, limiting our recommendation to how the IRS treats health plans in California.

MR. PRINGLE: Yes, I just think that we --

CHAIR PARKSY: Yes, this is --

MR. BRANAN: Actually, our recommendation is not limited to California.

What it's saying, we went -- when we had Mr. Blum in the first time and we talked about possible items, we asked him about -- we pointed out that under California law, domestic partners do receive and must receive equal benefits, and could we make that point to the IRS.

His comment was that that's not changing within the IRS unless there's a federal law change.

MR. COGAN: Right.

MR. BRANAN: That they're not going to change their practice.

So we took a -- it is a half-step. It was a half-step back from I think what we all wanted. And it's saying, since there is this different treatment of stepchildren and domestic partners, at least don't do it the way you're proposing to do it now, which is to penalize all of the members of the health-care plan, unless the health benefits are taxed when earned.

And so what we're saying is, treat these two groups like everybody else in terms of when it's taxed: It's taxed when it is paid.

So we did look at those, and we chose not to go for our first choice just because our tax consultant said that it would be a cold day before the IRS changed on its own.

MR. COGAN: I just don't think that's a good rationale.

Now, what we might want to do, one possible compromise, is state what we would like to happen. And then to say that if the IRS doesn't go along with this, then a fallback, and then a very satisfactory fallback from my perspective.

CHAIR PARKSY: Dave?

MR. LOW: I agree, again. But if we state what we would like to happen and then we, in the alternative, state what the fallback is, I strongly recommend we reword our fallback position. Because the way it's worded now, it doesn't sound good to me at all. It sounds very discriminatory towards the domestic partners, and I can't sign off on it.

It needs to say something about not discriminating against the non-domestic partners, as opposed to saying "tax only stepchildren and domestic partners." That's really bad wording.

MR. BRANAN: Okay, except that's current practice.

MR. LOW: I understand. But still, it’s --

MR. BRANAN: We can rewrite it.

MR. LOW: Even if it's current practice, it's worded in a way that's going to be construed very negatively by those people who are domestic partners.

DR. GHILARDUCCI: How do we feel about stepchildren? I mean, there's probably many more children. We're talking about many more stepchildren than we are domestic partners, I think.

Do we want that treatment to domestic partners to extend to stepchildren in this commission? I'm just not hearing it. I would presume so.

MR. COGAN: I would.

DR. GHILARDUCCI: Yes, I presume so.

MR. PRINGLE: Well, but, Mr. Chairman, what I am seeking is why we are focusing on these two groups, because these two groups have been singled out. Why cannot we generically suggest that those groups that are singled out should be treated the same or, you know, have a policy, as a fallback position, that doesn't penalize everybody else if a state chose to do that?

MR. COGAN: That's what we're saying.

MR. PRINGLE: As opposed to who those groups may or may not be, because they could very well be different selective groups in different states.

And when we're asking the IRS to come up with a letter specifically focused on something, we are asking for federal policy, to a great degree. I mean, we're not saying just treat us in California individually different at this point in time; we're saying, "This should be federal policy."

So, therefore, I think there's a way to get what you're trying to get to, but not necessarily to get to where John wants to get to, which is, I think, going to be a cause for a great federal debate and not necessarily one that this commission should take the lead on if, in fact, we get too far down into definitional taxing policy of how domestic partners should be established nationally. I mean, that's where you get the door that doesn't make sense to open for us. We should just focus on what we're trying to accomplish.

MR. BRANAN: I understand that.

And just as a way of explanation, we didn't bring this to you because stepchildren and domestic partners are being treated unequally. I mean, that is a valid issue.

We brought it to you because, what the IRS proposes to do, including those two groups in the health-care plans, can imperil everyone else in the plan. So that's the policy issue that we brought to you.

Now, certainly it's another policy issue whether these groups should be treated differently in any way.

CHAIR PARKSY: I know, Tom. But when you look at it, I think one of the points is it first looks as if we're recommending a discriminatory practice.

MR. BRANAN: Oh, yes, I understand that. I'll rewrite that.

CHAIR PARKSY: That's not what any of the commissioners want to do.

MR. BRANAN: Good.

CHAIR PARKSY: I think we either ought to reword it in a way that makes it clear what their overarching policy is, even if some tax advisor says, "No way," that's fine with the tax advisor. And then point out the danger of impairing the whole system as a result of the way the IRS could apply it.

MR. BRANAN: Okay, we'll put that in the next version of the recommendations.

MR. COTTINGHAM: Mr. Chairman?

CHAIR PARKSY: Yes?

MR. COTTINGHAM: One of the things I guess at this point I'm a little unclear on, is this going to be going back to having a letter or a suggestion? And isn't this -- there's another alternative, and that would be actually -- and it's a little bolder -- but actually to work through our congressional delegation or senators and ask for an actual legislative change in the IRS language, this in the code that would have more meaning. And instead of asking for an opinion, we would actually be going back to change law.

MR. BRANAN: Well, we've thought all along that once we had the letter, that it would be wise to bring in the congressional delegation, but that the letter is what would be the spearhead.

MR. COTTINGHAM: Because I am aware of a situation federally where when it came on the H.R. 4, the issue of health plans and which were going to be covered under their benefit, there was direction given through a congressional office, just information given to the Treasury that they were going to request legislation to change language. And when the suggestion of that legislation came in, they changed it to include self-funded health plans. But it was the specter of the legislative change that caused them just to go ahead and move forward because they felt, I guess, that that would be successful. So that is another avenue.

CHAIR PARKSY: Okay, Tom? Proceed ahead.

MR. BRANAN: Recommendation 23, we had no suggested changes. And the changes that were made were what you heard -- well, there were no suggested changes from the Commission.

And what you see here is changes that came from the Controller's testimony as well as the discussion last time.

CHAIR PARKSY: Any comments on 23?

Okay, proceed ahead.

MS. BOEL: Before we go too much farther, I'm going to have to say, my staff has got to take a break.

CHAIR PARKSY: Your staff, are you ready to take a small break?

MR. BRANAN: I would like to eat something.

CHAIR PARKSY: You would?

MR. BRANAN: Yes, I would.

Please, sir, may I have another?

CHAIR PARKSY: Yes, let's take a ten-minute break.

(Recess from 1:22 p.m. to 1:37 p.m.)

CHAIR PARKSY: Is the staff rejuvenated?

MR. BRANAN: I feel fine, Mr. Chairman.

CHAIR PARKSY: There's a reference, you know. There’s a song about "I feel fine"; right?

MR. BRANAN: There certainly should be.

CHAIR PARKSY: I feel good. I feel fine, I feel fine. Good.

All right, now, we left off at what number?

MR. BRANAN: 23.

CHAIR PARKSY: All right, 23.

Let me make a suggestion here. I think if anyone has problems with any of the recommendations other than 28 and 29 -- and I think that the recommendation -- let's see. I'm sorry, the recommendation that Lee wanted clarification on is what number?

MR. LIPPS: 25, 26, and 27.

CHAIR PARKSY: 25 and 26. But I think that's been worked out.

So did you get the message as to how --

MR. BRANAN: There's always somebody who doesn't get the message.

CHAIR PARKSY: All right, Lee?

Let's just quickly -- we'll give you, quickly, how we would deal with 25 and twenty --

MR. LIPPS: 25, 26, and 27, Tom. And this is also good to go on the record.

Essentially, we'll say before each one that, “With the exception of school districts and county offices of education, the following apply," and then the recommendations are as they are. And at the end then of each one is that “school districts and county offices of education shall comply with the disclosure requirements pursuant to AB 1200 and AB 2756.”

CHAIR PARKSY: Is that clear?

MR. BRANAN: That's clear. I agree, that will take care of it.

CHAIR PARKSY: So 23 is okay.

On 24, I just didn't know whether you included the reference to OPEB as well as public pension. You've got the state --

MR. BRANAN: 24 only deals with the pension reports.

CHAIR PARKSY: Right. But the question is, are we not going to be recommending that there be a publication of an OPEB report?

MR. BRANAN: Yes, that's in 23. It says that the Controller's office will regularly collect and report OPEB data."

CHAIR PARKSY: Okay, that's fine.

MR. WALTON: Mr. Chair, one quick -- two points. Under 24, I'm concerned that there's no end date. Because if you wait for data, one small public agency could hold it up. And I would add language that “within 12 months of the receipt of data, but in no case, longer than 18 months,” or some number, but something like that. You can't keep waiting forever for the last piece to come in.

MR. BRANAN: I agree, that is a good idea.

CHAIR PARKSY: Okay, all right.

So then we move beyond -- we will have done 25, 26, 27.

28.

Let's focus on 28 and 29.

MR. BRANAN: The changes on 28 came from the last hearing when there was concern that the actuaries or professionals on this panel would be employed, and that the expense would be great. And what is pointed out here is that they would be appointed as to the advisory panel, much like the members of this commission, and that they would have a stipend and reimbursement of expenses. But there would be full-time staff -- well, some people get expenses.

CHAIR PARKSY: Expenses? Oh, really?

Is that equal to the salary?

MR. BRANAN: I think it makes do for the salary, yes.

CHAIR PARKSY: It makes do for the salary? Okay.

Okay, any comments on the recommendation -- yes, Dave?

MR. LOW: I have really significant problems with the rationale, the first paragraph and the third paragraph for the rationale. I really strongly recommend that we delete both of those.

I don't believe that we've heard extensive testimony about these concerns. I'm not aware of them. And the credibility problem language is inflammatory, in my mind. And I think the only testimony that I've heard along those lines came from essentially the Richman Initiative advocates. And I am just very opposed to including both of those paragraphs.

MR. BRANAN: You find it -- you don't agree that we've heard examples of the employers and retirement systems? But what is it that you find most offensive there?

MR. LOW: Everything.

MR. BRANAN: That's helpful.

CHAIR PARKSY: Well, I'm not quite sure -- I think what Dave may be getting to is that we ought to be able to express a rationale in more objective terms.

We may have heard testimony, but it seems that to have the concepts of independence and transparency and notifying employees, these are all concepts that are, I think, sound policy. And it seems to me you can provide a rationale for the panel without dealing with such language as "mistrust" and things like that.

Is that your point, Dave?

MR. LOW: Yes. I think there's been some relatively limited testimony, and I think we're painting with a very broad brush with this language.

AUDIENCE MEMBER: We can’t hear.

MR. LOW: I don't know if my microphone is -- I think the testimony has been limited, Tom. I think that the statements here are painted with a very broad brush, and it paints all -- essentially all the pension systems -- it essentially goes right up to the line of accusing them of some sort of collusion and potentially illegal acts. And I'm just very uncomfortable with it.

MR. PRINGLE: Mr. Chairman?

CHAIR PARKSY: Yes?

MR. PRINGLE: I actually see very much what Mr. Low is suggesting, because I think the recommendation itself and the creation of the panel, I see value far beyond -- I mean, if the sole value is to hold existing funds accountable or existing programs accountable, that for me is a misplaced rationale for having it in the first place.

I believe there's a lot of things that would make it valuable in terms of being there just to ensure local agencies are being straightforward in their assumptions. And all of that, therefore, when we seek all of this public information under 23 and 24, from the Controller's office, I think it would be nice to have an independent place that says, "You know, assuming a 4 percent inflation on health-care costs is not realistic." And having an independent place that can say that as opposed to making it look like its purpose is really to go after somebody, we don't know. I mean, its purpose is just to make sure all of that is accountable, and we want to make sure there are kind of a universal acceptance of actuarial assumptions made in all of those places.

Not to say you guys are bad or you've screwed up, it's just to make sure there is an independent clearinghouse where they can be held accountable and they know they're going to be. And I don't necessarily even see it as the retirement systems as the sole focus.

MR. BRANAN: No.

MR. PRINGLE: I see the value as the individual plans or the individual GASB reports from each of these agencies is a place where that information should be tested a little bit, to make sure everybody can say, "Okay, these numbers are true numbers."

So I don't have any problem with throwing paragraph 1 and 3, or maybe bulking it up to say there is value, and greater security can be given to the public and public employees when they know that the actuarial assumptions are independently tested.

CHAIR PARKSY: Teresa?

DR. GHILARDUCCI: I really agree with that. I saw it as adding to what the benefits are. I really like the idea of actuaries working for free, volunteering their time, and that's why we should actually take out "stipend."

CHAIR PARKSY: Did all our actuaries in the audience hear that? That’s good.

One actuary just turned around immediately. He was the basketball referee.

DR. GHILARDUCCI: Right. So here, all these wonderful actuaries coming to serve the State in one body. That means every little employer has a place to go that they don't have to contract with a commercial actuary for their own single report. So it saves money.

And also like the Social Security Actuary's office, it really helps with teaching the public. I mean, it has an educational function of what actuarial science is and why it's so important to prefund future promises. And it will be essential when we start talking about OPEB liabilities, where actuaries have to come forward with some kind of range and idea about what future costs are going to be.

So it seems to be a companion to our whole overall message, that we want to prefund these uncertain benefits, that we're actually providing a free and public service to the state. I really like this proposal, and I think the rationale can be really much more positive.

MR. COGAN: I like Teresa's idea because it is true that you get what you pay for.

CHAIR PARKSY: After lunch, sometimes we're not quite as quick at your Coganisms.

DR. GHILARDUCCI: I think there are many actuaries that want a chance to serve the public, and we really should step up to the plate and help them.

MR. COGAN: You get what you pay for.

CHAIR PARKSY: Don't stand up. Don’t stand up.

Tom, you have that?

MR. BRANAN: We'll rewrite that, yes.

CHAIR PARKSY: I think all of the rationales throughout these recommendations need to be tightened --

MR. BRANAN: They do.

CHAIR PARSKY: -- and need to be edited so that they are crisp and relate in a positive way to why we're making these recommendations, so the next version that goes around we will urge everyone to read the rationales again and see.

Okay, proceed ahead.

Go ahead.

MR. BRANAN: Number 29. The changes, and some of the lead-in information comes from discussion we had at the last hearing, where it was pointed out that there is a law which prohibits the duplication of a financial audit at PERS done by an outside firm, that in any year that that happens, there cannot be an audit by the Department of Finance or the State Auditor.

So given that, and since the same law requires an annual financial audit, that means these two agencies won’t be doing financial audits of PERS certainly on a routine basis.

So I think that strengthens the argument that there should be a performance audit of the two retirement systems. It would be used to establish a baseline going forward. And I think starting with the application of existing conflict-of-interest policies.

And I've changed the language here. Originally, it said that there would be a performance audit done every three years. That's been changed to say there will be a performance audit, and it would be up to the Legislature and the State Auditor to decide if the results warranted any further audits.

CHAIR PARKSY: Okay, Jim?

MR. HARD: So, Tom, does that mean one time, and then -- in history, and then if there is some perceived need, another one?

MR. BRANAN: That's correct, rather than having the Commission point -- or mandate an ongoing audit, the audit results would dictate if there were to be another.

CHAIR PARKSY: Dave?

I'm sorry -- did you have a comment about that?

MR. HARD: Well, that's, I think, a good step. I just think it unnecessary, a performance audit on these two. I think that they have the financial audit every year.

I would prefer, if we -- if that type of audit is done, if there's some real problem. But just to have one, I don't know the reason for that expense. I don't necessarily agree with that.

CHAIR PARKSY: Dave?

MR. LOW: I agree with Jim. If there's some evidence that there's a need for a performance audit of CalPERS or CalSTRS, the Auditor has the authority to conduct a performance audit now.

I believe that these performance audits ought to be triggered by some evidence that there is a need for a performance audit. And I think that if we want to make a statement from the Commission that performance audits of pension systems should occur where there's evidence that there are things occurring that warrant a performance audit, I'm comfortable with that.

But I reject the notion that we need to single out CalSTRS and CalPERS, when nobody has provided any evidence, that I recall, that there's a need for a performance audit of these two systems. And I don't see why we would be recommending it with no rationale just because we think they ought to do it.

MR. PRINGLE: Mr. Chairman?

CHAIR PARKSY: Yes, Curt?

MR. PRINGLE: Well, I don't agree. I do think that government, in every sector and every place, at times needs to be tested and checked in terms of its performance and what it can do better and how it can operate differently.

And this is not a fiscal audit, claiming some fiscal malfeasance. This is performance. Are the systems in place that give local governments the insurance or the comfort level that their investments are -- the very best systems are being employed in terms of that system?

I don't think it should be viewed as “There is a problem, so let's go after them." I think it should be viewed under the theory, at least the performance audits that have taken place -- and I know possibly not from this controller but from the last two controllers, there were a variety of performance audits made throughout systems of government in California.

And Kathleen Connell made her entire career as the controller focusing on performance audits and looking at various segments of government operation, not because, “Oh, these are bad ones,” but “How do we make them better.”

And, you know, as a customer of CalPERS, as there are other customers of CalSTRS as state employees here, but as a customer as a city, I think it's a great point of assurance in presentation that, “Hey, yes, we think there's value in making sure that these systems are in place to do the very best possible.”

And so if the rationale or other words make it sound like, “Hey, we think that CalPERS or CalSTRS is doing something bad, let's go after them," then I don't think that should be there. I think it should be there in a positive sense that there's value in ensuring that all steps of a government system are performing at the very highest peak; and sometimes that requires an independent review of those.

MR. WALTON: Mr. Chair?

CHAIR PARKSY: Yes, Bob?

MR. WALTON: Along those lines, it would seem that it would be more appropriate to remove specific references in the recommendation and rationale of CalPERS and CalSTRS, and make this a broader recommendation regarding all pension systems in California.

MR. PRINGLE: Wow. I love it.

MR. BRANAN: Well, there is an implementation process by expanding it that way.

We've been working on the assumption that this commission has a special relationship to the State, and that was the rationale behind having a specific prefunding recommendation.

MR. PRINGLE: Maybe we can make that recommendation, Mr. Chairman. You know, the difference is the '37 Act County retirement system, which are the next group of large retirement systems in the state, they are established within the county and their board members are established and selected by that county, and basically, they serve those governments there as opposed to CalPERS, which is people, I guess, elect to participate, but there's very few other games in town for many other participants.

I think it might be nice, though, Tom, even though we may mention CalSTRS and CalPERS because of their significance to the State, but recommend that that should be a practice of all retirement systems within a set period of years as well, that they conduct a performance audit.

If we suggest that, then we're not paying for it. If the Legislature demanded it, then they would end up having to pay for it. But if we suggest that as a good practice, or an appropriate step as we would do with CalPERS and CalSTRS, I think then it at least lays the marker down there.

MR. WALTON: My difficulty in pointing out CalSTRS and CalSTRS is along with what Dave indicated, it infers to the reader of this report that there was something that we heard that led us to believe that there is a need for a performance audit of those two organizations, which is clearly not the case. And so that's why I would make the recommendation and the rationale generic to all pension plans without being specific to any pension plan.

CHAIR PARKSY: The State Auditor would have jurisdiction over what plans?

MR. BRANAN: They could audit any public retirement plan. But realistically, that isn't going to happen. They're a fairly small office.

DR. GHILARDUCCI: Right.

MR. BRANAN: We singled out PERS and STRS because they are statewide retirement systems. And with the State Auditor, it seemed appropriate that that's who should do the audit.

And I don't think recommending a performance audit implies that you think there is skullduggery going, any more than if somebody recommends a financial audit.

MR. COGAN: Tom, if you're going to mention CalPERS or CalSTRS, then you might want to be explicit about that.

I really like Curt's rationale, as opposed to the rationale that's in there. The rationale is that is a good government practice.

MR. BRANAN: Uh-huh.

MR. COGAN: I like Bob's suggestion that we expand it, though. I do think it is a good government period practice. And if it is a good government practice, then it should be applicable to all of the retirement systems and not just CalSTRS and CalPERS.

MR. BRANAN: I agree that it is a good government practice. It's just if you expand it, then you would not be -- just as a generic suggestion, then you would not -- well, it would be a suggestion.

MR. COGAN: Isn’t it a suggestion now?

CHAIR PARKSY: Yes, we could go back to this.

But I think that the concern of the

commissioners is that it will be interpreted that we have heard something that was inappropriate going on. And I don't think that's what we heard at all. In fact, we didn't hear any evidence that either of the systems -- we've got to include the University of California as well, but that's only after I retire from the system.

Now, I think you ought to think about making it a broader policy recommendation which the State can implement as it sees fit here.

MR. BRANAN: Okay.

CHAIR PARKSY: It would be different if we had heard something very specific in our hearings, but we didn't at all.

MR. COTTINGHAM: Exactly. And we took out that other paragraph in 28 because it basically used the word "mistrust."

This doesn't use the word "mistrust," but it has "mistrust" written all over it.

CHAIR PARKSY: Well, people might interpret it.

MR. HARD: It does have that it will enhance the credibility to larger statewide retirement systems. And I think -- I don't know that they need their credibility enhanced, actually. Although I agree, good government practice in general is to have this at the appropriate times.

CHAIR PARKSY: All right, well, let's see if we can't make it more general.

MR. BRANAN: Okay. Number 30 --

CHAIR PARKSY: Anything on 30?

MR. BRANAN: We've dropped 30 at the request of the Commission.

CHAIR PARKSY: Okay, 31?

(No response)

CHAIR PARSKY: 32?

(No response)

CHAIR PARSKY: Okay, 33? And you've eliminated Item 2 in 33?

MR. BRANAN: Yes. And that is as we've discussed.

CHAIR PARKSY: Right.

34?

(No response)

CHAIR PARSKY: Okay, 35?

Now, I think that Matt has made a point several times on the area of governance.

And we would group these under a government structure. I'm not quite sure which recommendation would come in, too.

MR. BRANAN: Matt's comments were included as the last sentence of the rationale here.

CHAIR PARKSY: Yes, but I think he'd like something in the recommendation.

MR. BRANAN: Okay.

CHAIR PARKSY: Right, Matt?

MR. BARGER: Yes.

CHAIR PARKSY: I don't want to speak for you, however.

MR. BARGER: Thank you, Mr. Chairman.

DR. GHILARDUCCI: Well, I -- Gerry?

CHAIR PARKSY: Yes?

DR. GHILARDUCCI: I gave you some suggestions about changing the rationale for 35.

CHAIR PARKSY: Yes. We'll incorporate those.

DR. GHILARDUCCI: It was just yesterday.

Okay, that the -- all right. I'll tell the rest of the Commission.

I like the idea of saying, "The appointed members should have certain kinds of expertise," but it's limited here to financial and investment expertise.

And no offense to the bankers, brokers, and finance professors that I know and might be on this panel, but public administration --

CHAIR PARKSY: You've left out a lot of people.

DR. GHILARDUCCI: I know -- but we're just implying that that's where the appointed members should come from, bankers, brokers, and finance people. Because folks with public finance background and public administration, like John Cogan, are also really important, people who know about personnel management, compensation systems. These are all folks that would be good on a board. So I added some language along those lines.

CHAIR PARKSY: Well, would you see, Matt, including in 35 a broader reference to the qualification issue or expertise, and then incorporate after that the concept of training? Or do you think we should have a separate specific recommendation?

DR. GHILARDUCCI: It isn't just rationale. This is all --

MR. BARGER: Well, I'm even okay with changing the recommendation a little bit. I was just going to take basically the sentence I think Tom had stuck in the rationale and suggest it be up.

CHAIR PARKSY: Yes, that's one way to approach it. Take the sentence and leave the 35 recommendation with the sentence, and then go on to say, "The trustees should have training."

MR. BARGER: And I don't mind sort of expanding the definition of who would be -- you know, add to the qualifications. So your suggestions are good.

One of the concerns I have in making -- pointing out finance and investment specifically is, I think there was a suggestion in one of the staff recommendations that a lot of these things were too confusing for investment boards to understand which. You know, my attitude was, well, they'd better have some people on there who can understand those issues.

DR. GHILARDUCCI: Yes, yes.

And I think we should agree, everybody on the board should know what a present-value calculation is. So the training is really the impact here.

I also made a change that says that, "Elected board members have provided public representation."

The elected board members really have a different purpose. They're there to represent the plan participants. So we can just -- and, again, I offered for the Commission members, I offered the staff some language there.

But, really, it's the elected officials that represent the public in -- I mean, sorry, the ones that are there as ex-officio members are there to represent the public: The Treasurer, and representatives from the Governor's office. And the other folks are there to represent the plan participants, which is very, very good practice for any pension board.

CHAIR PARKSY: Bob?

MR. WALTON: Well, I think one addition to the rationale may include that, even if you're a layperson, I'll use that term, that's been appointed or elected to a pension board, as a fiduciary, you have a responsibility to become educated.

DR. GHILARDUCCI: Exactly. Very good.

MR. WALTON: And that's a fiduciary --

DR. GHILARDUCCI: Responsibility.

MR. WALTON: -- obligation you have, legal, and moral, and otherwise. And I think that ought to be added, that simply because you don't have expertise, it doesn't allow you to claim ignorance later. You have a responsibility, a legal obligation to become educated.

DR. GHILARDUCCI: The word "fiduciary" might want to be in the rationale.

MR. CAPPITELLI: I have a question.

CHAIR PARKSY: Okay, yes?

MR. CAPPITELLI: Are these suggested best practices guidelines, or are these going to be under the heading of "legislation should be enacted to," or how are we going to couch this?

CHAIR PARKSY: Well, there would be a grouping that we would have under governance. And I think this would be incorporated in it.

Now, I guess there's a question of whether or not those bodies that are responsible for appointing people, are we addressing them. And maybe the language should -- maybe the language should -- or the rationale, something should make reference to that.

Matt?

MR. BARGER: My thought on this was that this is a recommendation of best practice. We're not trying to get to the actual, you know, "Are these the best ways to set up boards," or, you know, getting into the legislation, you know what I'm saying? Take what is, as is. You know, within that, what would be the best way to sort of attack it?

MR. CAPPITELLI: That's probably easier to accomplish.

CHAIR PARKSY: Yes, I think you're right.

So, again, it's within a grouping of the plan, but it's best practice that we're trying to identify here.

Okay, proceed.

Let’s see, where are we now?

MR. BRANAN: Number 36.

CHAIR PARKSY: 36?

MR. BRANAN: We had no suggested changes.

CHAIR PARKSY: 37?

MR. BRANAN: No changes.

CHAIR PARKSY: 38?

(No response)

CHAIR PARSKY: 39?

MR. BRANAN: 38, we had none.

CHAIR PARKSY: 39?

MR. BRANAN: 39, this was changed to reflect the discussion at the last hearing. "Health plan sponsors should identify individuals who are Medicare-eligible and inform them of the need to enroll in Medicare in a timely manner. Employers should provide information on penalties that result from delayed enrollment in Medicare."

DR. GHILARDUCCI: Yes, that's good. That's fine.

CHAIR PARKSY: Okay.

MR. BRANAN: And Recommendation 40 also reflects the discussion on this topic last time.

"Once individuals become eligible for Medicare, they should be automatically and immediately enrolled in Medicare and possibly a Medicare supplement plan. Employers should consider providing incentives to individuals to enroll in Medicare beyond Part A by assisting individuals in paying any required Medicare premiums and providing access to Medicare Supplement

Plans or Medicare Advantage Plans."

CHAIR PARKSY: John?

MR. COGAN: Tom, I think we're almost there, but I'm still worried about the first sentence.

Would we be recommending that employers automatically enroll eligible individuals into Medicare Part A, regardless of whether the individual would do so on their own?

MR. BRANAN: Well, in this case it probably wouldn't be the employer as much as the health-care provider or the plan, like the PEMHCA plan.

MR. COGAN: So --

MR. BRANAN: Yes, that is what we're recommending.

MR. COGAN: Here's my concern, here's my concern about that: I don't distinguish so much between Part A and Part B.

I guess the point that I was trying to make last time is that Medicare, Part A, let's say, has a hospital deductible -- I can't remember what it is, but let's call it $900. Let's suppose the individual is in a plan that has a deductible of $200, and then when the individual retires, we force the individual into the Medicare plan. From the individual's standpoint, the Medicare plan then imposes a cost on them --

DR. GHILARDUCCI: No.

MR. COGAN: -- that they wouldn't choose to bear themselves.

And so my point was, rather than force individuals into that kind of circumstance, why don't we provide financial incentives to help them get into such plans and offset any of the additional costs, whether they're Part A, Part B, Part D, in the program?

That is, it seems to me that the reason we're considering this is because the employers would be saving money, and shifting money out of the federal government but they would be saving money.

And what I'm worried about is they're saving money in the instance of a higher deductible for Part A. Part of the savings would be just a cost shift onto the patient. And I think that's not good policy.

So I prefer us to have the financial incentives apply to Part A and Part B and the Part D -- to the whole Medicare program.

CHAIR PARKSY: So you would just link -- go into the revised sentence, you would not -- you would just eliminate "they should be automatically," and just go from "once individuals become eligible for Medicare, employers should consider," and go on with the sentence?

MR. COGAN: Except -- yes, "Employers should consider providing incentives to individuals to enroll in Medicare,” period, where Medicare is the whole kit and caboodle.

And I would add then, "…required deductible payments, co-insurance payments, and premium payments," as you have.

MR. PRINGLE: Mr. Chairman?

CHAIR PARKSY: Yes?

MR. PRINGLE: I can get a bit of the way there.

I would like to strike, though, everything after “Employers should consider providing,” to “enroll in Medicare." I'd like to just strike that because if, through the collective bargaining process there's discussions on one angle of support in that overall package or another, why should it necessarily mean that a local agency should put their money there?

As we have chosen, our public safety employees, last year, we negotiated this very issue, and we chose to give a higher salary rate, a higher increase in their wages; and enrollment in Medicare was something that was a part of that collective bargaining process.

We chose that as the course –- and they did, too, by the way -- to balance out the savings we had received in their Medicare participation, and not necessarily say, "Okay, we'll pay forevermore” or “during your time of enrollment,” because, really, this is an ever-more discussion. And they felt that a salary increase was a better value to them; and they understood the trade-off on that.

So I don't necessarily think that saying, "We're going to give you $300 a month that just covers this Medicare plan, Part B concept," as opposed to someplace else where we think there may be value -- or and the employee may think there's value.

So if it says, "The employer should consider participating or supporting or working with them in that process," I would like to have it left just like that.

CHAIR PARKSY: So you want something that is more general about incentives?

MR. PRINGLE: Or just put a period after the word "Medicare."

CHAIR PARKSY: Yes, that’s what I mean. You just say “Employers should consider providing incentives to individuals to enroll in Medicare,” those incentives would include a lot of things.

MR. PRINGLE: Whatever. Yes.

CHAIR PARKSY: Okay, let's try that.

All right. Do you have any more on your list before -- we have one presentation that --

MR. BARGER: Actually, is this presentation relating to what I was asking about?

CHAIR PARKSY: This is on sensitivity analysis.

MR. BARGER: Does it make sense, instead of having the presentation first, if I suggest what it is that I am proposing, so that there's some context?

DR. GHILARDUCCI: Yes.

MS. SHEEHAN: This is more financial --

MR. BARGER: Sensitivity analysis strikes me as sort of the same.

MR. COGAN: We should have the substance first --

CHAIR PARKSY: That's fine. I just want to give -- because he's been waiting here. That's fine, no problem.

MR. BARGER: Just rather than have it be --

CHAIR PARKSY: Yes, yes, that's fine.

MR. BARGER: -- a random discussion.

Bear with me because this will take a couple minutes.

What I wanted to do was sort of be clear on what I was asking. And so to be clear, I'm going to start out by telling a joke now. This is from ActuarialJokes.com, which is a fruitful source for those of you -- it is a real Web site.

CHAIR PARSKY: That was from what?

MR. BARGER: ActuarialJokes.Com.

CHAIR PARKSY: There is such a thing.

MR. LIPPS: It's one page.

MR. CAPPITELLI: It scares me that you found that, but go ahead.

MR. BARGER: There's a site for anything on the Internet.

It says: Two people are flying in a hot-air balloon and realize they are lost. They see a man on the ground, maneuver over to him, and ask, “Can you tell us where we are?”

The man on the ground screams, “You are in a hot-air balloon 100 feet off the ground.”

One of the men in the balloon yells down, “You must be an actuary. You gave us information that is accurate but completely useless.”

The actuary on the ground yells back, “You must be politicians.”

They yell back, “Yes, how did you know?”

The actuary says, “Well, you're in the same situation you were in before you talked to me, but now it's my fault.”

What I think this joke gets to is actually two important parts of the debate: One is, actuaries come up with a very accurate point estimate at a point in time what the situation is, which is valuable. But I think it confuses some issues.

And one of those is the difference between the value of your liabilities and the value of your assets. And there is sort of basic -- I'll put on my teaching-assistant-in-finance-from-Yale hat on this one -- there's a basic rule in finance that what you're doing on your asset side cannot affect your liabilities. If you're an individual and you decide to invest in stocks instead of money market funds, your mortgage still costs the same. It doesn't matter what your asset side is. And it's sort of one of those basic principles.

And the notion that if you have a riskier investment policy as a pension plan means that your liabilities have somehow changed, they haven't. That's sort of a basic principle of finance.

Actuaries, actually, the way I simplistically think about it, answer a different question, which is: Given the assets you have, given the liabilities that you have, and assuming an investment rate, do you have enough assets to cover your liabilities? And that's an important question, too; but it is, you know, not the only question. And it's sort of a point estimate because the one thing you can be sure of is the assumption about investment rate, the assumption underlying mortality rights and those sorts of things are going to change.

And to my way of thinking, what you really want to know are not only that point estimate, but sort of what happens if you're wrong about critical assumptions. You know, what's the range of outcomes if I take a riskier investment policy with a bigger standard deviation. You know, if things go wrong and I earn, you know, substantially less, what are the implications of that?

Similarly, on things that are imponderables about what health-care inflation is going to be, rather than just sort of arbitrarily picking a point estimate, it strikes me that a best practice would be to consider the whole range of possible outcomes.

And the answer to me again keeps coming back to instead of through a point-estimate analysis as the end of the story, that a best practice is actually for these boards to consider the whole range of, you know, possibilities.

And my specific suggestion would be something along the lines of, you know, it would be best practice to consider sensitivities on discount rates, assumed investment returns, health-care inflation, open versus closed accounts, et cetera.

And I think it's important for a couple

reasons, the first one being sort of garbage in, garbage out. If you just take too narrow an analysis, there's just no way you can make good decisions as a result.

There's sort of a second sort of thought in there that, boy, if you show people all these different numbers, it will be too complicated for them to understand, it will get used badly. That's certainly a risk. But my basic feeling is sunshine is actually the best alternative. I'd rather have the full array of numbers and trying to educate people as to what that means.

And I think, you know, it gets back to my ultimate concern, which is I want to make sure that this generation pays for its costs. I don't want to have numbers confuse the situation and allow intergenerational transfer of risk. So that's where I'm going.

And it isn't to suggest when the actuarial reports change, that there ought to be a specific -- I think the actuaries should continue doing exactly what they have been doing. But what I think should change is the board should consider not only that, but they should consider the sensitivity analysis.

So that's what the recommendation I was looking for was. And I don't know whether or not Paul would critique that or not.

DR. GHILARDUCCI: But is there a recommendation connected to this?

MR. BARGER: Well, I've been trying now for the last couple to get a recommendation without success.

CHAIR PARKSY: Well, at times, each individual has to write their own recommendation in order to incorporate it.

MR. BARGER: I've learned a valuable lesson.

I actually wrote my joke.

CHAIR PARKSY: We are still open to recommendations, so we can certainly circulate one along those lines if you will draft one.

MR. BARGER: I'd be more than happy to.

CHAIR PARKSY: Yes, Alex?

MR. RIVERA: Yes, thank you.

CHAIR PARKSY: And I really apologize for holding you. I know you've been here patiently, and I know you have a plane to catch.

MR. RIVERA: Thank you.

My name is Alex Rivera, and I'm with Gabriel, Roeder & Smith.

And a little bit of background, GRS, we performed the valuation for the California state employees back in May, and we issued a report on behalf of the State Controller's Office. And we've been asked to review projections that would show, as Commissioner Barge mentioned, just the sensitivity of different assumptions, different scenarios. And that's basically the basis of our presentation. We're going to look at, first of all, trend sensitivity and health-care trend, and it's very volatile. And what we'll see from the analysis is that these OPEB valuations, that the liabilities are not sticky like a pension valve. That there's a lot more volatility. But that's what the projections will show.

And we did the trend sensitivities on what we call a closed-group projection. What that means simply is that no new future hires are assumed to be in the projection of the population. In other words, it's just the current members that are considered in the valuation did an open group projection with different funding policies. And one of the funding policies includes a partial funding policy, which we call the bifurcated policy. And we'll go into the details of that projection.

But the key here -- what we're trying to do is, again, these numbers are not sticky. Emerging experience will cause these numbers to change in the future; but we just want to see the direction of the variability of what could potentially happen in the future.

So we'll just go over a little bit of background on health-care trend and what actuaries use for the measurement of the liability. We use what's called a "selected ultimate health-care trend assumption." And basically, what that means is that we start at a relatively high level -- for example, 10 percent, and then we assume that trend grades down to something that's closer to 4½ percent or so. And we do that because if we assume that trend will continue at, let's say, the current level of 10 percent in all future years, then health-care benefits would consume a significant portion of the GDP.

And this is pretty mainstream. Most actuaries use this approach.

As far as the trend sensitivities, we're looking at a 30-year projection on a closed-group basis; but we also made an adjustment to the projections.

The valuation was adjusted slightly to take into account the update in premiums that were provided by CalPERS. So effectively, there's roughly a 3½ percent decrease in cost but we consider the premiums that became effective in January -- will become effective in January of 2008 for calendar year '08.

So our baseline valuation was adjusted slightly to take that into account. And our projections are based on the updated valuation results.

Now, it's important to note that the update only affects the projections. The official report that will be used for financial reporting, that was released in May of 2007.

Now, the three trend-sensitivity scenarios that we reviewed, first, we looked at the baseline. And that's simply 9½ percent in calendar year '09, and it decreases by roughly 50 basis points each year, until the ultimate rate of 4½ percent is reached, roughly nine years later.

And then the second scenario, we just did what we call a trend-sensitivity shift. So we just assumed that health-care inflation would increase by 100 basis points. So in other words, what happens to the actuarial liability and the ARC, the annual required contribution -- which are the actuarial costs -- what happens if we increase the trend by 100 basis points.

And then finally, we did a third scenario, which assumes that trend will be flat for roughly ten years, and then it would grade down to 6 percent, which is the ultimate rate.

And then this is more representative of what has happened historically over the last ten to 15 years.

The select and ultimate trend pattern, it has not materialized. It's been closer to 8 to 10 percent.

So what we'll see is a pretty dramatic effect if we consider these changes.

And instead of getting bogged down on the actual dollar amounts, I think it's easier to understand the relationship if we just look at this in terms of the percentage increase in cost. So let's start with the actuarial liabilities. Increasing trend by 100 basis points increase the liabilities by 18 percent at today's measurement date of 7/1/2007. But if we were to look 30 years into the future, the increase would be much higher. It would be roughly 47 percent under the pay-as-you-go scenario. In other words, it shows the cumulative effect of trend over a 30-year period.

Now, under the full-funding policy we have a similar relationship. The liabilities increase by about 14 percent at 2007; and then roughly 30 years later, it's closer to 44 percent.

A flat trend, the impact is even greater. So in about 30 years or so, under the pay-go policy, the increase in liabilities, it's closer to 90 percent. So it's very dramatic, just assuming a flat trend assumption of 10 percent for the first 10 years, what that will do to the liabilities.

We also compared the actuarially required contributions, which is -- or the ARC, we went through the same comparison. And for the pay-go policy, the percentage increase, it's pretty similar to the liabilities. So in other words, if we shift inflation by 100 basis points, the increase in the ARC is roughly 23 percent in terms of 2007 costs, or '07-08. And then 30 years into the future, it's closer to 47 percent.

Under the pay-go policy, and assuming a flat trend of 10 percent, what we see is, again, a pretty high increase in overall costs.

Now, the ARC, under the full-funding policy, the percentage increase has less meaning. Because after 30 years, these benefits would be fully funded. But we included the percentages.

But what's more important there is that after a 100-basis-point shift, 30 years later, the ARC is controlled because there are sufficient assets to cover liabilities. So that's really the conclusion there.

Here, we have some graphs of the relationship. And what we see here is that as time goes on, the spread gets wider. And that's just the compounding effect of trend in the future.

Now, remember, these are closed-group projections. So we're going to see a decline after about 20 years as the life expectancy of the retirees starts to decrease. So that's why we see a little downward trend after 2027.

This represents the actuarial liabilities.

Now, this shape is basically the same for full funding with the exception that the liabilities are lower because the discount rate is higher. It's at 7.75.

And we see a similar relationship for the ARC, or the actuarial cost. We see an upward trend. And it declines after 15 years or so. And the reason is that because this is a closed-group projection, we assume that costs would be amortized over the lesser of life expectancy or the closed-group amortization period. So that's why there's a little spike at 2022.

Now, this graph shows the ARC, or the actuarially required costs of full funding policy. And because there's a closed-group amortization period, costs actually spike up a little bit. But then after the thirtieth year, costs are fully financed, liabilities are financed, and then we see a significant drop. And that's just the definition of the funding policy.

So I think what we should learn from the closed-group projections is really the volatility of the results, that the health-care trend assumption, we're going to see a lot of variability in the future. And I think we should all be prepared for that. And it's going to be even more volatile than pension costs. So that's something that I think we all should be prepared for.

All right, we did a second set of projections on an open-group basis. And in this case, the objective was to review funding. So we're assuming that the baseline trend would continue, but that the employer would make contributions at different levels. Pay-as-you-go, full-funding, and something called the bifurcated funding policy, which is just a partial funding, or a phase-in to full funding, that that's all it really is.

But in a nutshell, what we're trying to do with a bifurcated policy is the premiums that are paid by the employer -- and those would be the blended premiums for pre-Medicare -- premiums paid by the employer would be fully funded for future costs. In other words, the premiums associated with future service, those would be fully funded in a trust, and would earn 7.75 in the qualified trust.

All other benefits, including the actuarial liability accrued as of 7/1/2007, and what's called the implicit subsidy, those benefits would be funded on a pay-go basis.

So the key relationships here are that the actual liability under pay-go and bifurcated policy at

7/1/2007, they're pretty close -- or they're exact. And that's to be expected based on the policy.

But 30 years later, the bifurcated policy, those actuarial liabilities, they're starting to approach the full funding liabilities. And the piece that is missing there is really the implicit subsidy. The implicit subsidy is funded at a rate that produces 4.5 percent. So we would see slightly higher liabilities under the bifurcated policy.

Now, more important is really the next line, because the ARC represents the key component that is used to develop the annual expense.

So under the full funding policy, the ARC is roughly $2.5 billion; and under the bifurcated policy, it's $2.7 billion for '07-08.

So this policy really controls the growth of the balance-sheet liability. And the key is that the normal cost is being discounted at 7.75.

Now, employer contributions, there's some relief there, too. And in the first fiscal year, the employer contributions would be roughly $1.99 billion. And those costs also include the implicit subsidy. And under the pay-go policy, the contributions are closer to 1.36 billion, which compares to the full-funding costs of 2.5.

Now, 30 years later, the bifurcated policy, those costs are, roughly, $6.86 billion, which compares to $6.5 billion under the full funding. But I think the graphs here actually show the relationship better.

And the green line represents the bifurcated policy and the yellow line represents the full-funding policy. And as you can see, initially the red line and the green line of the actuarial liabilities are the same; and there is a movement or a trend towards the full-funded liability.

The funded ratio is roughly 40 percent for the bifurcated policy and roughly 48 percent for the full funding policy. So there is some growth, consistent growth in the funded ratio under the bifurcated policy.

But I think this is the most interesting graph. What we see here is that the ARC, under the bifurcated policy, and the full-funding policy, they're very close. The ARC is just slightly higher under the bifurcated policy.

Now, what will this do? This will control the growth in the balance-sheet liability. And we see that in this page.

So the green line here shows the balance-sheet liability under the bifurcated policy, which is roughly $5.9 billion after 30 years. But under the pay-go policy, it just balloons to about $110 billion. So this is a way of controlling the balance-sheet liability.

Now, as far as the cash costs, the employer's cost, there's a little bit of relief in the first five to six years or so. So the bifurcated policy, the green line, it's about -- it's right in between the full funding and the pay-go. But after five or six years, the green line -- or the bifurcated policy liabilities are slightly higher than the full-funding policy.

So what this policy does, it really provides some short-term relief and a means of getting to something that looks a lot like a full-funded policy.

There are other ways of getting to this type of a policy. One way is to phase in the full-funded contribution. So in other words, after five or six years, the policy is to contribute the full-funded ARC.

But I think you'll see a very similar relationship if we use that type of a policy.

But this is just one scenario, and it shows one way of controlling cash costs initially, and approaching a manageable balance-sheet liability over the long-term.

But, again, I want to stress the volatility of these numbers, that this is based on a certain set of assumptions. And given the volatility that we saw with the health-care trend, who knows what could happen even in the next five or ten years? So this is more for illustration.

And those are my prepared comments.

CHAIR PARKSY: Comments or questions?

Tom, do you have any questions here?

MR. BRANAN: I have none, Mr. Chair.

CHAIR PARKSY: Matt, any questions of this?

MR. BARGER: No. I thought it was very interesting.

CHAIR PARKSY: Thank you. Thank you very much. We really appreciate it.

MR. RIVERA: Thanks.

CHAIR PARKSY: Okay, we just have a brief comment.

Is Stephanie here?

Do you want to just make sure that we provide a little summary of the methodology and our survey?

MS. DOUGHERTY: I'll make this very brief since I know I stand in between here and adjournment. So, as you know, the Commission has been conducting an OPEB survey as a part of our charge to identify the size of unfunded pension OPEB liabilities for agencies throughout the state.

We wanted to spend a little time today, a brief amount of time today giving you some background on the methodology of the survey. Specifically, the survey process, some of the data that we've collected, and then also where we are in terms of analyses.

The survey initially went out in May and June of this year to over 3,700 agencies throughout the state. That includes cities, counties, special districts, school districts, and community-college districts.

Following that initial mailing, we have done some additional outreach with agencies in order to increase our overall survey response rate as well as to clarify data that has been submitted to us. In particular, we have focused our outreach on the larger agencies. Those who were more likely to have determined their OPEB liability as well as those agencies who are known to offer OPEB.

And in this case, we worked with CalSTRS to get results of a survey they had done. So we were able to follow up with school districts who had indicated that they do offer retiree health care.

A lot of this follow-up was facilitated through several associations in Sacramento: The League of California cities, CSAC, CSBA, the Special Districts Association. And we really do appreciate the assistance that they provided in terms of outreach and reminder messages to their members.

In terms of our response rates to date, you can see that this chart gives us a break-out by agency category. Right now, we're at about 30 percent of all the agencies that we surveyed have returned data to us.

I would note that we have received a significant number of responses from the larger agencies. So, for example, when you look at the 14 percent of special districts, we focused on getting responses back from the BARTs of the world. And that's more reflective of what's in the 14 percent than your smaller agencies or special districts with 13 employees and two retirees. So in our analysis, we will make an effort to weight that percentage, so you do get a sense of the coverage as a part of that 30 percent.

Just to give you a flavor of the questions we asked and the type of data that we're collecting, we had a basic threshold question of whether or not agencies provide their retirees with OPEB benefits. And we did ask them to answer “yes” even if the retiree covers the cost of those benefits.

Agencies that indicated they offer OPEB were asked to provide some additional data such as their total annual OPEB costs, their funding approach, as well as their unfunded liability, if that's available.

I would note that all of these agencies shared their data with the expectation that we will be reporting in the aggregate. So we will be reporting out totals by city, county, special district, et cetera.

You are not going to see a line-by-line accounting of individual agencies and their OPEB liability.

In terms of next steps, we are currently in the process of looking at survey data. As soon as that analysis is finalized we would be sharing it with you.

And we do plan on presenting all of this data and our findings in the final report.

Any questions?

CHAIR PARKSY: John?

MR. COGAN: Let me say, Teresa and I have worked a little bit with Stephanie on the survey, and they've really done a terrific job.

DR. GHILARDUCCI: Yes.

MR. COGAN: I'm sure, Teresa, you agree.

You mentioned that we had a confidentiality agreement with those agencies that had provided us with unfunded liability estimates; right?

MS. DOUGHERTY: Yes.

MR. COGAN: For those that did not respond to us or claimed they had no estimates of their unfunded liability that they were willing to give us, is there anything in your agreement that would prevent us from making those counties or cities known? What I'm getting at, as one of our jobs, can we shine the light on the magnitude of these unfunded liabilities?

CHAIR PARKSY: That's true.

MR. COGAN: And I'm wondering if maybe to help shine the light on some of these larger cities that should, under GASB, be 80 percent of the way there, 90 percent of the way there, towards computed unfunded liabilities, and we're going to cough them up to the public, maybe we should kind of move that along a little bit.

MS. DOUGHERTY: For those agencies who haven't provided a survey result, there's not the expectation of confidentiality. For those agencies who did tell us that they haven't determined their unfunded liability, we did ask them to indicate, "When do you plan on sharing that publicly?" So…

MR. COGAN: Are there many cities, large cities, that would be due to report under GASB this year and next year, that have claimed that or they have refused to share their unfunded liabilities with the Commission?

MS. DOUGHERTY: I would say it's not a question of refusing as much as a lot of them have responded back to us that their valuations are still pending and that they just don't have that information completed yet.

And I was actually chatting with our actuaries this morning about the precise date for compliance, and they were clarifying that it is the '07-08 fiscal year.

MR. COGAN: Right.

MS. DOUGHERTY: And so realistically for some agencies, we'd be looking at that coming out in July or the fall of '08.

MR. COGAN: Okay.

MS. DOUGHERTY: So it's not entirely out of the -- a lot of agencies are doing their due diligence, taking steps to comply with GASB, is that they still have time to be determining the number.

MR. COGAN: I'll think about that.

CHAIR PARKSY: Well, I do think that we should consider how we can let the recipients of our report know that a number of large, if that's the case, entities have not either calculated it or reported it, one of the two. I'm not quite sure which.

MS. DOUGHERTY: And you'll see in the analysis that we share, we will provide a breakout in terms of agencies over $100 million in revenues, how many of them provided us with unfunded liability versus smaller agencies. So you can get a sense of our coverage and how we have been able to capture data from the larger agencies who assumedly would have the larger liability.

CHAIR PARKSY: John, you're thinking that maybe we actually name the ones that --

MR. COGAN: That's part of our overall charge is to shed the light on the magnitude of these unfunded liabilities. And it just seems to me that if a large city has all the wherewithal to compute unfunded liability and is refusing to make that unfunded liability public --

DR. GHILARDUCCI: The public should know.

MR. COGAN: -- that we kind of kick them along a little bit. Help them out.

DR. GHILARDUCCI: Right.

CHAIR PARKSY: We may be able to artfully describe --

MR. PRINGLE: I totally agree with him.

MS. SHEEHAN: He wants to know if he is on the list.

CHAIR PARKSY: Exactly.

Well, no commissioner's list will be -- well, no, but there may be a way of naming those that the requirement hasn't applied to quite yet, but make sure that it's clear that they haven't provided it to us, and we anticipate that they'd be providing it to the public, something like that. And maybe have a category.

Teresa?

DR. GHILARDUCCI: Well, just one more, just to follow that through, because I thought that what distinguished the folks that didn't -- if you could just go back to your response rates.

Okay, so there's two-hundred-and-some cities that haven't responded. Many, many special districts and school districts, and community-college districts.

Okay, so in the cities, it's not just size that's preventing them from giving us the numbers? There is something else going on, and that something else might be just bureaucratic, or is there something else going on?

MS. DOUGHERTY: I don't know that I could speak to that based on what we asked for.

We did say if you haven't shared your unfunded liability, when do you plan on sharing it? And I can tell you, a lot of the responses had dates out in '08, '09, or even TBD's, where they included comments where they said, "We're still completing our valuations." “It’s delayed.”

DR. GHILARDUCCI: It is not just the small cities?

MS. DOUGHERTY: Correct, it is not just the small cities.

DR. GHILARDUCCI: What about special districts? Tell me about the people that aren't responding. Are they smaller than the ones that are or --

MS. DOUGHERTY: A lot of them tend to be the smaller special districts.

I can tell you anecdotally we had conversations with some special districts who said, "I have two retirees. One is covered through their spouse, the other through military. We don't have any OPEB obligation right now."

MR. LIPPS: And also under GASB 45, remember -- and I'm just going with school districts data -- I think the same would apply to school districts, is that, yes, there are about 1,046 school districts. But a number of them, because of their size, this is not the year that they have to report. They may not still have to report for another two years. So it's difficult to tell from this chart, you know, how many were sent out to districts that this year's reporting requirement would actually apply to.

DR. GHILARDUCCI: Because I think it's important in our report to characterize the non-responder.

But you just said something to me that really bothers me. You said that they said at any point in time we have two retirees, and they're not collecting. But OPEB liability isn't that. OPEB liability is the liability of your future.

Do they not understand that?

MS. DOUGHERTY: You know, I think it's really interesting just to -- I don't know that I can answer as to their understanding.

DR. GHILARDUCCI: Oh, no.

MS. DOUGHERTY: But I do think our experience doing the survey has reinforced the fact that this is an initial survey, the first of its attempt, to our knowledge, to capture data from all these agencies. It sets a baseline. But it definitely reinforces the need for our recommendation to have the Controller collect this data on an ongoing basis, in terms of our lessons learned from having administered this survey and having a more formalized routine reporting process where we can truly start building institutional knowledge within the agencies as to how to provide the data as well as starting to see some trending for multiple years' worth of data.

CHAIR PARKSY: Bob?

MR. WALTON: As I recall, the GASB 45, there was three different groups, and each group was based on a number of employees.

MS. DOUGHERTY: Revenue.

MR. WALTON: Revenue?

And I think it may be helpful to the reader of the report to put in there that information --

MR. LIPPS: This year it's 100 million.

MR. WALTON: -- that this group is required to report by this date, this group by that date, and that group by that date.

And so for special districts in particular, people in that area can recognize, "Okay, this employer doesn't have to report until '08 or '09," or whatever that is. I think that will be helpful also.

MS. DOUGHERTY: Definitely.

CHAIR PARKSY: Mr. Chairman?

CHAIR PARKSY: Yes?

MR. PRINGLE: Therefore, is the '07-08 requirement the first requirement then?

DR. GHILARDUCCI: Yes, yes.

MR. PRINGLE: And then it's every year after that, you add in larger and larger agencies -- or smaller and smaller agencies?

MR. WALTON: Smaller and smaller.

MR. PRINGLE: And I do think it would be good on this chart just to be able to see each of those numbers broken down into each of those three tranches, so that you see who is truly avoiding versus those who may not --

MR. WALTON: Have any requirements.

MR. PRINGLE: -- be paying any attention to this right now or that they have other things to worry about.

But just on a city perspective of the top ten cities in California, how many of them responded?

DR. GHILARDUCCI: Everybody; right?

MS. DOUGHERTY: We have all of the top ten cities based on population, yes.

MR. PRINGLE: Okay, and what is that revenue threshold?

MR. LIPPS: $100 million.

MS. DOUGHERTY: $100 million or more.

MR. PRINGLE: $100 million?

What do they define that as? General-fund budget or --

MS. DOUGHERTY: I defer to one of our experts.

DR. GHILARDUCCI: It's operating budget; isn’t it?

MR. BARTEL: It's total.

MR. PRINGLE: Total budget?

MR. BARTEL: Right.

MR. PRINGLE: Okay. Well, that's a lot of them then.

DR. GHILARDUCCI: No, no. Total revenue?

MR. WALTON: Total revenue.

MS. DOUGHERTY: Do you have anything you want to add?

But we will definitely -- that's a helpful suggestion in terms of the analysis doing that break-out to put this response rate in the context of who would we reasonably expect -- who were the stars who don't have to -- I guess I'm assigning grades -- but who gave us responses two years earlier than we would necessarily expect them to have this data available.

CHAIR PARKSY: Yes, I think we need to explain –- the percentages themselves may be deceiving a little bit. So I think people will appreciate the fact that this is the first of this kind of survey.

But I think we need to explain, categorizing the non-responders, what the requirements are in terms of dates of response.

MS. DOUGHERTY: Okay.

CHAIR PARKSY: Any other comments?

DR. GHILARDUCCI: Yes, if you could put a column about what percentage knew what an OPEB liability was, that would be interesting.

CHAIR PARKSY: Now, now.

DR. GHILARDUCCI: We’d be alarmed.

CHAIR PARKSY: Well, let me just say what we're going to try to do is take all of this, we're going to recirculate in draft form, reordered all these recommendations there. And each section of the report have been -- we're in the process of –- we haven’t done every section yet, we're almost there; and then we'll try to set deadlines for commentary back.

If there's a crisis, we'll call everybody back from Christmas vacation. But otherwise, we will try to get you -- I'm very pleased with the results today. I really thank everyone for the cooperation.

DR. GHILARDUCCI: I just have one last thing.

CHAIR PARKSY: You may.

DR. GHILARDUCCI: I said this one last time, I would like the beginning of the report to reflect some of the public testimony that we heard. That we actually put forward a description of what California public retirees look like, since our Commission is assigned to help shore up those promises, account for them, fund them, that it shouldn't just be a finance report. It should actually respond to that charge.

Because we heard a lot about not only their fear that it would be taken away and how important it is to them, but something about their living standards. They live on modest benefits. And it was a representative sample of who we heard. But I would like to put the people in front and center of the report in some way.

CHAIR PARKSY: We'll see if we can come up with something.

Yes, Ron?

MR. COTTINGHAM: As part of that, some of us were talking just after we broke for lunch, and I guess what Teresa is saying is maybe this would be kind of a preamble. But one of the things that some of us have looked at, is that we have, in a sense, even though we've talked about the OPEB, OPEB liabilities, we've ignored the real importance of health care and continuing health care. So if this preamble could also have statements to that effect of how important we feel this is to provide these benefits, that would be, I think, beneficial also in this report and to state the importance that this commission places on these benefits.

CHAIR PARKSY: Okay.

Yes, Jim?

MR. HARD: Yes, I really agree with that because we had an awful lot of testimony from public retirees, public employment retirees. And, actually, we don't have anything in this report about them, per se. We have all this technical stuff about costs and everything. And, you know, as far as I was mentioning that I think the median salary of people in state service that my organization represents is like $31,000 a year.

Now, I'm not suggesting we use averages, because averages hide all kinds of stuff. Because just the range, maybe, of -- and the numbers, something like that, to describe what public employees -- what their salaries are and, therefore, pretty much what their retirement is going to be. Some facts like that.

Because I think that a lot of this, the background of this creation of this entire Commission was a pretty intense controversy over public employment and the retirement system. So I would really urge that we have that, something about the employees that we are concerned about.

CHAIR PARKSY: Well, I think you both make a very good point. And I hadn't thought about a preamble, but something like that that goes along. I'm going to try to craft a message at the beginning, a chairman's message, that will try to emphasize what everyone has said, which is the importance of public employment, the importance to the State. And between that and the preamble, get some of these points made. I think it's very good.

MR. PRINGLE: And, Mr. Chairman, in that, we were talking earlier that I think it would be myopic to overlook where there may be those folks who are at the higher end of that spectrum, or who double-dip. Yet I think we all know that that is a very, very small percentage of overall public employees.

And I don't think there is anything wrong with stating the obvious so people don't look like we pushed stuff under the rug.

Hey, there's examples of this, and those examples oftentimes stir the public sentiment. But it also misses the mark that there are X-percentage or so many employees that receive $700 a month after 25, 30 years’ worth of work.

I mean, to demonstrate that we're not just ignoring public employees that make $100,000, $120,000 a year, therefore, they're going to have a pension to match. But that certainly doesn't reflect the majority of public employees.

So I think the public looks to see where we -- you know, an honesty test for us, too. And I think it makes the fuller case if we don't ignore the fact that, yes, you've got this over here, but part of the discussion is to view the whole picture. And I think we have been very reasonable here in viewing the full picture and not overlooking any of the issues on the end of that spectrum.

CHAIR PARKSY: I think those are very good suggestions. We'll try to incorporate it.

Once again, I want to thank everyone for all your hard work. And we'll try to bring this to conclusion through this process of letting everyone look at the drafts.

And as I think everyone knows, I've been committed to a unanimous report, and I think we have the makings of that. So I'm very, very pleased.

DR. GHILARDUCCI: Yes.

MR. COGAN: Gerry, can you comment briefly on the --

DR. GHILARDUCCI: Timing?

MR. COGAN: -- how we're going to do this report? Is it public and to the Governor?

CHAIR PARKSY: It will be -- we haven't worked that out yet. But I'm hoping that the week of -- the first week of the new year that we can make it public and present it.

MR. COGAN: Merry Christmas, Tom.

CHAIR PARKSY: Since our charge is to do it by the end of the year, we're going to try to get a public schedule where everyone will be invited, and we'll see if we can't present it that way.

My goal would be to try to have it presented before the State of the State message, so that if the Governor chooses to include any of it, he'll have an opportunity to do so.

MR. COGAN: Great.

CHAIR PARKSY: Thank you all very much.

(*Proceedings concluded at 3:00 p.m.)*

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REPORTER'S CERTIFICATE

I hereby certify that the foregoing proceedings were duly reported by me at the time and place herein specified;

That the testimony of said witnesses was reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties to said deposition, nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand on the 18th day of December 2007.

DANIEL P. FELDHAUS
California CSR #6949
Registered Diplomate Reporter
Certified Realtime Reporter