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## **Economy & Efficiency Commission Meeting Minutes**

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### **MINUTES OF THE REGULAR MEETING ECONOMY AND EFFICIENCY COMMISSION**

WEDNESDAY, SEPTEMBER 8, 1993  
KENNETH HAHN HALL OF ADMINISTRATION  
500 West Temple St., Los Angeles, CA 90012

*Editorial Note: Agenda sections may be taken out of order at the discretion of the chair. Any reordering of sections is reflected in the presentation of these minutes.*

#### **I. CALL TO ORDER**

Chairperson Buerk called the meeting to order.

#### **II. APPROVAL OF COMMISSIONER'S ABSENCES**

##### **COMMISSIONERS PRESENT:**

Gunther Buerk, Chair  
Fred Balderrama  
Judith Brennan  
Marshall Chuang  
John A. FitzRandolph  
Louise Frankel  
Dr. Alfred Freitag  
John Fuhrman  
Carol Ojeda-Kimbrough  
Chun Lee  
Roman Padilla  
Robert Philiposian  
Randy Stockwell  
Betty Trotter

##### **COMMISSIONERS EXCUSED:**

Richards Barger  
Jack Drown  
David Farrar  
Dr. Mike Gomez

Daniel Shapiro

**COMMISSIONERS ABSENT:**

John Grande  
Efrem Zimbalist, III

**III. CONSIDERATION OF MINUTES**

AUGUST 4, 1993 COMMISSION MEETINGS

Commissioner Buerk asked for any amendments or objections to the August 4th Minutes.

Commissioner Padilla asked that the minutes reflect amendments he offered at the August meeting.

Resolved that: the Commission approve the minutes as amended.

Resolved that: amend remarks attributed to Commissioner Padilla on page 11. of the August minutes by deleting the last sentence of his remarks and replacing it with the following:

"He distributed a memo that demonstrated why the recommendations should move away from language such as "review and report" to "implement." He offered the following reasons for such a proposed change:

- The 22 October 1993 Board motion directed this Commission to "study risk management measures that may be instituted to reduce escalating costs to the County";
- The responsible departments have not adequately implemented county policy, as demonstrated by the consultant's study;
- The Commission recently employed decisive language in its recommendation on County economic growth;
- The consultants received significant input from the Commission into the formation of the report; and
- The 3 August 1993 L.A. Times piece heightened the necessity that this Commission take solid action."

The motion was moved, seconded, and ordered.

**IV. OLD BUSINESS**

**DEPARTMENT OF HEALTH SERVICES STUDY STATUS**

Commissioner Barger was absent. Mr. Staniforth reported that Commissioner Barger stated that he would be making contact with USC concerning participation in the DHS Study.

Chairperson Buerk reported that he had spoken with Commissioner Barger who stated that the USC Department of Public Administration was interested in participating in the DHS study, although the details have yet to be discussed.

**UNINCORPORATED AREAS BUDGETING TASK FORCE**

Commissioner Padilla reported that the Task Force had a meeting on August 31st with representatives of the Urban Research Service. The work plan was discussed along with subjects such as the cost of providing services to unincorporated areas, the possibility of integrating some city/County services, and incentives for certain areas of the County to incorporate. The Task Force hopes to deliver a report to the Commission late this year or early next year.

The Urban Research Service will furnish a status report to the Task Force as the project progresses. Also the new composition of the Task Force was discussed. Commissioner Padilla is the new chair, and Commissioner FitzRandolph is a new member of the Task Force.

**COUNTY BUDGET AND ECONOMIC GROWTH TASK FORCE**

Commissioner Philibosian had not yet arrived. The Task Force has not had any activity since the last Commission Meeting.

**PROPOSITION A ' CONTRACTING**

Commissioner Trotter requested that a letter be drafted to the Board concerning the Proposition A report. The Board has not taken any action on this report which they had requested from the Commission.

**LIABILITY AND RISK MANAGEMENT STUDY STATUS**

Commissioner Lee discussed the recent work of the Task Force. Three meetings were held. The first was with County Counsel and the consultants. The second meeting was with various department heads. The third meeting was to prepare the draft report for consideration by the Commission.

Commissioner Frankel asked if the centralization of the Risk Management Program was discussed with Department Heads.

Commissioner Kimbrough said it was discussed. The report recommends centralization in some areas such as management information systems, but also decentralization to the different departments in other aspects of the program.

Commissioner Frankel asked if County Counsel agreed with the figures used in the report.

Commissioner Lee stated that County Counsel did agree with the basic set of numbers from which the analysis of the report was completed. Since the Task Force focused their attention on the policy issues to be addressed within risk management the numbers were not emphasized, but rather used as indicators to these areas offering the greatest cost savings potential.

Mr. Staniforth stated per direction of the Commission, the Task Force, the Executive Director and the consultants met with County Counsel to discuss the basis of the numbers used in the report. That was carried out. County Counsel agreed that the report was utilizing the correct set of base numbers. A letter was sent to the Commissioners on September 3rd from the consultants acknowledging that they met with different departments and they have an agreed upon base set of numbers. After considering the revised base numbers, there continues to be a significant cost savings. The recommendations made in the consultant's report remain intact.

Mr. Lynch stated that it was important to understand that the base of numbers is dependent upon their classification. The numbers used are summary totals taken from County records. These totals are subject to the accounting classification of the numbers that go into it. It is difficult to get exact numbers because there is not a specific identification for a particular liability in the records. The revised numbers come to the same conclusions and recommendations that were originally presented. There is not a statistically pure number, but all sources point to these numbers as a reasonable indicator for action.

Commissioner Lee stated that at the last Task Force Meeting, they reviewed the draft and Commissioners Fuhrman's and Padilla's recommendations. Commissioner Fuhrman's recommendations were more operational than policy in nature. Commissioner Padilla's recommendations were addressed, in part, by modifying the document and the recommendations. The Board has set a date of September 21, 1993 to review the report. A motion was put forward:

Resolved that: the Commission approve the recommendations of the Los Angeles County Risk Management Program Review.

Motion was seconded.

Discussion:

Commissioner FitzRandolph asked about the source of the tort reform insights in the report.

Mr. Staniforth stated that the statements on page 6 of the report came from the May letter to the Board from a letter drafted by the County Budgets and Economic Task Force.

Commissioner Fuhrman stated that the proposals in the letter to the Board came from four different reports on Economic Competitiveness in California cited in the letter to the Board. The tort reform recommendations were drawn from the issues in which there were consensus.

Commissioner FitzRandolph stated that the tort reform issues seem more of a policy jump than the other recommendations. Tort reform is a difficult and sophisticated area and to have this Commission plunge into this area seems odd. These positions reflect a defense viewpoint.

Commissioner Padilla offered a motion to amend the present motion:

Resolved that: Recommendation 3 on page 10 should read as follows: Direct the Chief Administrative Officer in conjunction with County Counsel and the Auditor-Controller to change the Risk Management Program with the objective of improving efficiency and report to the Board on how to institute the necessary capabilities and operating processes to address tort liability risks, including timetables. Consideration will be given, in this and all subsequent recommendations, to all the specific recommendations in the McGladrey & Pullen study, as detailed on pages 46 through 57; that is, compelling arguments must be provided as to why the McGladrey & Pullen recommended course

of actions will not be pursued.

Delete the last sentence of recommendation 17, page 16.

Discussion:

Commissioner Kimbrough stated that the Task Force had discussed including the consultant's study as the basis for our recommendations, but the tenor here seems to get the CAO's Office to report on why the consultant's recommendations would not be viable if they ended up not following those recommendations.

The motion to amend the original motion was accepted with no objections.

Commissioner Fuhrman offered a motion for an additional recommendation:

Resolved that: That when the County is held liable, or accepts liability, on a Sheriff's Confidential claim due to inappropriate conduct by Deputies, that a record of such action be placed in the personnel files of the sergeant, watch commander, and station captain who were supervising the officers involved at the time of the incident.

Discussion:

Commissioner Balderrama stated that he could never support an issue like this. Being a watch commander is a tough job, with many officers under supervision. This is very negative approach.

Commissioner Brennan stated that it isn't fair to single out the Sheriff's Department even though they represent a majority of claims against the County. If a recommendation such as this is to be made, it should be County wide. She also shared the concern of Commissioner Balderrama. This is a personnel issue and may not come under the purview of this study.

Commissioner Frankel stated that in Commission studies, we can address heightened supervision and the delay in settling disputes, but it is not in the purview of Commission reports to particularize how a department should operate. That is up to the department head or the Board.

Commissioner Fuhrman asked if Commissioners would be more comfortable with a more general approach by stating that County management in all department would be held accountable when individuals under their control cause the County to be responsible for liability claims?

Commissioner Lee stated that the Task Force has had a thorough discussion of these issues with representatives of different departments. It was felt the amendment offered deals with operational issues, not risk management issues.

The motion to amend the original motion with an added recommendation was voted upon and failed.

Commissioner Philibosian stated that it has been recommended by members of the Task Force that Commissioners Barger, Farrar, and himself abstain from voting on this matter because on occasion, their law firms do perform legal services to the County. He stated that his law firm has never performed tort defense services for the County. Out of deference to the Task Force members, he abstained from voting.

The motion to adopt the recommendations of the Task Force contained in the Los Angeles County Risk Management Program Review was voted upon adopted.

Commissioner Philibosian abstained.

Chairperson Buerk stated that the report would be presented to the Board on September 21st and requested that the Task Force Chair be present for that Board Meeting. He asked that the consultants also attend the meeting.

## **PENSION FOLLOW-ON STATUS**

Commissioner Freitag gave some background information concerning the Task Force's work in drafting the report being presented.

Resolved that: the Commission adopt the report of the Pension Task Force and the recommendations made within the report and send it to the Board of Supervisors.

The motion was seconded by Commissioner Padilla.

Commissioner Fuhrman had some wording changes.

Resolved that the motion be amended with the following word changes:

On page 1, at the beginning of the Executive Summary.

The Economy and Efficiency Commission in its 1992 report to the Board analyzed how the County incurred an unanticipated \$400 million dollar increase in pension liability. This unfunded liability was an indirect result of converting County employees to cafeteria style benefits plans.

These plans provide employees a specific amount of money, over and above their salary, with which to pursue a range of benefits -- or to take in cash as a supplement to their take home pay. In technical terms, this is called their available cash option.

Unfortunately, according to State law, this available cash option is included with salary when calculating "compensation earnable" which then determines the dollar value of employees' pensions. This available cash option thus inflates final year salaries which then inflate pensions.

The long term effect, according to actuarial calculations, is a \$400 million dollar increase in the present value of the County's pension liability.

In that same 1992 report, the commission offered a range of suggestions to ameliorate the fiscal impact.

This report was undertaken in response to the desire of the Board of Supervisors further to explore and document cost savings alternatives in the design of the current Los Angeles County Retirement System.

On the last line of page 1 after the word County insert:

- perhaps up to \$20 million dollars annually.

In Recommendation 3, the following words should be added to the beginning of the first sentence:

"The Board of Supervisors should urgently request that..." and remove the word "should."

In recommendation 4, add the word "should" after Supervisors.

At the bottom of page 7, the first sentence of the last paragraph should read:

Various legal opinions have concluded that current employees cannot be affected by any change...

On page 9, between section a. and b. insert the following paragraph:

In this context, we should note particularly the indirect connection between medical benefits costs and pension costs. As medical costs rise (and are likely to continue rising), the benefit levels rise in tandem, thus boosting the available cash option and, therefore, pensions. The LACERA actuaries have apparently not factored this cost driver into their calculations. Very possibly, then, even now, our pension liability projections are significantly understated.

on page 11, at the bottom of the page, insert this paragraph:

Thus, the Commission concludes--contrary to the advice of County Counsel--that there is no legal impediment to implementing these recommendations even though they affect, current employees with their pension rights.

Discussion:

Commissioner Brennan asked if this was the first time that the Task Force has seen these suggested changes.

Commissioner Frankel responded affirmatively.

Commissioner Brennan suggested that the Task Force meet for five minutes to conduct a thorough review of the proposed changes. She was not comfortable acting on this amendment until the Task Force had a chance to review this.

Chairperson Buerk reminded the Commission that this was not a Task Force meeting and they should not get into fine-tuning word changes, but to focus on the recommendations.

Commissioner Padilla offered another amendment, and amendment to the amendment.

Resolved that: Recommendation 1 by deleting "under existing" and replacing it with "by modifying, as required, current practices and..."

Add to the last paragraph on page 11:

Therefore, the Board can in effect and legally reverse the current County practice of "pension spiking" (The practice of allowing current, non-represented employees megaflex/flex contributions to be considered as "compensation earnable") by instituting the following :reduce the current flex/megaflex contribution to a low enough amount (percentage) such that all current employees will voluntarily opt out of the current flex\megaflex plan and choose the new (non-"pension- spiking") tier plan as provided for in recommendation 5. Additionally, this can be accomplished now, that is, the Board does not have to wait until the passage of AB 1659. This is consistent without the previously mentioned policy on page 4: "This Commission feels strongly that any such unintended (increase in pensionable compensation) ....should be eliminated."

I further move that recommendation B be deleted and be replaced with:

Direct the CAO and County Counsel to reduce flex and megaflex contributions (that is, amend County Code) such that all the current participants will voluntary opt out of the current plan and chose the newly developed tier plan as provided in recommendation 5.

The motion was seconded by Commissioner Kimbrough

Chairperson Buerk instructed the Task Force to meet during a recess to consider the changes proposed in the amendment, concentrating on changes to recommendations. When the meeting reconvenes, the Task Force will recommend to the Commission whether to adopt any of the changes that have been proposed.

Commissioner FitzRandolph made a motion:

Resolved that: The Commission table the report.

The motion was seconded by Commissioner Brennan.

The motion was voted and failed.

Meeting recessed at 11:10 a.m.

Meeting resumed at 11:35 a.m.

Chairperson Buerk felt that Commissioner Padilla's amendments were noteworthy however the Task Force decided not to go forward with the discussions on the amendments due to considerations of time.

Commissioner Freitag stated that the Task Force decided to continue with the original recommendations in the report and not to include the amendments offered. The vote was 3 to 1 and the Chair did not vote.

Chairperson Buerk asked for a vote on the various amendments, the first being offered by Commissioner Padilla as the amendment to the amendment.

Motion of Commissioner Padilla was voted upon and failed.

Motion of Commissioner Fuhrman to amend the recommendations of the Task Force was voted upon and failed.

Motion to adopt the recommendations of the Task Force and present them to the Board was voted upon and was adopted. Commissioners Padilla and Fuhrman abstained.

Mr. Staniforth asked that the Commission authorize any editorial changes that may need to be made.

Commissioner Trotter offered a motion:

Resolved that: the Commission empower the Executive Director to make editorial changes and update the report in reference to the status of AB 1659.

Motion was seconded, voted upon and adopted.

Commissioner Kimbrough asked that someone come in and explain the Brown Act to the Commission because some of the problems that has surrounded the two reports

Chairperson Buerk requested staff to invite a representative from County Counsel speak to the Commission next month concerning the Brown Act.

## **V. NEW BUSINESS**

See Pension Task Force Update for the consideration for approval and transmittal to the Board of Supervisors of the draft entitled: A Strategy to Reduce Retirement Costs within Los Angeles County.

### **LEGAL OPINION**

Consideration was given to the adoption of the Legal Opinion Concerning Deferred Compensation provided by Independent Counsel.

Chairperson Buerk asked that the Commission consider a motion to adopt the legal opinion.

Resolved that: the Commission approve the Legal Opinion on Deferred Compensation of the Independent Counsel and transmit it to the Board.

Motion was seconded, voted upon and approved with ten affirmative votes and one negative vote by Commissioner Fuhrman.

Commissioner Fuhrman offered a motion:

Resolved that: The Pension and Risk Management Reports be sent to the new CAO, Sally Reed.

The motion was seconded, moved and ordered.

## **VI. PUBLIC COMMENT**

None

## **VII. ADJOURNMENT**

Upon a motion and approval of the Commission, the meeting was adjourned at 12:10 p.m.

Respectfully Submitted,



Bruce J. Staniforth  
Executive Director

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