



ASSESSOR

TREASURER-TAX COLLECTOR

AUDIT/FISCAL COMMITTEE





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AUDIT/FISCAL COMMITTEE

The 2002/2003 Audit/Fiscal Committee reviewed the following areas:

- Assessor
- Auditor/Controller
- Treasurer/Tax Collector
- Grand Jury Budget

The committee determined that a full audit of any department was not required since the 2001-2002 Grand Jury had performed one, and the County Administrative Office was conducting two audits.

Each department was visited and interviewed for conformity to previous years' Grand Jury recommendations.

The committee monitored the budget for the 2002-2003 Grand Jury, keeping all expenditures within the budget. In addition, recommendations were made to improve the budget for the 2003-2004 Grand Jury.

Supervisors Hansberger and Postmus raised the question of the payment of judicial benefits during a Board of Supervisors meeting. Therefore, a thorough investigation into the County making payments to Superior Court Judges was conducted. Our findings and recommendations are herewith included.

GRAND JURY BUDGET

BACKGROUND

The County Administrative Office has, with few exceptions, given little thought to the Grand Jury budget. It sets their budget at a figure that Grand Juries have spent in preceding years.

FINDINGS

Currently the County is facing a shortage of funds and has, therefore, decreed a four percent (4%) cut across-the-board for fiscal year 2002-2003 and a 30 percent cut for fiscal year 2003-2004 for all County departments. The Grand Jury is not a County department but is the investigative arm of the Superior Court of California, County of San Bernardino.

The current four percent (4%) budget for FY 2002-2003 was easily accommodated as this Grand Jury decided that, even though a management audit would have been beneficial for some departments, the expenditure of \$26,014 budgeted for audits would be returned to the General Fund in the interest of fiscal responsibility.

The Audit/Fiscal Committee of this Grand Jury has monitored the 2002-2003 budget. Contrary to a report by the CAO, a criminal Grand Jury was impaneled during the term of this Grand Jury and their remuneration and expenses were charged against the 2002-2003 Grand Jury budget.

It would be pure conjecture whether or not one or more criminal Grand Juries will have to be impaneled in fiscal year 2003-2004.

Under California Penal Code Section 926(a) the Grand Jury, in its own judgment, may employ one or more experts at compensation to be approved and agreed upon by the court, not to exceed \$30,000. The Board of Supervisors shall approve any expenditure in excess of this figure. In other words, by State law, a sum not to exceed \$30,000 must be given to the Grand Jury by the County if requested.

Grand Jury members currently receive \$25.00 per day per diem, lunch at \$9.00 per day, and mileage at the rate of 36 cents per mile. The average Grand Juror has meetings three days a week, and the total cost of these items is approximately \$10,940 per month. Historically, an average of 3.2 days per week are necessary for the Grand Jury to perform its function.

Each County department was requested by the CAO to submit plans to implement the 30 percent projected budget reduction. The Grand Jury was not consulted, and even though it is not a County department, certain elements of its budget are in the control of the County. The recommended reduction in juror stipends will reduce the workweek to 2.2 days.

The CAO has stated that if the 2003-2004 Grand Jury needs additional funds for stipends and audits, they can go to the Board of Supervisors for a mid-term increase in funding. Since audit funds up to \$30,000 must be provided to the Grand Jury and historically the workweek necessary to perform its function, 3.2 days, a mid-term increase is assured.

RECOMMENDATIONS

- 03-08 CONSULT WITH THE GRAND JURY REGARDING PROPOSED CUTS TO ITS BUDGET, AND OBTAIN THE GRAND JURY'S INPUT.

- 03-09 THE COUNTY ADMINISTRATIVE OFFICE ADDRESS, HONESTLY, THE QUESTION OF BUDGET REDUCTIONS WITHOUT USING THE ACROSS-THE-BOARD, ONE SIZE FITS ALL, CUTS.

- 03-10 THE COUNTY ADMINISTRATIVE OFFICE REVERT TO A SYSTEM WHEREBY REASONABLY ANTICIPATED EXPENDITURES ARE BUDGETED AND THE NEED FOR FUNDS IN MID-YEAR NEED NOT BE BROUGHT TO THE BOARD FOR APPROVAL.

JUDICIAL BENEFITS

BACKGROUND

In 1991 local Municipal and Justice Courts were merged, and following that consolidation all said judges heard the same types of County court cases, equally assigned. In recognition, the San Bernardino County Board of Supervisors equalized the benefits paid to the County's judges, effective July 1, 1994.

In 1997 a second consolidation took place when the State of California enacted the Trial Court Funding Act of 1997 (AB 233), which abolished Municipal Courts and declared that Municipal Court judges were, henceforth, Superior Court judges. Thus, all judges since 1997 are employees of the State of California and no longer San Bernardino County employees. AB 233 recognized that counties had been paying various benefits to Municipal Court judges prior to 1997 such as dental care and/or auto allowance and/or retirement contributions, etc. AB 233 provided that continuance, modification or abolition of such benefits was left to the discretion of the San Bernardino County Board of Supervisors.

FINDINGS

San Bernardino County, facing a fiscal crisis for the 2003-04 fiscal year, is planning to lay off 218 County employees, some having been employed by the County for years. Yet, the County Administrative Office finds it unnecessary to reduce or eliminate County provided benefits for Superior Court Judges who are State employees.

Superior Court judges are employees of the State of California. They receive compensation and benefits from the State of California, as do all State employees.

Superior Court judges have a starting salary of \$118,000 annually and receive regular pay raises every three (3) years. They also receive from the State of California a retirement package, educational benefits and medical plan.

Departments throughout the County are being forced to reduce their staff, operating costs and budgets, while San Bernardino County continues to pay State employees.

Superior Court judges are not employees of San Bernardino County.

There is no State regulation, law or requirement that counties in California must pay any amount of money or any benefits to Superior Court judges.

Each year on July 1 the San Bernardino County Board of Supervisors renews a policy of providing financial benefits to Superior Court judges.

San Bernardino County currently pays all 63 Superior Court judges the amount of \$745.06 biweekly, which amounts to \$19,371.56 annually, per judge. This is a total annual cost to San Bernardino County residents of \$1,220,408.20. The twice-monthly payments are broken down as follows:

- \$176.92 Automobile Allowance
- \$250.00 Membership & Educational Allowance
- \$153.52 Professional Development Allowance
- \$23.08 Personal Security Allowance
- \$4.54 Retirement Allowance (to offset their costs for participation in the State's retirement system)
- Premium for a \$50,000 life insurance policy
- Employer's share of Social Security Medicare contributions

Examples of what other counties in California pay to Superior Court judges' follows:

ALAMEDA: \$1,350 for a cafeteria benefit plan per judge, annually, for a total cost of \$150,500 for all judges (69 judges).

FRESNO: Pays \$1,121.42 per judge for health insurance and \$92.56 per judge for life insurance, annually. A total annual cost of \$26,707.56 (36 judges).

RIVERSIDE: Pays judges a car allowance, deferred compensation and life insurance policy, for a total annual cost of \$600,000 for all judges (49 judges).

SAN DIEGO: Superior Court judges are employees of the State of California; therefore, San Diego County pays nothing (128 judges).

SANTA BARBARA: Superior Court judges are not employees of the County and, therefore, the County pays them nothing (19 judges).

SANTA CLARA: Pays for a \$25,000 life insurance policy and nothing more (79 judges).

SAN JOAQUIN: Pays \$18,000 per year for all former Municipal Court judges only (health, dental, vision and life insurance). As these judges leave the bench, these annual costs are terminated (26 judges).

The payment of any money to Superior Court judges from the County Board of Supervisors raises some legal questions concerning recusal on the part of the judges should the County of San Bernardino ever be a party in some lawsuit. Should a Superior Court judge receiving \$19,371 annually be allowed to hear such a case?

A California State Deputy Attorney General recently wrote in a brief filed with the Superior Court: "It is ... the responsibility of the public agency to provide the public with the information it needs to make its contribution". San Bernardino County Board of Supervisors needs to inform the public of its payments to Superior Court judges and not commingle the payment in a budgeted item classified as courthouse maintenance, but is actually a payment of County monies to State employees.

We have been advised that the caseload per judge in San Bernardino County is the highest in the State of California. However, it is the duty of the judges' employer, the State of California, not the County of San Bernardino, to address and rectify this inequity.

The law is clear that the County of San Bernardino has the authority to terminate judicial benefits at any time and at their discretion. The Board of Supervisors has been previously notified of this.

RECOMMENDATIONS

- 03-11 THE BOARD OF SUPERVISORS IMMEDIATELY REVIEW PAYMENTS MADE TO SUPERIOR COURT JUDGES.

- 03-12 THE BOARD OF SUPERVISORS TAKE A FIRM STANCE, SIMILAR TO MANY OTHER COUNTIES IN CALIFORNIA, AND TERMINATE OR REDUCE COUNTY BENEFITS TO JUDGES.

- 03-13 NO NEWLY ELECTED OR APPOINTED JUDGES BE OFFERED ANY COUNTY BENEFITS.