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62. CalPERS has not provided similar sensitivity analyses showing the impact of discount rate changes on UAL Payments, but it seems logical to expect that they would increase proportionately to the increases in the accrued liability numbers.
63. It is foreseeable that the County's credit rating would suffer in a severe or protracted recession. Apart from the usual factors, this would be driven in part by the anticipated increase in the County's unfunded pension liability and greater difficulty in servicing that liability in the ordinary course. For accounting purposes, unfunded pension liability is viewed as a form of debt.
64. There is no appellate-level legal precedent in California as to whether a local government may modify pension entitlements in a bankruptcy. In the Chapter 9 cases filed by the Cities of Vallejo, Stockton and San Bernardino, none of those debtors decided to attempt to alter the existing pension rights of their employees or retirees as part of their final plans. However, one bankruptcy judge did opine that the City of Stockton could reject its pension contracts with CalPERS and modify the terms of existing pensions. *See In re City of Stockton*, 526 B.R. 35 (Bankr. E.D. Cal. 2015). *See generally* Glassman, P. and Saenz, G., "A Guide to Municipal Bankruptcy for City Attorneys", *League of California Cities Annual Conference* (September 2018).
65. Based on the County's 2017-2018 Financial Statements, Plumas County is currently supporting \$7.19 million in net OPEB liability. A detailed consideration of this liability is beyond the scope of this report.
66. This report was substantially written prior to the March 2020 coronavirus stock market crash, with final edits being made at that time. For reasons detailed in this report, these recent developments do not bode well for the pension liability prospects of Plumas County.

***Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or any facts leading to the identity of any person who provides information to the Grand Jury.***

# **COMPLIANCE AND CONTINUITY REPORT:**

## **2018-2019 Grand Jury Report**

### **SUMMARY**

The 2019-2020 Plumas County Civil Grand Jury reviewed the responses to the two investigative reports issued by the 2018-2019 Plumas County Civil Grand Jury, to assess compliance with the California Penal Code. The complete text of these reports can be accessed at the following website:

<http://www.countyofplumas.com/index.aspx?nid=216>

The website also provides links to the responses given by the County agencies to the Findings and Recommendations contained in the reports.

### **BACKGROUND**

California Penal Code Section 933(a) requires the grand jury to “submit to the presiding judge of the superior court a final report of its Findings and Recommendations that pertain to county government matters during the fiscal or calendar year.” Governing bodies or department officials are required to respond to the Findings and Recommendations directed to them within 90 days of the release of a grand jury’s report. Elected County officials are required to respond within 60 days. (PC §933(c)).

This Compliance and Continuity Report focuses only on the Penal Code requirements for responding to the Recommendations.

Penal Code Section §933.05 states that the body or official is required to select one of four possible responses to the Recommendations (PC §933.05(b)):

- 1) The Recommendation has been implemented, with a summary of the action taken;
- 2) It will be implemented, with a timeframe for implementation being provided;
- 3) It requires further analysis, with an explanation and the scope of the analysis and a timeframe for response being provided of not more than six months from the release of the report; or
- 4) It will not be implemented because it is not warranted or is not reasonable, with an explanation being provided.

The 2018-2019 Civil Grand Jury issued the following reports in its consolidated report dated June 3, 2019:

Portola Fire and Emergency Medical Services Report  
Plumas County Elections

This Compliance and Continuity Report focuses on responses to the Recommendations made by the 2018-2019 Civil Grand Jury. The two reports contained four Recommendations, which required, in total, eight responses from five different persons, agencies or departments. Five responses were received within the Penal Code's specified timeframes, but one response was not timely received. The response that was not received on a timely basis was from the Portola City Council. The response was due on May 13, 2019 but was postmarked June 13, 2019.

### **METHODOLOGY**

The 2019-2020 Civil Grand Jury evaluated responses to the 2018-2019 Civil Grand Jury Recommendations to ensure compliance with the governing sections of the Penal Code (PC §933.05(b)). The following criteria were considered:

1. If a response indicated that a Recommendation had been implemented, did it include a summary of what was done?
2. If a response indicated that a Recommendation would be implemented, did it include a summary and timeframe for what would be done?
3. If a response indicated that a Recommendation required further analysis or study, did it include an explanation of the scope, parameters, and timeframe of the proposed analysis or study?
4. If a response indicated that a Recommendation would not be implemented because it was unwarranted or unreasonable, did the respondent include a reasoned explanation supporting that position?

### **DISCUSSION**

The following tables offer a summary of the responses provided to the 2018-2019 Civil Grand Jury's two reports, as assessed by the 2019-2020 Civil Grand Jury. In some cases, the responses contained additional details that are not included in the table.

#### **Portola Fire and Emergency Medical Services**

The 2018-2019 Civil Grand Jury initiated an investigation of the Portola Fire Department and its contractual relationship with the Eastern Plumas Rural Fire Protection District (EPRFPD) to review its service to the public. In December 2017 the Portola City Council decided to stand down its volunteer fire department. The report was issued on March 15, 2019, with responses

required from both the Portola City Council and the Eastern Plumas Rural Fire Protection District Board of Directors. The required responses were received from both agencies, dated June 13, 2019 and May 23, 2019 respectfully. The complete responses submitted for this report appear on the Plumas County Grand Jury website at <http://www.countyofplumas.com/Archive.aspx?AMID=38>

PORTOLA FIRE AND EMERGENCY MEDICAL SERVICES				
<p>R1-6. The 2018-2019 Plumas County Civil Grand Jury recommends that the Portola City Council and the Board of Directors for the Eastern Plumas Rural Fire Protection District enter into a Joint Powers Agreement for mutual fire and EMS coverage when the current contract expires on June 30, 2020.</p> <p>Pursuant to Penal Code section 933.05, the Plumas County Civil Grand Jury requires responses from the following governing bodies:</p> <p style="padding-left: 40px;">Portola City Council (R1-6) Eastern Plumas Rural Fire Protection District Board of Directors (R1-6)</p>				
Responding Agency	Recommendation	Response Date; Response Timely or Tardy?	Content responsive to PC §933.05(b)?	Summary of Reply and 2018-19 Civil Grand Jury Analysis
Portola City Council	R1-6	June 13, 2019 / Tardy. (Response by elected officials are due within 60 days of the report – answer was due by 5/14)	Yes	The City agrees with the findings of the Civil Grand Jury and the City intends to negotiate with Eastern Plumas Rural Fire Protection District for a joint powers agreement for fire and EMS coverage. Grand Jury acknowledges that the contract expires 6-30-20 and negotiations are ongoing.
Eastern Plumas Rural Fire Protection District Board of Directors	R1-6	May 23, 2019 / Timely (Governing Body responses due within 90 days)	No – response should include timeline for completion of the process see Penal Code §933.05(b)(2)	The District agrees to negotiate with the Portola City. (note: the current contract doesn't expire until 6/30/20 so negotiations are ongoing as of this report)

## Plumas County Elections

The 2018-2019 Civil Grand Jury initiated an investigation of the Plumas County Elections Department (run under the County Clerk-Recorder’s Office) to review the complete voting process, the status of updating equipment and software, and staffing and training of personnel.

The report was issued on June 3, 2019, with responses required from the County Clerk-Recorder’s Office/Plumas County Elections, Board of Supervisors and the County Administrator.

The complete responses submitted for this report appear on the Plumas County Grand Jury website at <http://www.countyofplumas.com/Archive.aspx?AMID=38>

PLUMAS COUNTY ELECTIONS				
<p>R1. The Civil Grand Jury recommends that the Plumas County Elections establish a written departmental policy and procedures manual, or at a minimum develop a fully integrated table of contents or index to facilitate efficient usage of the various procedures. Such manual should include procedures confirming that the quantitative limit set out in Elections Code §3005 is satisfied in connection with each election. It is also recommended that the Elections Division confirm with County Counsel or other appropriate counsel compliance with Elections Code §3005.</p> <p>R2. The Civil Grand Jury recommends that the Elections Division seek, the County Administrator consider recommending, and the Board of Supervisors deliberate and consider approving, funding for the purchase and installation of new voting system equipment and software in order to comply with AP 19:020.</p> <p>R3. The Civil Grand Jury recommends that the County Administrator inquire into why the vacant position in the County Clerk’s Office remains unfilled and that findings be reported to the County Board of Supervisors for consideration of further action.</p> <p>Pursuant to Penal Code section 933.05, the Plumas County Civil Grand Jury requires responses from the following governing bodies:</p> <p style="padding-left: 40px;">Plumas County Clerk-Recorder’s Office/Election Division (R1, R2, R3) Board of Supervisors (R2) County Administrator (R2, R3)</p>				
Responding Agency	Recommendation	Response Date; Response Timely or Tardy?	Content responsive to PC §933.05 (b)?	Summary of Reply and 2018-19 Civil Grand Jury Analysis
County Clerk / Elections	R1	June 12, 2019; Timely	No – response should include timeline for completion of the process see	Elections Division is currently working on a procedure manual and will continue to update as laws are updated. Will also advise County Counsel prior to each election

			Penal Code §933.05(b)(2).	of their compliance with Elections Code. The Grand Jury recommended that the Elections Division “confirm with” County Counsel and not simply advise County Counsel of their compliance with Elections Code §3005.
County Clerk / Elections	R2	June 12, 2019; Timely	No – response should include timeline for completion of the process see Penal Code §933.05(b)(2)	Will work with the County Administrator to provide Board of Supervisors with needed information to approve funds for updated equipment and software.
Board of Supervisors	R2	July 9, 2019; Timely	Yes	Will be implemented by 12/31/19
County Administrator	R2	July 7, 2019; Timely	No – response should include timeline for completion of the process see Penal Code §933.05(b)(2)	The County Clerk-Recorder’s recommendations were thoroughly researched and provided to the Board of Supervisors.
County Clerk / Elections	R3	June 12, 2019; Timely	No – response should include timeline for completion of the process see Penal Code §933.05(b)(2)	County Clerk has requested reclassification of the open position on two prior occasions. Response should focus on upcoming plans to address issue and not prior actions.
County Administrator	R3	July 7, 2019; Timely	Yes	Ongoing meetings are being held with upcoming meetings scheduled in July 2019.

## CONCLUSION

The Grand Jury appreciates all departments and agencies that replied to the 2018-2019 Grand Jury’s findings. It is important for responses to be complete and responsive so the public can know when to expect actions to be taken to address highlighted issues.