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## **PERTUSSIS (WHOOPIING COUGH) A DEADLY MENACE**

### **BACKGROUND**

Between January 1 and October 19, 2010, there were 6,257 confirmed, probable and suspect cases of Pertussis reported to California Department of Public Health for a state rate of 16.0 cases/100,000. This is the highest number of cases reported in 60 years since 6,613 were reported in 1950. It is the highest incidence in 51 years when a rate of 16.1 cases/100,000 was reported in 1959.

Beginning in July of 2010, the Tulare County Immunization Program began vaccination clinics for the public. They received over 7,500 doses of Tetanus Diphtheria Adult Pertussis (Tdap) vaccine from the State of California for the purpose of protecting infants too young to be fully vaccinated. The plan is to “cocoon” the infants by surrounding them with fully vaccinated parents, grandparents, siblings and other caretakers.

### **REASON FOR INVESTIGATION**

With California’s current Pertussis epidemic prominent in the news, the 2010-2011 Tulare County Grand Jury decided to investigate the County’s readiness and preparation for handling this deadly disease.

### **PROCEDURES FOLLOWED**

1. Interviewed relevant witnesses
2. Reviewed relevant documents

### **FINDINGS**

1. California has the largest number of confirmed cases of Pertussis within the United States.
2. In 2010, there were 10 deaths due to Pertussis in California. Nine were infants less than two months old.
3. Tulare County falls in the midrange of cases reported by California counties.
4. Pertussis is an airborne bacterial respiratory illness. It can be spread from person to person by droplets released by coughing and sneezing.
5. Infants are at high risk because they are not vaccinated until they are about six weeks old. Adolescents and adults are also at risk to Pertussis because their immunity has waned from their childhood vaccinations. Two different vaccines

are used in the prevention of Pertussis. Diphtheria Tetanus Acellular Pertussis (DTaP) is given at six weeks of age. Tetanus Diphtheria Adult Pertussis (Tdap), is a booster given to youths and adults.

6. Approximately 1,500 doses of Pertussis vaccine were given throughout the county in November and December of 2010. The locations included swap meets, farmers markets, Tulare County Works Office, W. I. C. Offices, McDermott Field House, Tulare Outlet Mall, Tulare and Visalia Veterans Memorial Buildings, and at some school sites.
7. Depending on clinic attendance, vaccination costs range between \$8.00 and \$24.00. Another variable in determining cost included whether County employees or Maxim (a contracted health care personnel provider) administers the vaccinations.
8. Assembly Bill 354 (AB 354) requires all incoming students from 7th grade through high school to be immunized against Pertussis beginning July 1, 2011. The contract between the State and Maxim was extended, but cannot be utilized for the purpose of satisfying this new (unfunded) school mandate. Maxim can only be utilized to "cocoon infants." Children eligible for the Vaccines For Children (VFC) program can go to an Immunization Action Program (IAP) clinic and all others to their personal doctor for this vaccine.
9. Parents can easily opt out of having their children immunized by signing a form citing religious or medical objections.
10. Due to funding and staffing issues as of January 1, 2011, there will no longer be any clinics other than the regularly scheduled IAP clinics. Adults are welcome to attend IAP clinics for Tdap vaccine.
11. Tdap is offered in the County's Mobile Health Unit by appointment. All three birthing hospitals; i.e., Kaweah Delta Medical Center in Visalia, Tulare Regional Medical Center in Tulare and Sierra View Hospital in Porterville refer families of newborns for vaccinations.
12. Tdap is offered to parents of newborns coming into the Vital Statistics Office for birth certificates.
13. Immunizations with Tdap are strongly recommended by the Tulare County Health and Human Services Agency (HHSA) for anyone in a home where newborns and/or infants reside, or are cared for.

## **CONCLUSIONS**

Due to the restrictions placed by the State, HHSA cannot use State supplied vaccines to conduct immunization clinics to include all students in each school.

Lack of funding limits HHSA personnel from conducting more clinics for purposes of cocooning, even though the County has access to vaccines from the State at no cost.

## **RECOMMENDATIONS**

1. Tdap boosters be given every five years until the age of 65.
2. Improve communication between HHSA and school districts on implementation of AB 354.
3. To prevent the spread of Pertussis, it is recommended:
  - a. infants, children, and adults, especially new parents and care providers of infants, be up-to-date on immunizations for protection against Pertussis, as well as other vaccine-preventable diseases,
  - b. individuals cover their mouth when coughing or sneezing, and
  - c. individuals wash their hands thoroughly and often.

## **REQUIRED RESPONSES**

Board of Supervisors  
Health and Human Services Agency

## **“SALARY SPIKING” AND OTHER BENEFIT ENHANCEMENTS FOR TULARE COUNTY PENSION PLAN PARTICIPANTS**

### **BACKGROUND AND REASON FOR INVESTIGATION**

During an investigation of Tulare County’s Employees’ Retirement Association (TCERA), it came to the attention of the 2010-2011 Tulare County Grand Jury (Grand Jury) that certain currently allowed maneuvering of job benefits by County employees results in increasing lifelong pension benefits payable to those employees upon retirement. The maneuvering is referred to by those familiar with the process as “Salary Spiking”. This report is the Jury’s attempt to bring the process to light so that the public can better understand the impacts on the County’s finances.

This report is also an opportunity to review some of the enhancements that have been made to the Tulare County employees’ pension plan (the Plan) in recent years. There is a heightened level of recent public interest and media reporting on public pension plans and the increasing pressure put on public treasuries to maintain adequate funding levels for these plans. The Grand Jury is attempting to make as much information available on the subject as possible in this year’s reports. This report is a companion to this year’s Grand Jury report called Tulare County Employee Retirement Plan.

### **PROCEDURES FOLLOWED**

1. Attended TCERA board meetings
2. Interviewed relevant TCERA plan administrators and board members
3. Interviewed relevant County officials
4. Reviewed relevant documents

### **FINDINGS**

1. Policies regarding pension benefits afforded the employees of the County are determined by the County’s Board of Supervisors (BOS), with input from the governing board of TCERA.
2. Some benefits given to Tulare County employees are in the form of a “flex benefit”. The flex benefit is given in a certain annual dollar amount and that amount differs according to the employee’s bargaining unit, job description, and salary. The amount of “flex benefit” can range from \$5,785 to \$27,101 and averages \$7,584 per employee annually. From the dollar amount granted, employees can purchase benefits including, but not limited to, health, vision, dental and life insurance. Several plans are available to choose from, with differing levels of costs and coverage. Because of the choices available, these types of benefits are commonly referred to as “cafeteria style” benefits.
3. Each year, when the “flex benefit” is offered, the employee is given two choices as to

how the benefit is reported to the Internal Revenue Service:

- a) The benefit amount can be reported as pre-tax income. In this case no income tax is paid by the employee upon receipt of the benefit, or
- b) The benefit amount can be reported as taxable income.

For obvious reasons, benefits are almost always taken as pre-tax income. But an employee may choose to have his “flex benefit” reported as taxable income for purposes of increasing his/her taxable income for pension benefit purposes.

4. A Plan member’s retirement pay is determined by four factors. These factors are:

- a) the employee’s membership type (for instance public safety member pension benefits are higher than general member pension benefits),
- b) years of service,
- c) age at retirement, and
- d) final average monthly salary (for most members an average of the highest consecutive 36 month period).

5. It is possible for Plan members to have their “flex benefit” paid to them as taxable income for the final 36 months of employment in order to show an increased level of income to be used in calculating their pension benefit. This is commonly referred to as “salary spiking” and employees are counseled in its use when they receive pre-retirement counseling provided by TCERA as administrator of the Plan.

6. Some County employees, by way of labor contract negotiations, are permitted to “cash out” some vacation leave and/or sick leave time. This additional pay is counted toward final average monthly salary and can result in enhanced pension benefits.

7. In some cases, it is possible for County employees who use a County vehicle in their work to opt to use their personal vehicle and instead receive a car allowance. This allowance is then included in final average monthly salary and can result in enhanced pension benefits.

8. Prior to 2005, most Tulare County employees’ basic pension benefit was 2% of final average salary per year of service if the employee retired at age 61¼. In 2005 the benefit was changed to 2% of final salary at age 57. If retirement is postponed past age 57, the 2% multiplier is raised. The multiplier is 2.6% per year of service if the employee retires at 62. Safety employees now receive 2% at 50, and 2.6% at age 55.

9. TCERA, in accordance with its role as administrator of the Plan, maintains a separate account known as the Supplemental Retiree Benefit Reserve (SRBR). The monies in the SRBR fund (about \$120 million at the end of June, 2010) are described by

TCERA as having come from “excess earnings (that is those earnings above what the plan expects to make on its investments each year)”. Of earnings deemed to be “excess earnings” about 50% are put into the SRBR.

10. Additional retirement benefits are paid from the SRBR to retired Plan members in two ways:
  - a) A member with a minimum of ten years service receives \$18 per month for each year of service up to a maximum of twenty years of service. Therefore, supplemental monthly benefits range from \$180 to \$360 per month, or \$2160 to \$4320 per year.
  - b) An additional cost-of-living adjustment (COLA) is applied if a retiree’s benefits purchasing power falls by more than 15%. This additional COLA (there are already COLA provisions in the basic pension’s benefits) will retain the basic monthly allowance’s purchasing power at 85%.
11. The SRBR benefits are granted by Tulare County with no explicit or implicit guarantees. TCERA has the right to reduce or delete these benefits at any time and explains this in its Members’ Benefit Portfolio. Also stated is TCERA’s intention to “structure benefit programs from the SRBR that will allow payments to be made for many years.”

## CONCLUSIONS

1. ***The pension benefits paid on the portion of salary that results from spiking techniques are paid to the retiree for life. But the benefitting employee may have only contributed to the Plan on that portion of salary for a short period of time, commonly 36 months.*** This is an unfair burden on the County (meaning, of course, the taxpayer). As it is, the County will experience rapidly increasing contribution levels to the Plan for many years to come in an effort to keep up with what are already unsustainable benefit levels (please see this year’s Grand Jury report on Tulare County Employee Retirement Plan).
2. The benefit level enhancements described in finding 8 have contributed substantially to the difficulties in funding the Plan. It is now possible for a “General Member” of the Plan who begins service to the County at age 22 to retire at age 57 with 70% of final salary (35 years of service at 2% per year). It is very possible for an employee to draw benefits for 25 to 30 years. Under current policies, ***the benefit may be enhanced by spiking and will be enhanced by the SRBR.*** Safety Members reach these levels approximately seven years earlier.
3. In light of the Plan’s current and projected funding deficiencies (see this year’s Grand Jury report on Tulare County Employee Retirement Plan), it is clear that when viewed with a long term perspective, the previously deemed “excess earnings” used to fund the SRBR were not “excess” at all. The funds in the SRBR, had they been kept in the general fund for retirees, would have helped bring the Plan to a healthier funded position today.

## RECOMMENDATIONS

1. The Tulare County Board of Supervisors immediately pursue policies that will prevent “salary spiking” by Plan participants. In addition to the described role that “flex benefits” play in spiking, pursue new policies with employee representatives that limit the use of “cashed out” sick leave, vacation leave, car allowances, etc. to spike salaries.
2. Although benefits earned to date must, and should, be honored, Tulare County negotiate with employee representatives to roll back pension benefits for current employees for future service to levels that are sustainable without putting at jeopardy other County services. Raising the retirement age for full benefits, currently at 57 for most employees, and at age 50 for Public Safety Employees, should be considered as part of benefit negotiations.
3. Set pension benefits for new hires at levels sustainable without putting at jeopardy other County services. An even better alternative for new hires, and one that is fair to all County residents, is a defined contribution plan (like a 401(k) plan), with a contribution from the County, and the same professional management that TCERA now provides. *(The Grand Jury recognizes that a plan conversion for new hires would result in a short term increase in the county’s financial obligation, but the long term benefit to the county should far outweigh this temporary increase.)*
4. TCERA reduce SRBR payments to half their current level for the next two years as a transition period and then close the fund permanently, returning the balance to the general Plan fund for all employees’ future basic pension benefits.

## REQUIRED RESPONSES

Tulare County Board of Supervisors  
Tulare County Employees Retirement Association  
Tulare County Administrative Officer

## **TULARE COUNTY EMPLOYEE RETIREMENT PLAN**

### **BACKGROUND**

Tulare County Employees' Retirement Association (TCERA) administers the retirement plan (Plan) for Tulare County's employees and retirees. TCERA is governed by a nine member board. Policies regarding pension benefits afforded the employees of our county are determined by the County's Board of Supervisors, with input from the governing board of TCERA.

### **REASONS FOR INVESTIGATION**

Because of recent news coverage, there is a rising level of citizen interest in public employee pension plans and the growing public entity contribution of taxpayer money needed to fund them. The 2010-2011 Tulare County Grand Jury (Grand Jury) decided to study the issue and develop a report in an effort to help the public understand the workings of Tulare County's employee pension plan and its current financial status.

### **PROCEDURES FOLLOWED**

1. Attended TCERA board meetings
2. Interviewed relevant TCERA plan administrators and board members
3. Interviewed relevant county officials
4. Reviewed relevant documents

### **FINDINGS**

1. The nine member TCERA board includes four members appointed by the Tulare County Board of Supervisors, three elected by current employees, one elected by retired Plan members and the final member is the County Treasurer.
2. Each year TCERA issues an Actuarial Valuation Report (AV Report) that examines the financial health of the Plan as well as current trends. The AV Report recommends economic assumptions to be used in planning for the future.
3. Approximately every three years, TCERA issues an Asset/Liability Study (AL Study). The AL Study, last issued on 05/27/2009, projects the actuaries' expectations for the Plan's operation and financial position for the next ten years.
4. The Plan, according to the last AV Report of 06/30/2010, had a market value of assets of \$833,327,605. These assets have accumulated from employee contributions, plan sponsor (in this case Tulare County) contributions, and investment returns on these contributions. The assets will be used, over time, to pay for the Plan members' pension benefits.
5. A pension plan's current level of funding (the funded ratio) is determined by dividing

funded ratio on 06/30/2010 was 91.6%. **According to the last AV Report, the funded ratio has decreased for nine of the past ten years.** The funded ratio on 06/30/2001 was 116.9%.

6. As the funded ratio of the Plan decreases, contributions from the employees and/or the plan sponsor (Tulare County) must increase in order for the plan to maintain its financial position and to eventually return to fully funded status. Tulare County's contributions to the plan were 11.4% of payroll (about \$23 million) for the fiscal year ending in 2008 and are **projected to be 19.3 % of payroll (about \$68 million) by 2018. At the same time, the funded ratio is projected to fall from 93.4% in 2008 to 75.9% in 2018.** This significant projected drop in funded ratio is due partially to a recent increase in pension benefits granted in 2005. Prior to 2005, most county employees' basic pension benefit was two percent of final salary per year of service, retiring at age 61 ¼. An employee with 30 years service, retiring at 61 ¼, would be paid 60% of final salary for life. In 2005 the benefit was changed to two percent per year of service, but retiring at age 57. Also contributing to the large projected drop in the funded ratio are large recent losses (amortized over ten years) in the investment markets during the recent financial crisis. The amortization process allows these losses to be spread out over ten years, with one tenth of the loss shown on the books each year. **It is therefore projected that the funded ratio will fall each year from 2009 through 2018.**
7. In order for TCERA to project the numbers in finding 6, an estimate of annual market returns on the Plan's investments for the ten year period must be made. **The estimate currently used by TCERA for market returns is 7.9%.**
8. At the TCERA board meeting on 11/17/2010, the AV Report of 06/30/2010 was presented to the board. A representative of the Plan's financial advisor, Wurts and Associates, was present. He stated that he expected that, based on anticipated performance of the financial markets for the next ten years, **the Plan's investment returns over the ten year period through 2018 would fall short of 7.9%.**
9. At the TCERA board meeting on 2/9/2011, Wurts and Associates presented their forecast for investment earnings expected for the Plan's assets for the ten year period ending in 2021. Given an average strength of the world's economy and average inflation for the period, **the Plan's financial advisor is predicting investment returns of 5.4%.**
10. According to the AL Study, **if the Plan's returns are lower than the projected 7.9 %, the impact on needed annual contributions can be "as much as \$25 million per percent shortfall".** Given that there is a difference of 2.5% between Wurts and Associates anticipated investment return in an average economy (5.4%) and the number being used by TCERA (7.9%) in its ten year plan (AL Study), this seems to imply additional needed contributions to the plan of as much as \$62.5 million per year. **And the county still ends up with a projected funded ratio in 2018 of 75.9%.**
11. The Plan is a "defined benefit" plan. It guarantees that at a certain age the employee's retirement benefit will be an agreed percentage of his/her salary, regardless of investment returns. The sponsor (Tulare County) assumes all market