SIERRA JOINT COMMUNITY COLLEGE DISTRICT POST RETIREMENT MEDICAL FUND

COMPLAINTS 00A-22, 00A-26, 00A-29, AND 00A-32

Background/Summary

On September 28, 2000, and for several weeks following that date, the Placer County Grand Jury received a number of complaints alleging that Sierra Joint Community College District[1] administrators and some Board of Trustee members had been instrumental in the transfer of $165,000 from the Post Retirement Medical Fund (PRMF), a fiduciary trust account, to the District General Fund. This transfer of fund monies has been characterized by the complainants as (a) a misappropriation of employee's contributions to the fund, (b) a theft of money from the fund, (c) a misuse of fund money, (d) an improperly authorized use of fund monies, (e) a violation of trust, (f) a covert appropriation of fund monies, and (g) an unethical, unacceptable and possibly illegal transfer of monies.

The Grand Jury, upon review of these various complaints, determined that the matters presented were within its jurisdiction pursuant to the authority granted to Grand Juries by Section 925 of the Penal Code of the State of California.

These complaints are reported at this time because of the timeliness of the subject matter and the seriousness with which the Grand Jury views the nature of the allegations. The Grand Jury has made several recommendations.

Discussion

Shortly after receipt of the first of the complaints, the Grand Jury sought to determine whether or not funds had in fact been removed from the Post Retirement Medical Fund as alleged. Secondly, a determination had to be made as to whether removal of money from the fund was in fact a misappropriation, a theft, a violation of trust, etc. as alleged by the complainants. Thirdly, a determination was needed of the identity of the person or persons responsible for the alleged misdeeds.

[1] Sierra Joint Community College District is referred to in this report as Sierra College or simply, the College.

❖ Removal of the Funds from the Post Retirement Medical Fund

The Grand Jury reviewed a memorandum dated September 28, 2000, addressed to "All Staff" from Kevin M. Ramirez, President/Superintendent. That memorandum stated the following:

> "To balance the General Fund budget for the years in 1995-96 and 1997-98, the Vice President for Finance and Administration and the Director of Business Services, transferred $165,000 from the Post Medical Retirement Fund ($93,000 in 1995-96 and $72,000 in 1997-98). These inter-fund transfers were reviewed by me and by the Board of Trustees Finance Committee.
>
> In recent SCCP [Sierra College Collaborative Process] meetings of the Retiree Benefits Committee, it was revealed that the Post Medical Retirement Fund (PMRF) oversight committee (now known as MINT or Mutual Interest Negotiations Team) did not approve these accounting transfers as was contractually required since the 1990 inception of the PMRF. These transfers should have been reviewed and approved by the committee (MINT).
>
> The district will direct its auditors (Perry-Smith and Co.) to make an appropriate adjustment of $165,000 to the Post Medical Retirement Fund with accrued interest. I would like to thank the Retiree Benefits Committee in its SCCP for discovering this error and apologize for the conflict these transactions caused."

The authenticity of the memorandum was established by the testimony of witnesses. The memorandum is attached hereto labeled as Exhibit 1.

This memorandum established the fact that monies had been transferred from the Post Retirement Medical Fund on two separate occasions by the Vice President for Finance and Administration and the Director of Business Services, and the transfers were reviewed by the President/Superintendent and the Finance Committee of the Board of Trustees.

❖ Was the Transfer of Monies from the Post Retirement Medical Fund Proper or Improper as Alleged?

In order to establish the appropriateness of the admitted transfer of money from the Post Retirement Medical Fund to the District General Fund, the Grand Jury felt it was necessary to inquire into (a) the complete history of the Post Retirement Medical Fund including its formation, (b) the underlying reasons for its formation, (c) the purpose or purposes of the fund, (d) the nature of the fund, (e) the circumstances of the money transfers, (f) the justification, if any, for the transfers, (g) the ownership of the money in the fund, (h) the uses for which monies withdrawn were spent, and (i) the facts which caused the President/Superintendent to issue his memorandum of September 28, 2000.

❖ History of the Post Retirement Medical Fund Formation

The Post Retirement Medical Fund was formed as part of collective bargaining agreements between Sierra College and the Sierra College Faculty Association, and between the College and the Federation of United School Employees, L.I.U.N.A. (Laborers' International Union of North America) Local 1212 on November 13, 1990, effective as of July 1, 1990.

Those agreements, according to testimony received by the Grand Jury from the retired President/Superintendent of the College who served at the time and a College employee who represented the Faculty Association, were formed to deal with the issue of "unfunded liability" of health insurance coverage for retirees.

Prior to the 1990 agreements, the College had traditionally paid the full costs of health insurance benefits for retirees and their dependents. Both the College administration and the employee organizations wished to continue this benefit in the future. In order to do so, and after an actuarial study to determine the amount of unfunded liability, they agreed to establish a fund with contributions from both the College and the employees. That fund was to grow over time, untouched except for refund of contributions to resigning employees, until the interest yield from the monies on deposit with the Placer County Treasurer were sufficient to pay retiree health insurance benefits. The fund was to be a self-sustaining trust fund governed by a labor/management committee. That committee consisted of three labor and two management representatives. The committee was to meet periodically to exercise its oversight role.

In order to convey the detail of the contract terms and conditions in this report, the Grand Jury submits the pertinent parts of that agreement as follows:

> Section 9.15 of the agreement dated November 13, 1990
> UNFUNDED LIABILITY
>
> 1. Effective July 1, 1990, the District will contribute 2% of the employee's salary toward medical benefits for retirees.
>
> 2. Effective July 1, 1991, the District will deduct 1% from each Faculty employees' salary to be placed in a restricted fund for medical benefits for retirees. The District shall match this contribution of 1% of the employees' salary. The purpose of the fund is to guarantee fully paid lifetime medical benefits for District Faculty retirees.

3. Effective July 1, 1990, a joint labor management benefit committee will be established comprised of three (3) Faculty representatives from SCFA and two (2) management representatives. The purpose of this Committee is to oversee the restricted fund and to recommend modifications to the contributions as needed; to analyze alternative benefit structures and recommend implementation of new and/or revised benefit plans; to review all payroll processes to assure adherence to the Collective Bargaining Agreement and to recommend changes as needed. The joint committee shall establish procedures for administering the fund and shall develop an annual report for all employees regarding the fund. This committee shall meet on a regular basis and evaluate the unfunded liability of the retiree medical benefit, investments, and interests on the contributions and to determine when the fund is solvent, or determine when to start or stop contributions to the fund. Decisions regarding the fund shall be recorded and reported to SCFA.

4. Employees who do not elect to retire or who are not eligible for retirement at date of resignation will have their contributions refunded. Employer contributions for those employees shall remain in the fund.

5. Any Faculty employee who refuses District medical benefits shall make the 1% contribution into the fund. Faculty employees refusing medical benefits shall not be eligible for retiree medical benefits, unless they contribute into the fund.

6. If the fund is discontinued for any reason, the Faculty employees shall be paid the amount of employee contributions paid into the fund up to the time of termination. The joint benefit committee shall determine the procedures and any other related questions regarding the fund at that time.

That document is attached hereto labeled as Exhibit 2.

The Grand Jury was especially interested in any grant of authority in the above agreement for the transfer/removal/expenditure of Post Retirement Medical Fund monies.

Section 9.15(3) (excerpted above) provided considerable review and decision making authority over the fund by the Labor/Management Committee. Authority for taking monies from the fund, except for refunds to employees who do not elect to retire or who are not eligible for retirement at the date of resignation, was not among the committee powers enumerated.

The absence of authority for removal of monies from the fund by the labor/management committee was found to be unusual, and a question that the Grand Jury felt required an answer.

Witnesses testified that no authority for transfer/removal/taking or withdrawal was agreed upon. It was felt at the time of the fund formation that there would never be a need for money to be withdrawn from the fund other than for refunds of contributions to resigning employees and/or to expend the interest yield for future benefit when the fund became self sustaining in future years.

A document entitled "Labor/Management Benefit Committee Minutes" dated December 4, 1991, seemed to support the witnesses' testimony. Management members Peter Kolster and Robert Wickstrom, Business Manager, were in attendance at that meeting, at which the following paragraph was reported:

> "1. <u>Review of Accountability Liability Fund</u>
>
> Robert [Wickstrom] gave a report on the post-retirement medical retirement fund. September 30, 1991 - $282,999 cash balance in the fund. Premium for retirees last year equalled $357,000. ***The fund will continue to grow until we can get enough interest to pay the premiums for retiree benefits.*** At the present rate of 1%, we probably will not reach this goal for a long while. The committee will need to determine whether to increase the rate or to discontinue medical benefits for future retirees. Robert suggested that Coopers and Lybrant [sic] again conduct a study on the refunded liability." (Emphasis added.)

That document is attached hereto labeled as Exhibit 3.

The terms and conditions of the contracts dated November 13, 1990, were carried intact and unchanged into the contracts of June 13, 1995, and June 13, 2000, except that the fund was identified on page 38, sub-paragraph 10, entitled "Interest Earnings on Contributions" of the June 13, 1995 contract as the "Post Retirement Benefit Trust Fund" held in the Placer County Treasury.

Sierra College employee organizations, Sierra College Faculty Association (SCFA) and Federation of United School Employees (FUSE) Laborer's International Union of North America (L.I.U.N.A.) Locas 1212, were parties to the collective bargaining agreements of November 13, 1990, and subsequent years. They were named as representatives on a labor/management committee created by those agreements, charged with the duty to oversee operation of the Post Retirement Medical Fund.

That Labor/Management Committee met at least once on December 4, 1991 as evidenced by the minutes reprinted above (and included as Exhibit 3). As time passed, the committee met sporadically or not at all. This inattention by the employee organizations left oversight of the fund solely under the control of Sierra College administrators.

According to a letter to the editor published in the February 2000 edition of the Sierra College Faculty Association newsletter, the Sentinel, reprinted below, College administrators were asked to convene a meeting of the Labor/Management Committee pursuant to contract terms. The College administration declined to attend such a meeting. The Sierra College Faculty Association requested the funds financial statement and actuarial report. These documents were not provided as requested.

The letter to the editor and response in the February 2000 Sentinel reads as follows:

> "*This letter was written to Negotiations Chair Luis Sanchez by a member of the full-time faculty, in response to an email on the Sierra College email system. Luis' response follows.*
>
> I just read Bill Hotchkiss' commentary on the "No Confidence" vote. The point I want to question is his statement that our 1% unfunded liability dollars were put into the General Fund. Has this indeed happened? If so, what as faculty do we need to do to rectify the situation?
>
> ---
>
> Good question. According to section 11.15 of our last contract, this 1% fund was supposed to be overseen and administered by a committee of three faculty and two management representatives. The fund was also to be maintained in a *restricted* account.
>
> Last December, I notified John Delury [sic] that the faculty wished to call a meeting of the committee to evaluate the status and viability of the fund.
>
> He indicated that management representatives would not attend such a meeting.
>
> I then asked him for the fund's most recent bank statement, financial statement, and actuarial report. He couldn't provide a separate bank statement, but did give me some financial

> statements showing the balances for "all fiduciary funds" as well as two excerpted pages from an actuarial report apparently done in July of 1999.
>
> When I asked John for the rest of the report, he said he wasn't at liberty to share it with me – though he would soon be meeting with the actuary to obtain further information.
>
> In mid-February, I left a voicemail message asking John to meet with the faculty committee representatives so we could discuss the actuarial report. A few days later I received a reply that he would *not* meet with us, but would provide us with a copy of the report shortly. (I saved the message to ensure that I did not simply misunderstand it.) You now know about as much as I do.
>
> While John's March 15 resignation from the college may result in further delays, I intend to ask that the fund be placed in a segregated account overseen by the Presidents of SCFA and the Faculty Senate until we can examine an actuarial report assuring us that the 1% fund is necessary and viable."

This document is attached hereto labeled as Exhibit 4.

When College administrators declined to meet in their role as the management representatives of the Labor/Management Committee as described in the collective bargaining agreements and declined to provide financial documents as requested, it should have been a clear, unambiguous signal to the employee organization that the condition of the Post Retirement Medical Fund required immediate investigation by means of litigation, if necessary, to compel performance by the administration.

Had the employee organizations fulfilled their responsibility to administer their collective bargaining agreements over the years since the formation of the Post Retirement Medical Fund, it is unlikely that funds would have been taken from the fund by College administrators to balance College budget shortfalls.

❖ Nature of the Fund

The Post Retirement Medical Fund from its inception in 1990 was identified as a "trust fund" account number 79, which fell under the "fiduciary funds group" as identified in the <u>Budget and Accounting Manual</u> utilized by all community college districts in the State of California. That manual has the authority of regulation in accordance with Title 5, Section 59011 of the California Code of Regulations (CCR). Each community college district is required to follow this manual in accordance with Education Code Section 84030, which states:

> "The accounting system, including the uniform fund structure used to record the financial affairs of any community college district shall be in accordance with the definitions, instructions, and procedures published in the California Community Colleges Budget and Accounting Manual. . ."

The Budget and Accounting Manual defines the Fiduciary Funds Group as:

> "The Fiduciary Funds Group is used to account for assets held by the district in a trustee or agency capacity for individuals, private organizations, other governmental units, and/or other funds."

This document is attached hereto labeled as Exhibit 5, page 1.

That same manual defines Fund 79, Other Trust Funds, as:

> "Other Trust Funds are used to account for all other moneys held in a trustee capacity by the college or district for individuals, organizations, or clubs.
>
> Such funds may be established and maintained in the appropriate county treasury, or as an alternative, the governing board may establish a bank account for each trust."

This document is attached hereto labeled as Exhibit 5, page 2.

Several years after the establishment of the fund in 1990 and reportedly after the fund was described as a "trust fund" in the June 13, 1995 contracts, the fund appeared in fiscal records as a Fund 84 account, or an "agency account."

An "agency fund" is defined as follows in the Budget and Accounting Manual:

> "Agency funds differ from trust funds in the degree of discretion that may be exercised. In agency funds, the agreement or instrument allows the district or college little or no discretion. As a result, agency funds are purely custodial in nature (i.e., assets equal liabilities; no fund equity exists)."

This document is attached hereto labeled as Exhibit 5, page 3.

All audits of the Sierra College accounts since 1990 by the contract audit firm have referred to the Post Retirement Medical Fund as a fiduciary account; and as an "expendable trust account."

The Grand Jury concluded that the Post Retirement Medical Fund was in fact a "fiduciary account" identified variously on fiscal records of the College, the Placer

County Office of Education, and the Placer County Treasurer as an "expendable trust account" and/or an "agency account."

Some additional questions required answers. They are:

- Who owns the money in the Post Retirement Medical Fund?
- If it is a "trust fund" as identified on fiscal records, who is the beneficiary of that trust?

The Budget and Accounting Manual referred to above defines "employee benefits" as:

> "Amounts paid by an employer on behalf of employees. Examples are group health or insurance payments, contributions to employee retirement, district share of O.A.S.D.I. (Social Security) taxes, and workers' compensation payments. These amounts are not included in the gross salary, but are over and above. While not paid directly to employees, they are a part of the total cost of employees."[2]

The employees' contribution of 1% of payroll to the fund withheld from employee paychecks is taxed and calculated on gross income.

The monies contributed to the fund by both the College and its employees belong to the eventual beneficiaries of that fund. The beneficiaries, from the contract language, on its face, are the Sierra College retirees who contributed to the fund.

- **Transfer of $93,000 from the Post Retirement Medical Fund to the General Fund**

Fiscal records held by the Placer County Treasurer, the Placer County Office of Education, and Sierra College revealed that $93,000 was taken from the Post Retirement Medical Fund on or about June 30, 1996, and transferred to the District General Fund.

Following the revelations contained in the President/Superintendent's memorandum dated September 28, 2000 (cited above and attached, labeled Exhibit 1), the College administration produced a copy of a memorandum addressed to "All Staff" dated April 16, 1997, from Robert Wickstrom with the subject of "Post Retirement Medical Fund." That memorandum states:

> "My office has historically provided an annual analysis of the Post Retirement Medical Fund. Based on the audited financials from FY 1996-97, fund activity for last year was as follows:

[2] California Community Colleges Budget and Accounting Manual, 2000 ed,, Board of Governors, Chancellor's Office (Sacramento, CA) pp. B.10 – B.11.

Beginning Balance	$ 1,569,754
Contributions	383,409
Contribution refunds	(21,129)
Retiree premiums	(93,000)
Ending Balance	$ 1,839,034

> Contribution refunds were made to employees resigning or otherwise terminating their employment with the District. Such refunding of employees' contributions is provided for in the collective bargaining agreements.
>
> Retiree premiums of $93,000 were paid out of the fund to cover health benefit costs for specific retirees who had contributed to the fund prior to their retirement. These payments were consistent with the purpose of the fund. No premiums were paid on behalf of specific retirees in excess of what they had contributed to the fund.
>
> We will be recommending to the MINT that the actuarial analysis done in 1991 be updated. The Community College League of California is sponsoring a statewide program utilizing Risk Management Techniques, Inc. as the actuary to perform this service for community colleges. We believe we can get a favorable rate for the study and will be coming forward with details for a recommendation soon."

A second document was produced entitled "MINT Recollections" dated April 15, 1997. That document states in pertinent part:

"4. Post-retirement medical fund. Robert [Wickstrom] handed out an analysis of the fund. Joyce [Kelley] indicated that prior to MINT the Labor Management Benefit Committee reviewed the post medical retirement fund. Need to agenda this to have the MINT assume this oversight responsibility. Robert indicated that we need to do another actuarial study to determine the District's liability.

Who: John DeLury—**consensus**
What: Send the report to all staff and clarify miscellaneous expenditures
When: ASAP

Who: Robert

What:	Keep the MINT informed as to the actuarial study
When:	When completed"

Both documents are attached hereto labeled as Exhibits 6 and 7 respectively.

The President/Superintendent, in a document entitled "Friday Letter," an in-house newsletter, on September 29, 2000, stated:

> "Doug Smith's segment (see page 2) may be confusing to you but it indicates data that we researched and discovered up to five hours after we issued the letter of explanation and apology that is attached to the Friday Letter. Specifically we discovered late Thursday that the MINT did review the basis for the first interfund transfer from the Post Medical Retirement Fund and the second transfer was discussed in a Board of Trustees Finance Committee."

In that same "Friday Letter" at page 2,

> "Doug Smith, Vice President for Finance and Administration reports:
>
> - Our SCCP committee on Retirees Health Benefits met again this past Wednesday. We began with a lengthy review of various financial data previously requested. Information included (1) the dollar range of medical premiums the District currently pays on behalf of retirees, (2) the long term trend of change in total retiree premiums paid by the District as compared to change in total general fund expenditures, and (3) a full review of income and outgo to the Post Retirement Medical Fund.
>
>   There was lengthy discussion that focused on two transfers previously made from the Post Retirement Medical Fund to the General Fund. The records indicate that these transfers, totaling $165,000 were made to help balance the budget in 1996 and 1998. Subsequent to the Wednesday meeting, files were researched that indicate that both transfers were appropriately and publicly communicated. Included in this documentation is a memo from Robert Wickstrom to the MINT Committee, written 1997, describing the basis of the first transfer. Documentation indicates the 1998 transfer was formally discussed in the Board of Trustees Finance Committee meeting of September 22, 1998. Also, it can be noted that both transfers were properly recorded and disclosed in the District's annual financial audit reports.

> In my opinion, no inappropriate action was taken with regard to either of these transfers, however, memories are short and emotions are high. In support of the SCCP process and in an effort to restore and rebuild relationships among Sierra College administrative, staff, and retirees, Kevin has directed Robert and me to instruct the District financial auditors, Perry-Smith & Co., to prepare an audit adjustment of $165,000 plus interest to fully restore the Post Retirement Medical Fund. I believe this is our best course of action to move forward."

A copy of the above document is attached hereto and labeled as Exhibit 8.

The Grand Jury took notice of the following facts regarding the transfer of $93,000 from the Post Retirement Medical Fund:

1. The transfer occurred on June 30, 1996, derived from the records of the Placer County Auditor-Controller.

2. The memorandum to MINT (Mutual Interest Negotiating Team) dated April 16, 1997 by Robert Wickstrom was submitted, if the date is correct, some 9½ months after the transfer of the funds from the Post Retirement Medical Fund.

3. The "MINT Recollections" document is dated April 15, 1997, ***the day before the memorandum mentioned above***.

4. "MINT Recollections" of April 15, 1997 show no grant of authority to Business Services Director Wickstrom or anyone else to take Post Retirement Medical Fund monies.

5. MINT is not and was not the committee described in any of the collective bargaining agreements of 1990 through 2000.

6. Management representatives Robert Wickstrom, Director of Business Services and John DeLury, Vice President for Finance and Administration were noted as attendees at the MINT meeting of April 15, 1997, at which the transfer of $93,000 was discussed.

The Grand Jury concludes that the $93,000 transfer from the Post Retirement Medical Fund to the District General Fund by College administration was done unilaterally by the administration and without contractual authority.

❖ Transfer of $72,000 from the Post Retirement Medical Fund to the General Fund

Fiscal records held by the Placer County Treasurer indicate that the sum of $72,000 was posted to the general ledger effective June 14, 1999. There are Sierra College records that show that the journal entry for the transfer was approved on June 30, 1999, but posted as of June 14, 1999. There are budget memos showing $150,000 was budgeted for this transfer. That amount - $150,000 – appears previously in a document entitled, "Recollections, Sierra Community College Finance Committee" dated Tuesday, September 22, 1998.

That document states in pertinent part, "The second 1997-98/1998-99 Budget Comparisons was [sic] reviewed and it was specifically noted that $150,000 of the $157,500 Incoming Transfers was coming direct from the Post Medical Retirement Fund."

A second document, undated, addressed to Members of the Board of Trustees from John DeLury, Vice President for Finance and Administration regarding 1998-99 District Budgets, addresses a variety of funds, among them Fund 84. Mr. DeLury's memo states,

> "Fund 84 – The Post Medical Retirement Fund is being presented with revenues exceeding expenditures by $369,006. The expenditure for other payments is the estimated amount of funds to be transferred from this fund to General Fund to pay medical insurance premiums for retirees."

Copies of both documents are attached hereto as Exhibits 9 and 10.

There were other entries on financial records which related to the $72,000 transfer.

1. On January 22, 1999, an entry was posted transferring $12,295.55 to the College General Fund from the Post Retirement Medical Fund. On March 25, 1999, this entry was reversed with a description that says, "To correct transfer."

2. On June 14, 1999, there is a journal entry form showing a transfer of $84,295.55 which represents the $72,000 and the $12,295.55 above. This entry says "auditor only" which is believed to be a correction on the Auditor-Controller's ledger.

3. There is a Placer County Office of Education report for the 1998-99 fiscal year that shows a transfer out of Fund 84 of $150,000, but the amount is in the budget column.

4. On the same date as the transfer of $84,295.55, June 14, 1999 above, as part of a series of financial transactions, the following was reported:

$ 84,295.55	transferred from the Post Retirement Medical Fund to the General Fund
1,001,116.25	transferred from the Placer County Treasurer to the Sierra College General Fund
$ 1,085,411.80	Total of transfers to the General Fund

$ 407,965.89	transferred from the General Fund to fund #780000 (Sierra College Capital Budgets)
197,645.24	transferred from the General Fund to fund #510000 (Sierra College Dormitory Revenue)
117,570.50	transferred from the General Fund to fund #200000 (Sierra College Financial Aid)
362,230.17	transferred from the General Fund to fund #050000 (Sierra College Bookstore)
$ 1,085,411.80	Total of transfers from the General Fund

Through use of its subpoena powers, the Grand Jury was unable to obtain any documents that would verify that Post Retirement Medical Fund monies taken in this transaction were ever used to pay retiree health insurance premiums as alleged in Mr. DeLury's memorandum. In response to that Grand Jury subpoena, legal counsel for Sierra College stated, in his letter of December 6, 2000, to the Grand Jury Foreman, "The District has not omitted any documents from its response to the . . . Grand Jury subpoena."

Following the Finance Committee action of September 22, 1998, a budget presentation was made to the Board of Trustees at their meeting of the same date by Business Services Manager Robert Wickstrom. In reference to the Post Retirement Medical Fund, he stated,

> "And we did have a question in Finance Committee, one of those questions being why 21 percent drop in the federal revenues. And the only thing I can figure there, we have not done an analysis on that, but it's probably special projects and grants that came in last year and have not been earned at that point in time. So they're

> revenues that we have received but not earned. So, therefore, they go to the balance sheet account rather than to the income statement.
>
> The other one is that in incoming transfer you can see a rather significant increase there. I'm only pointing that out because that $157,500, it's the same $7,500 from last year, plus $150,000 is being transferred from another fund. That other fund is the Post Medical Retirement Fund and that's done on the basis of all those folks who have gone out, retired, and that we have not used any of their monies, the 1% that had been placed in there for that period of time. So that transfer that you saw, the Post – when you see the Post Medical Retirement Fund in your budget packet, you'll see an outgoing transfer from that fund, the incoming transfer see it on this side."

(The audio tape of this meeting is available from Sierra College. A partial transcript containing the above remarks is attached to this report labeled as Exhibit 11. During this investigation the Grand Jury, under subpoena, requested and received audio tapes from various Board meetings and in turn had them partially transcribed by a professional transcriber.)

Mr. Wickstrom's rationale for transfer of funds from the Post Retirement Medical Fund to the General Fund appears to be in direct contravention of the wording of the 1990 and subsequent contracts between the College and its employees. The contracts state,

> "Employees who do not elect to retire or who are not eligible for retirement at date of resignation will have their contributions refunded. ***Employer contributions for those employees shall remain in the fund.***" (Emphasis added. See Exhibit 2, page 3, paragraph 4.)

The Grand Jury noted the following:

1. The $150,000 budgeted from the Post Retirement Medical Fund included the $72,000 amount actually transferred to the General Fund.

2. The discussion and details of that transfer were known by Trustees and management personnel present at the Finance Committee meeting of September 22, 1998, as well as the Board of Trustees meeting immediately following. Those persons attending the Finance Committee meeting were Trustees David Creek, Barbara Vineyard and David Parker. Members of management present were Deborah Blue, John DeLury, Kevin Ramirez, Vicki Reader and Robert Wickstrom.

3. The rationale for transfer of $72,000 from the Post Retirement Medical Fund to the General Fund given to the Trustees by Business Manager Robert Wickstrom was contrary to the provisions of the collective bargaining agreements of 1990 and following years.

4. The rationale given for the transfer does not follow the rationale given by the President/Superintendent in his memorandum dated September 28, 2000. Nor does it follow statements of Mr. DeLury in his memorandum submitted at the September 22, 1998 Board of Trustees meeting, that transferred funds were used to pay retiree health insurance premiums.

5. The Finance Committee of the Sierra College Board of Trustees has no authority to formally approve any fiscal activity of the College.

- **Where did the $165,000 Transferred from the Post Retirement Medical Fund Go?**

<u>The $93,000</u>

In the memorandum dated April 16, 1997, to All Staff from Robert Wickstrom (Exhibit 6), he said the $93,000 was used to pay retiree health insurance premiums. The Grand Jury requested documents in order to verify that statement. No documents were received that would support that statement.

In his memorandum of September 28, 2000 (Exhibit 1), the President/Superintendent said the money was used to balance the budget. This appears to be a credible statement from financial records reviewed.

<u>The $72,000</u>

Please refer to previous comments regarding the series of transfers recorded as of June 14, 1999.

Retiree's health insurance premiums are paid for from the Sierra College General Fund and have historically been paid pursuant to collective bargaining agreements now and in the past. That benefit was terminated for all persons hired after July 1, 1994, and limited by successive contracts after 1990 for employees based on seniority. (Copies of the pertinent sections of the collective bargaining agreements are attached hereto labeled as Exhibit 12.)

The Grand Jury noted, as a side issue to this investigation, that the current firm performing annual audits of College finances has been doing so uninterrupted for at least ten years. The Grand Jury, from collective public and private business experience of its members, found the practice of continued use of the same auditors to be unusual, and a questionable administrative practice.

❖ The Retirees' Discovery

In late October 1999, the College was notified by an HMO that provided medical services to retirees that prescription benefits were to be capped at $1,600.00 annually as a result of changes in Medicare coverage. This information was duly conveyed by letter to Sierra College retirees in the normal course of business.

The retirees, upon receipt of this information, reacted by attending Board of Trustees meetings in November/December 1999. Some retirees, mindful of their contributions to the Post Retirement Medical Fund over the years, demanded an accounting of the fund. Meetings were held with retirees, management representatives and two trustees, Nancy Palmer and David Creek.

On September 27, 2000, nearly a year later, the retirees were finally shown an accounting of the Post Retirement Medical Fund. The following day, the President/Superintendent issued his memorandum (Exhibit 1).

On March 14, 2000, some months after the retirees had demanded a fund accounting at a Board of Trustees meeting, an actuary made a presentation concerning the fund to the Board of Trustees. Following that presentation, a question/answer session ensued between Board members and administrators present. The following is a pertinent exchange between Board Members Creek and Ferrari and John DeLury, Vice President of Finance and Administration:

Mr. Creek: Maybe it was a side conversation I had with John. This money, the three million, is stored where? Is it in a separate account?

Mr. DeLury: ***It's in a separate fund. Yes, Post Retirement Medical Fund.***

Mr. Creek: And - - and - -

Mr. DeLury: ***Totally separate from General Fund.***

Mr. Creek: - - when do we draw money from it?

Mr. DeLury: ***Well, right now the District is paying, essentially, all of retiree benefits out of General Fund.***

Mr. Creek: Okay.

Mr. DeLury: Yours truly will get a bit back when I leave and that's one circumstance where we actually do deplete that fund is when a person that's contributed to the fund and they leave the District, their one percent that they've contributed goes back to them. In other - -

Mr. Creek: (inaudible) circumstances?

Mrs. Vineyard: (inaudible) I think.

Mr. DeLury: So far, that's correct.

Mrs. Vineyard: Vicki, you would know maybe.

Vicki Reader: Yes, that's correct.
Mr. Creek: So that's the only, at this point - -
Mrs. Vineyard: If someone quits before they retire.
Mr. DeLury: That's the only, as far - - that's the only regular - -
Ms. Reader: The only time we (inaudible).
Mr. DeLury: - - utilization of those funds.
Mr. Creek: So if I understand right, - -
Mr. DeLury: ***We have consistently tried to grow it, grow it, grow it*** so that, you know - -
Mrs. Vineyard: Right.
Mr. DeLury: - - the purpose of the fund (inaudible).
Mr. Creek: It's growing by a one percent or one-and-a-half percent employee contribution?
Mr. DeLury: One percent employee - -
Mr. Creek: One percent matched by the - -
Mr. DeLury: District.
Mr. Creek: - - matched by the District.
Mr. DeLury: Eligible employees contribute one percent of their gross - -
Mr. Creek: Okay.
Mr. DeLury: - - the District matches that one percent.
Mr. Creek: Okay.
Mr. DeLury: Total contribution is roughly $400,000 per year right now.
Mr. Creek: So we're falling, essentially, based on that 12 year (inaudible), we're - - with the employees and the District we're falling about a million short?
Mr. DeLury: Roughly, yes. It would take another million dollar contribution, roughly - -
Mr. Creek: Right.
Mr. DeLury: - - to the fund on the 12-year plan - - under the 12-year scenario to pre-fund the entire liability within a 12-year time frame.
Mr. Creek: And 12 years is sort of the magic number because that's when the last personnel working with (inaudible).
Mr. Daugherty: No, excuse me, that's the average future working lifetime.
Mr. Creek: It's - - average.
Mr. Daugherty: Average.
Mr. Creek: Okay, average.
Mr. Parker: Any (inaudible)?
Mr. Ferrari: ***A couple of questions. One would be, is this - - is this fund and some of the things we've been getting in the mail and different things that - - there's a fund that we're - - that supposedly, the***

College is using out of place to fund other things? Is this the fund that is - -

Mr. DeLury: ***That's where the allegation is, but it's absolutely erroneous.***

Mr. Ferrari: ***Is it sitting in an account that it can't be used?***

Mr. DeLury: ***It's in - - it's in a totally separate fund that's audited separate from the general fund, it's audited separate from all other funds that we don't - - we could get access to it, but we haven't taken any money out of it.***

Mr. Ferrari: ***Okay. The second question would be – is, since this is your last meeting, you know, you know the budget and everything as well as anybody, what would be -- with what you know today, what would be your recommendation as to how we go about funding this?***

Mr. DeLury: ***Well, since it's negotiable that makes it difficult at best. One option for the District is just to take a look incrementally as you go – as you take a look at page 6, is just absorb the cost of doing business – an incremental cost of doing business, put that much more into the budget each year to pay for the incremental costs of the plan.***

Mr. Ferrari: ***This is part of salary negotiations. That what you – negotiable, is that what you mean that it gets – it's built into that (inaudible).***

Mr. DeLury: ***If employees are to contribute to the fund, then it becomes negotiable.***

Mr. Ferrari: Okay.

Mr. DeLury: ***If the District just wants to absorb through the General Fund the incremental costs, you could do that, but they have to be paid and they go up to $200,000 a year, so that is an option. So the answer really lies in the ability of the District to negotiate some terms with employees who will benefit from this, as opposed to just paying all out of the General Fund.***

(Emphasis added above. The audio tape of this meeting continues and is available from Sierra College. A partial transcript containing the above remarks is attached to this report as Exhibit 13. This transcript is accurate as far as is possible given the difficulty of transcription from the audio tape of the Board of Trustees meeting of March 14, 2000.)

The Grand Jury took note of the following events of March 14, 2000:

1. Mr. Ramirez, President/Superintendent; Mr. John DeLury, Vice President of Finance; Mr. David Creek, Board of Trustee member; and Mrs. Barbara Vineyard, Board of Trustee member were all present when the discussion took place between Mr. DeLury, Mr. Creek, and Mr. Ferrari. All of them were also present and actively involved in discussion of the fund transfer from the Post Retirement Medical Fund to the General Fund on September 22, 1998. Mr. Wickstrom, by his memo dated April 16, 1997, was instrumental in the fund transfer of $93,000 as well as his presentation discussed above at the meeting of September 22, 1998.

2. Not one of the above individuals acknowledged, to the audience of employees and retirees, the transfers of 1996-97 or 1998-99 from the Post Retirement Medical Fund even though those individuals were present and involved at the time of the transfer.

3. Mr. DeLury expressly denied to Mr. Ferrari on March 14, 2000 that any funds had been transferred from the Post Retirement Medical Fund for other than refunds to contributing employees.

4. Meetings were held with retirees for several months after they had demanded an accounting of the Post Retirement Medical Fund at Board meetings. Mr. Creek attended those meetings as did administrators. Not one of them, from testimony heard by the Grand Jury concerning those meetings, rose to acknowledge that funds had previously been taken from the Post Retirement Medical Fund to balance the College budget.

5. Mr. DeLury confirmed that details of the Post Retirement Medical Fund were a negotiable matter to be negotiated with employee groups as required by State law. (Refer to Government Code §3540 et seq.) Section 3543.2(a) Government Code, which follows, states in pertinent part, the scope of matters negotiable pursuant to State Law. It states,

   > "The scope of representation shall be limited to matters relating to wages, hours of employment, and other terms and conditions of employment. 'Terms and conditions of employment' mean health and welfare benefits as defined by section 53200 Government Code, . . ."

6. Mr. DeLury's comments on March 14, 2000 fully support the testimony of witnesses regarding the intent of the fund formation in 1990.

❖ **Future Activity**

Since the receipt of complaints regarding the taking of funds from the Post Retirement Medical Fund by College administrators, the Grand Jury has monitored fund activity closely. In December 2000, the College Financial Officer and other administrators informed the Board of Trustees and Insurance Committee members that the College faces a shortfall of some $700,000 for the 2000 – 2001 budget year due to falling student enrollment. They have proposed several alternatives to deal with this budgetary deficit, one of them being the taking of more money from the Post Retirement Medical Fund.

The Grand Jury is gravely concerned, given the facts revealed in this report, that the Post Retirement Medical Fund will be tapped again as was done in 1995-96 and 1998-99.

Finding 1

$165,000 was removed from the Post Retirement Medical Fund by Sierra College administrators: $93,000 in 1995-96 and $72,000 in 1998-99.

Finding 2

The Post Retirement Medical Fund was created by collective bargaining Agreement(s) between the College and its two employee organizations, the Sierra College Faculty Association (SCFA) and the Federation of United School Employees (FUSE), in 1990.

Finding 3

There is no authority granted in the collective bargaining agreements between the College and the employee organizations (SCFA and FUSE) for anyone or any entity to remove funds from the Post Retirement Medical Fund, other than in conformance with collective bargaining agreement provisions regarding resigning or noncontributing employees.

Finding 4

Removal of $165,000 from the Post Retirement Medical Fund by College administrators was inappropriate and a breach of the collective bargaining agreement(s) terms and conditions between the College and its employees, as well as a violation of Government Code §3540 et seq.

The College administration had an obligation to obey the terms and conditions of its own contractual agreements with its employees. Instead of acting in a forthright and ethical manner as a trustee of employee funds, they took it upon themselves to covertly and unilaterally invade an employee benefit fund to cover budget shortages.

The College, had they chosen to follow the contract terms, would have notified their employees of their intentions to divert the monies in the Post Retirement Medical Fund to other uses. According to the statements of John DeLury, Finance administrator, on March 14, 2000, they were obligated to return to the table to negotiate new and different contract provisions as required by Government Code §3540 et seq.

Finding 5
Union representatives of the faculty and classified employees participating in the Post Retirement Medical Fund were derelict in their duty to safeguard the funds of their constituents.

Finding 6
The Post Retirement Medical Fund was and is identified on Sierra College audits from 1991 to 2000 as a "fiduciary" account.

The Grand Jury concluded that the Post Retirement Medical Fund was in fact a "fiduciary account" identified variously on fiscal records of the College, the Placer County Office of Education, and the Placer County Treasurer as an "expendable trust account" and/or an "agency account."

Finding 7
The Post Retirement Medical Fund originally and through 1996 was identified on College financial records as a "trust account" as defined by the Budget and Accounting Manual for California community colleges.

Finding 8
The Post Retirement Medical Fund from about 1996 on has been identified as an "agency" account as defined by the Budget and Accounting Manual for California community colleges.

Finding 9
The funds contributed to the Post Retirement Medical Fund are "employee benefits" as defined by the Budget and Accounting Manual for California community colleges.

Finding 10
The funds taken from the Post Retirement Medical Fund by College administrators were used to balance the College's budgets of 1995-96 and 1998-99.

Finding 11

There is no evidence that funds taken from the Post Retirement Medical Fund by College administrators were used to pay "retiree's health insurance premiums."

Finding 12

College administrators and several trustees were well aware of the nature and purpose of the Post Retirement Medical Fund before, during, and after the taking of $165,000 from the fund.

Finding 13

The rationale for removal of funds from the Post Retirement Medical Fund presented to the Board of Trustees by a College administrator on September 22, 1998, was disingenuous. Such a taking of funds was clearly a violation of collective bargaining contract provisions regarding withdrawals of employer contributions.

Finding 14

Sierra College has used the same contract audit firm for at least ten years.

Finding 15

The $165,000 unilaterally removed from the Post Retirement Medical Fund ($93,000 in 1995-96 and $72,000 in 1998-99) by Sierra College was returned to that fund on December 29, 2000, along with $32,444 to compensate for estimated interest losses due to its removal.

The result of the administration's inappropriate use of the $165,000 from the Post Retirement Medical Fund is that the taxpayers paid the $32,444 from the Sierra College General Fund for estimated interest lost in its removal.

Finding 16

In December 2000, the College Financial Officer and other administrators informed the Board of Trustees and Insurance Committee members that the College faces a shortfall of some $700,000 for the 2000 – 2001 budget year due to falling student enrollment. They have proposed several alternatives to deal with this budgetary deficit, one of them being to take more money from the Post Retirement Medical Fund.

Recommendations

In the future, if the College chooses to invade the Post Retirement Medical Fund again, they should notify their employees of their intentions to divert monies from the Fund to other uses.

The College should keep records of all expenditures and be able to produce documentation related to specific expenditures upon request by an authorized agency.

The pattern of covert behavior, such as was utilized in taking these funds and in previously documented activities of the administration and Board of Trustees, should cease immediately.

Presentations to the Board of Trustees by College administrators and Board members, one to the other, should be accurate and not misleading.

Contract auditors of College accounts should be changed on a regular basis as is normally done in most public and private agencies.

The alternative for balancing the 2000 – 2001 fiscal year budget by invading the Post Retirement Medical Fund again should be eliminated by the Board of Trustees and College administration at a public Board meeting. If the College administration desires to divert the Post Retirement Medical Fund monies to other uses, it should reopen negotiations with its employee organizations as required by State Law.

Respondent

Sierra College Board of Trustees

RESPONSE REQUIRED WITHIN 60 DAYS TO:

The Honorable James D. Garbolino
Presiding Judge, Superior Court
County of Placer County
Historic Courthouse
101 Maple Street
Auburn, CA 95603

PARTIAL LIST OF PERSONS

Sierra College Board of Trustees

Barbara Vineyard (Current Board Chair)
David Parker
Sally Robison
David Creek
Nancy Palmer
Dave Ferrari
Jim Bush (term expired 11/2000)
Robert Tomasini (newly elected 11/2000)

Sierra College Officers & Staff

President/Superintendent – Kevin M. Ramirez
Former Chief Financial Officer (through 3/2000) – John DeLury
Current Chief Financial Officer – Doug Smith
Business Manager – Robert Wickstrom
Provost, Grass Valley Campus – Tina Ludisky-Taylor
Executive Assistant to President/Superintendent – Susan McVay
Business Services Staff – Vicki Reader
Retired FUSE representative - Joyce Kelley
Vice President (resigned) - Deborah Blue

Sierra College Attorney – George Holt; Johnson, Schachter & Collins

Sierra College Financial Auditors – Perry-Smith & Co.

Actuarial Studies – Valuation dates 1990 & July 1, 1999

PriceWaterhouseCoopers, LLP (formerly Coopers & Lybrand) – Dennis Daugherty

PARTIAL LIST OF TERMS

Agency Fund:[3] A fund used to account for assets held by a governmental unit as an agent for individuals, private organizations, other governments, and/or other funds; for example, taxes collected and held by the county for a college district.

Employee Benefits:[4] Amounts paid by an employer on behalf of employees. Examples are group health or life insurance payments, contributions to employee retirement, district share of O.A.S.D.I. (Social Security) taxes, and worker's compensation payments. These amounts are not included in the gross salary, but are over and above. While not paid directly to employees, they are a part of the total cost of employees.

Expendable Trust Fund:[5] A Trust Fund whose resources, including both principal and earnings, may be expended. Expendable Trust Funds are accounted for in essentially the same manner as governmental funds.

Fiduciary Funds Group:[6] A group of funds used to account for assets held by the district in a trustee or agent capacity on behalf of individuals, private organizations, student organizations, other governmental units, and/or other funds.

FUSE: Federation of United School Employees

L.I.U.N.A.: Laborer's International Union of North America

MINT: Mutual Interest Negotiating Team

PCOE: Placer County Office of Education

PRMF: Post Retirement Medical Fund

SCCP: Sierra College Collaborative Process

SCFA: Sierra College Faculty Association

Trust Fund:[7] A fund consisting of resources received and held by an entity as trustee to be expended or invested in accordance with the conditions of the trust.

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[3] California Community Colleges Budget & Accounting Manual, 2000 ed., Board of Governors, Chancellor's Office (Sacramento, CA) p. B.2.
[4] Ibid., pp. B.10 – B.11.
[5] Ibid., p. B.11.
[6] Ibid., p. B.12.
[7] Ibid., p. B.24.

Unfunded Liability: An entity has the responsibility to pay a future obligation for which monies have not yet been set aside to cover the future costs.

Sierra College
Office of the President

MEMORANDUM

To: All Staff

From: Kevin M. Ramirez
President/District Superintendent

Date: September 28, 2000

To balance the General Fund budget for the years in 1995-96 and 1997-98, the Vice President for Finance and Administration and the Director of Business Services, transferred $165,000 from the Post Medical Retirement Fund ($93,000 in 1995-96 and $72,000 in 1997-98). These inter-fund transfers were reviewed by me and by the Board of Trustees Finance Committee.

In recent SCCP meetings of the Retiree Benefits Committee, it was revealed that the Post Medical Retirement Fund (PMRF) oversight committee (now known as MINT or Mutual Interest Negotiations Team) did not approve these accounting transfers as was contractually required since the 1990 inception of the PMRF. These transfers should have been reviewed and approved by the committee (MINT).

The District will direct its auditors (Perry-Smith and Co.) to make an appropriate adjustment of $165,000 to the Post Medical Retirement Fund with accrued interest. I would like to thank the Retiree Benefits Committee in its SCCP for discovering this error and apologize for the conflict these transactions caused.

EXHIBIT 1

AGREEMENT

BETWEEN

BOARD OF TRUSTEES

SIERRA COMMUNITY COLLEGE DISTRICT

AND

SIERRA COLLEGE FACULTY ASSOCIATION

November 13, 1990

EXHIBIT 2 (Page 1 of 4)

9.15 **UNFUNDED LIABILITY**

1. Effective July 1, 1990, the District will contribute 2% of the employee's salary toward medical benefits for retirees.

2. Effective July 1, 1991, the District will deduct 1% from each Faculty employees' salary to be placed in a restricted fund for medical benefits for retirees. The District shall match this contribution of 1% of the employees' salary. The purpose of the fund is to guarantee fully paid lifetime medical benefits for District Faculty retirees.

28

EXHIBIT 2 (Page 2 of 4)

3. Effective July 1, 1990, a joint labor management benefit committee will be established comprised of three (3) Faculty representatives from SCFA and two (2) management representatives. The purpose of this Committee is to oversee the restricted fund and to recommend modifications to the contributions as needed; to analyze alternative benefit structures and recommend implementation of new and/or revised benefit plans; to review all payroll processes to assure adherence to the Collective Bargaining Agreement and to recommend changes as needed. The joint committee shall establish procedures for administering the fund and shall develop an annual report for all employees regarding the fund. This committee shall meet on a regular basis and evaluate the unfunded liability of the retiree medical benefit, investments, and interests on the contributions and to determine when the fund is solvent, or determine when to start or stop contributions to the fund. Decisions regarding the fund shall be recorded and reported to SCFA.

4. Employees who do not elect to retire or who are not eligible for retirement at date of resignation will have their contributions refunded. Employer contributions for those employees shall remain in the fund.

EXHIBIT 2 (Page 3 of 4)

5. Any Faculty employee who refuses District medical benefits shall make the 1% contribution into the fund. Faculty employees refusing medical benefits shall not be eligible for retiree medical benefits, unless they contribute into the fund.

6. If the fund is discontinued for any reason, the Faculty employees shall be paid the amount of employee contributions paid into the fund up to the time of termination. The joint benefit committee shall determine the procedures and any other related questions regarding the fund at that time.

EXHIBIT 2 (Page 4 of 4)

LABOR/MANAGEMENT BENEFIT COMMITTEE
Minutes
December 4, 1991

Members Present:	Classified:	Joyce Kelley, Gary Harmer
	Faculty:	Keith Weidkamp, Roger Rasmussen
	Management:	Peter Kolster, Robert Wickstrom
Members Absent:	Classified:	Brenda Morgan
	Faculty:	David Dickson

1. <u>Review of Accountability Liability Fund</u>

Robert gave a report on the post-retirement medical retirement fund. September 30, 1991 - $282,999 cash balance in the fund. Premium for retirees last year equalled $357,000. The fund will continue to grow until we can get enough interest to pay the premiums for retiree benefits. At the present rate of 1%, we probably will not reach this goal for a long while. The committee will need to determine whether to increase the rate or to discontinue medical benefits for future retirees. Robert suggested that Coopers and Lybrant again conduct a study on the refunded liability.

EXHIBIT 3

Letters to the Editor

This letter was written to Negotiations Chair Luis Sanchez by a member of the full-time faculty, in response to an email on the Sierra College email system. Luis' response follows.

I just read Bill Hotchkiss' commentary on the "No Confidence" vote. The point I want to question is his statement that our 1% unfunded liability dollars were put into the General Fund. Has this indeed happened? If so, what as faculty do we need to do to rectify the situation?

Good question. According to section 11.15 of our last contract, this 1% fund was supposed to be overseen and administered by a committee of three faculty and two management representatives. The fund was also to be maintained in a *restricted* account.

Last December, I notified John Delury that the faculty wished to call a meeting of the committee to evaluate the status and viability of the fund.

He indicated that management representatives would not attend such a meeting.

I then asked him for the fund's most recent bank statement, financial statement, and actuarial report. He couldn't provide a separate bank statement, but did give me some financial statements showing the balances for "all fiduciary funds" as well as two excerpted pages from an actuarial report apparently done in July of 1999.

When I asked John for the rest of the report, he said he wasn't at liberty to share it with me—though he would soon be meeting with the actuary to obtain further information.

In mid-February, I left a voicemail message asking John to meet with the faculty committee representatives so we could discuss the actuarial report. A few days later I received a reply that he would *not* meet with us, but would provide us with a copy of the report shortly. (I saved the message to ensure that I did not simply misunderstand it). You now know about as much as I do.

While John's March 15 resignation from the college may result in further delays, I intend to ask that the fund be placed in a segregated account overseen by the Presidents of SCFA and the Faculty Senate until we can examine an actuarial report assuring us that the 1% fund is necessary and viable.

EXHIBIT 4

FIDUCIARY FUNDS GROUP

70 Trust Funds
80 Agency Funds

General Description

The Fiduciary Funds Group is used to account for assets held by the district in a trustee or agency capacity for individuals, private organizations, other governmental units, and/or other funds. Activities related to district operations should not be reported in fiduciary funds.

The Fiduciary Funds Group is comprised of trust and agency funds. There is no definitive guidance for distinguishing between trust and agency funds. They differ in degree rather than in kind. However, the primary distinction between trust funds and agency funds is that the district or college may exercise some discretion in the disbursement or expenditure of the moneys in the trust funds but does not have discretionary power or authority in agency funds. For example, if a district receives a contribution for a scholarship in which the district determines the recipient, it should be recorded in the Scholarship and Loan Trust Fund. However, if the same contribution provided that the donor determines the recipient of the scholarship, it should be recorded in the Scholarship and Loan Agency Fund.

An important accounting distinction between the two fund types is that revenues, expenditures/expenses and fund balance are reported in trust funds while agency funds recognize only increases and decreases in the liability to the owners of the assets.

If any of the following conditions are present, a trust fund is appropriate.

- There is a formal agreement granting the district discretionary authority.
- There are contractual or regulatory conditions restricting the use of the funds or requiring the district to exercise a management role or report the results of operations in its financial statements.
- There is a compelling reason to measure operations (revenues, expenditures/expenses, and fund balance) and report the results in the district's financial statements. Examples of compelling reasons may include the materiality of the revenues and expenditures/expenses, or the usefulness of the information to the readers of the financial statements.

EXHIBIT 5 (Page 1 of 3)

79 Other Trust Funds

Other Trust Funds are used to account for all other moneys held in a trustee capacity by the college or district for individuals, organizations, or clubs.

Such funds may be established and maintained in the appropriate county treasury, or as an alternative, the governing board may establish a bank account for each trust. Refer to Special Accounting Applications for requirements concerning separate bank accounts.

EXHIBIT 5 (Page 2 of 3)

FIDUCIARY FUNDS GROUP

80 Agency Funds

81 Student Clubs Agency Fund
82 Scholarship and Loan Agency Fund
83 Foundation Agency Fund
84 Joint Powers Agreement (JPA) Custodian Agency Fund
85 Deferred Compensation Agency Fund
89 Other Agency Funds

Nature and Purpose

Agency funds differ from trust funds in the degree of discretion that may be exercised. In agency funds, the agreement or instrument allows the district or college little or no discretion. As a result, agency funds are purely custodial in nature (i.e., assets equal liabilities; no fund equity exists). Agency funds are appropriate when all of the following conditions are present.

- There is an agreement granting the district little or no discretionary authority.
- There are no contractual or regulatory conditions restricting the use of the funds or requiring the district to exercise a management role or report the results of operations in its financial statements.
- There is no compelling reason to measure operations (revenues, expenditures/expenses, and fund balance) and report the results in the district's financial statements. Examples of compelling reasons may include the materiality of the revenues and expenditures/expenses, or the usefulness of the information to the readers of the financial statements.

EXHIBIT 5 (Page 3 of 3)

SIERRA COLLEGE **Business Services Office**

MEMORANDUM

TO: All Staff

FROM: Robert Wickstrom

SUBJECT: Post Retirement Medical Fund

DATE: April 16, 1997

My office has historically provided an annual analysis of the Post Retirement Medical Fund. Based on the audited financials from FY 1996-97, fund activity for last year was as follows:

Beginning Balance	$ 1,569,754
Contributions	383,409
Contribution refunds	(21,129)
Retiree premiums	(93,000)
Ending Balance	$ 1,839,034

Contribution refunds were made to employees resigning or otherwise terminating their employment with the District. Such refunding of employees' contributions is provided for in the collective bargaining agreements.

Retiree premiums of $93,000 were paid out of the fund to cover health benefit costs for specific retirees who had contributed to the fund prior to their retirement. These payments were consistent with the purpose of the fund. No premiums were paid on behalf of specific retirees in excess of what they had contributed to the fund.

We will be recommending to the MINT that the actuarial analysis done in 1991 be updated. The Community College League of California is sponsoring a statewide program utilizing Risk Management Techniques, Inc. as the actuary to perform this service for community colleges. We believe we can get a favorable rate for the study and will be coming forward with details for a recommendation soon.

RFW:mr

EXHIBIT 6

MINT RECOLLECTIONS

Date: April 15, 1997
Time: 2-3 p.m.
Place: B-3

Members Present: Joyce Kelley, Diane Corbett, Peter Kolster, Shari Jones (3 p.m.), Kay Glowes, Fred McElroy, Nancy Berman, Clair Parsh, Dave Emerson, Lynn Roath, Steve Clarkson, Robert Wickstrom, John DeLury, Ralph Eavenson, Lew Fellows

Members Absent: Sue Drennon, Nilo Velazquez

Facilitators: Patt McDermid, Ron Martinez, Jim Wilson

1. Contract language. Peter updated the group that both SCFA and FUSE has tentatively agreed to the language. On the Board for approval April 22, 1997.

2. Ratification scheduled for Friday for both FUSE and SCFA.

3. Peter indicated that Sue Drennon is working with the carriers to set up the program. Peter informed the group on the Kaiser rates. Nancy indicated that Lew will call upon the Management Senate to get their approval of the changes in benefits.

4. Post-retirement medical fund. Robert handed out an analysis of the fund. Joyce indicated that prior to MINT the Labor Management Benefit Committee reviewed the post medical retirement fund. Need to agenda this to have the MINT assume this oversight responsibility. Robert indicated that we need to do another actuarial study to determine the District's liability.

   Who: John DeLury--**consensus**
   What: Send the report to all staff and clarify miscellaneous expenditures
   When: ASAP

   Who: Robert
   What: Keep the MINT informed as to the actuarial study
   When: When completed

5. Part-time Classified benefits for employees working between 1040-1736 hours per year. Joyce indicated that this issue should remain at the FUSE table. Overall benefit structure is appropriate for MINT. Ralph indicated that this issue should remain at the MINT.

ISSUE

-benefits/pro-rata
-short-term and long-term solutions proposed by SCFA
-pro-rata issue bigger than this set of employees
-FUSE to meet with members to obtain interests from full-time and less than full-time Classified staff. Staff feel differently about this issue.
-pre and post payment issue fluctuated over last 1-2 years

EXHIBIT 7

SIERRA COLLEGE

At Sierra College We Facilitate Learning, Inspire Change and Build Community

FRIDAY LETTER

SEPTEMBER 29, 2000

PRESIDENT'S OFFICE:

- This week's landscape seemed to be dominated by Retirees Health Benefits Committee issues. Specifically, Doug Smith in his Friday Letter segment will review a development out of the retiree SCCP this week. By the time of this writing the issue seems to have been resolved to the satisfaction of SCFA and other members of the campus community. Doug Smith's segment (see page 2) may be confusing to you but it indicates data that we researched and discovered up to five hours after we issued the letter of explanation and apology that is attached to the Friday Letter.① Specifically, we discovered late Thursday that the MINT did review the basis for the first inter-fund transfer from the Post Medical Retirement Fund and the second transfer was discussed in a Board of Trustees Finance Committee.

- I appreciated your comments relative to our self study document at Tuesday's meeting. I will be working with Barry Abrams to make those and other edits prior to final adoption scheduled for October 10th.

- I had the opportunity to be the keynote speaker at the Lincoln Chamber of Commerce Breakfast at Twelve Bridges this week. I presented my "buffet of thoughts" regarding Sierra College in the year 2000. I focused on a number of areas including the Grand Jury Report, our emerging athletic programs, ESL and the joint facility curriculum project that we are engaged in with Western Placer Unified School District.

- The "President's Educational Leadership Team" held its fourth and final meeting on Wednesday. We have developed over fifteen initiatives that we will target for immediate implementation with the desired outcome of restoring enrollments to the +2% level by June 30, 2001. I believe the task force had some excellent ideas, which will hopefully result in some benefit regarding our enrollment picture. We are now in the process of discussing and inserting these initiatives with ECSPC and through the governance process as a whole. I would like to thank Mandy Davies, Stephen Jung, Peter Kolster, Lawrence Lee, Tina Ludutsky-Taylor, Fred McElroy, Diane McKnight, Susan McVay, Doug Smith, and Mary Towne for their extraordinary work.

DR. KEVIN M. RAMIREZ
President & District Superintendent

5000 Rocklin Road • Rocklin CA 95677 • Tel. 916-781-0540 • Fax. 916-781-0455
INTERNET: kramirez@scmail.sierra.cc.ca.us

EXHIBIT 8 (Page 1 of 3)

EDUCATIONAL PROGRAMS & SERVICES:

Carla Epting-Davis, Associate Dean, Admissions and Records reports:

- The Admissions and Records office has been tremendously busy these past months. We successfully completed our first Fall semester with Late Registration via PASS. We received feedback from students regarding their excitement about the option of not having to wait in line to process their adds. Students took advantage of the new system and many added their courses, in a timely manner, from the comfort of their homes. We experienced a few glitches and are continuing to work with the Information & Instructional Technology (IIT) department to take additional steps to offer more improved student services. Many thanks to Diane Smith and the rest of the IIT team for working hard to make all of this happen.

- The evaluators in our office have been just as busy. We experienced a 36% increase in the number of students applying for degrees. Last year May-August, we had 914 applicants and awarded 754 degrees. This year May-August, we had 1,247 applicants and awarded 1,051 degrees. This is a great accomplishment! The extra effort that the staff take to check to see if students are eligible for additional degrees is really paying off. Our approval rate for degrees historically averages about 75%. Last year we were at 82.5% approved and now we are at 84% approved. A big thanks and congratulations to the whole Admission and Records team. Way to go staff!!

OPERATIONAL SERVICES:

Doug Smith, Vice President for Finance & Administration reports:

- Our SCCP committee on Retirees Health Benefits met again this past Wednesday. We began with a lengthy review of various financial data previously requested. Information included (1) the dollar range of medical premiums the District currently pays on behalf of retirees, (2) the long term trend of change in total retiree premiums paid by the District as compared to change in total general fund expenditures, and (3) a full review of income and outgo to the Post Retirement Medical Fund.

  There was lengthy discussion that focused on two transfers previously made from the Post Retirement Medical Fund to the General Fund. The records indicate that these transfers, totaling $165,000 were made to help balance the budget in 1996 and 1998. Subsequent to the Wednesday meeting, files were researched that indicate that both transfers were appropriately and publicly communicated. Included in this documentation is a memo from Robert Wickstrom to the MINT Committee, written 1997, describing the basis of the first transfer. Documentation indicates the 1998 transfer was formally discussed in the Board of Trustees Finance Committee meeting of September 22, 1998. Also, it can be noted that both transfers were properly recorded and disclosed in the District's annual financial audit reports.

EXHIBIT 8 (Page 2 of 3)

Operational Services (Continued)

In my opinion, no inappropriate action was taken with regard to either of these transfers, however, memories are short and emotions are high. In support of the SCCP process and in an effort to restore and rebuild relationships among Sierra College administrative, staff and retirees, Kevin has directed Robert and me to instruct the District financial auditors, Perry-Smith & Co., to prepare an audit adjustment of $165,000 plus interest to fully restore the Post Retirement Medical Fund. I believe this is our best course of action to move forward.

The SCCP Committee reached two important and noteworthy consensus agreements. The first is to "recommend that the District, bargaining units and MINT reestablish the rules and regulations related to the Post Retirement Medical Fund." And the second is to "request the District to define 'what does full cost mean,' including in the past, the present, and future."

Our next scheduled meeting is Wednesday, October 4th from 3:00 p.m. to 6:00 p.m.

❖ Unfortunately for our Economic Development team and for Sierra College, one of our brightest stars has submitted her letter of resignation. Marcy Schaefer, Customized Workforce Training Program Manager, has decided to apply her many talents in another direction. She will be leaving us in December and her skills, intelligence and warm personality will be greatly missed.

❖ Other news from Economic Development includes the following:
- The Sierra College Assessment Center has requested to utilize one of the mobile labs for high school outreach assessment during the spring semester. Economic Development will provide the set-up and technical support.

- Customized Workforce Training (Marcy) set-up Business Writing classes for Roseville Telephone and the City of Roseville, provided a one-day Problem Solving workshop for Placer County, continues to work with NEC to provide classes in Computer Applications and Business Japanese and attended City of Roseville/Roseville Chamber meeting regarding development of a free-access computer lab in downtown Roseville.

- SBDC has been selected by the U.S. Small Business Administration for a special programmatic and fiscal audit. The intention is to showcase one of California's SBDC's and its quality performance. The SBDC staff, and Business Services staff Vicki Reader and Carolyn McLaughlin are now as prepared as can be for the audit, which was scheduled for September 28, 2000. Also, the SBDC initiated its nighttime clinic last week with Mary Wollesen leading off as the clinic consultant. Five business owners took advantage of the offered consulting services and viewed business management videos.

EXHIBIT 8 (Page 3 of 3)

RECOLLECTIONS
SIERRA COMMUNITY COLLEGE
FINANCE COMMITTEE
Tuesday, September 22, 1998
LRC, Room 133
3:00 p.m.

Finance Committee Members Present:	David Creek and Barbara Vineyard
Board of Trustees Members Present:	David Parker (3:42)
Sierra College Staff Present:	Deborah Blue, John DeLury, Kevin Ramirez, Vicki Reader, and Robert Wickstrom
Guests:	John Bukey and Woodrow Wilson

Barbara Vineyard called the meeting to order at 3:04 p.m.

1. 1998-99 Final Budget – Robert Wickstrom
Handouts were distributed for reference. The first, 1998-99 Budget Comparison Unrestricted/Restricted, was reviewed and the meaning of unrestricted and restricted was given. The second, 1997-98/1998-99 Budget Comparisons was reviewed and it was specifically noted that $150,000 of the $157,500 Incoming Transfers was coming direct from the Post Medical Retirement Fund. The third handout, 1998-99 Budget Comparisons, Revenue/Expenditure Budget Increases Over Actual, was reviewed. Specifically, the 3000 accounts were addressed with explanations given to questions by the Committee. The 6000 and 7000 accounts were also reviewed.

72,000
6/30/98

2. Resolution #98-27, Approving Lease Purchase Financing – Robert Wickstrom
This is agenda #10524 and this item was explained as outlined in the agenda.

3. Other – Kevin Ramirez/John DeLury
It was recommended to Barbara Vineyard to obtain a consensus to hold a budget workshop on budget analysis and the budget process. An explanation was given as to what new dynamics affect budget process.

With no further business, the meeting was adjourned at 3:55 p.m.

EXHIBIT 9

SIERRA COLLE : MEMORANDUM

TO: Members of the Board of Trustees

FROM: John DeLury
Vice President Finance & Administration

RE: 1998-99 District Budgets

Enclosed please find the 1998-99 District Budgets for all funds.

- FUND 01 – The General Fund of the District is balanced in the amount of $50,264,174. This represents a 13.8% increase over last years adopted budget. This fund includes both restricted and unrestricted programs for the general operation of the District.
- FUND 05 – The Bookstore Fund as presented represents classified salaries for the month of July as a result of outsourcing the District Bookstore Operation to Barnes & Noble College Bookstores, Inc. The fund is balanced in the amount of $30,239.
- FUND 20 – The Financial Aid Fund is balanced in the amount of $2,441,072 and includes Federal and State categorical funds for loans and grants to students.
- FUND 51 – The Dormitory Revenue Fund is balanced in the amount of $296,910. It is anticipated that there may be a requirement to augment this budget due to revenue reduction as a result of only one semester of operation. The staff will monitor this fund carefully throughout the year.
- FUND 53 – The Bond Interest and Redemption Fund is out of balance with the expenditures exceeding the revenues in the amount of $55,800. The prior years fund balance will be used to balance the fund. This is occurring due to the remodel of the residence hall facility.
- FUND 78 – The Capital Projects Fund is balanced in the amount of $5,535,508. This fund is used to process revenues and expenditures for major construction projects, scheduled maintenance and equipment.
- FUND 83 – The Foundation Fund is not balanced because the only activity is the revenue earned on funds held in the county treasury. The District acts as custodian for the of the Sierra College Foundation
- FUND 84 – The Post Medical Retirement Fund is being presented with revenues exceeding expenditures by $369,006. The expenditure for other payments is the estimated amount of funds to be transferred from this fund to General Fund to pay medical insurance premiums for retirees.

The Budgets will be reviewed and discussed by the Board Finance Committee at its meeting prior to the regular board meeting. They will be presented to the Board for adoption under agenda item #10502 Public Hearing – Final Budget. The staff will be available to answer questions presented by the Board.

EXHIBIT 10

SIERRA COLLEGE

BOARD OF TRUSTEES MEETING

CONFIDENTIAL PROCEEDINGS

Tuesday, September 22, 1998

Rockln, California

DIAMOND COURT REPORTERS
1010- 8th Street, Sacramento, CA 95814
(916) 498-9288

EXHIBIT 11 (Page 1 of 2)

PROCEEDINGS

-o0o-

MR. WICKSTROM: And we did have a question in Finance Committee, one of those questions being why 21 percent drop in the federal revenues. And the only thing I can figure there, we have not done an analysis on that, but it's probably special projects and grants that came in last year and have not been earned at that point in time. So they're revenues that we have received but not earned. So, therefore, they go to the balance sheet account rather than to the income statement.

The other one is that in incoming transfer you can see a rather significant increase there. I'm only pointing that out because that hundred and fifty-seven thousand five hundred, it's the same seventy-five hundred from last year, plus a hundred and fifty thousand is being transferred from another fund. That other fund is the post medical retirement fund and that's done on the basis of all those folks who have gone out, retired, and that we have not used any of their monies, the one percent that had been placed in there for that period of time. So that transfer that you saw, the post -- when you see the post medical retirement fund in your budget packet, you'll see an outgoing transfer from that fund, the incoming transfer see it on this side.

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[Whereupon the proceedings in the above matter were concluded.]

DIAMOND COURT REPORTERS (916) 498-9288

EXHIBIT 11 (Page 2 of 2)

AGREEMENT

BETWEEN

BOARD OF TRUSTEES

SIERRA COMMUNITY COLLEGE DISTRICT

AND

SIERRA COLLEGE FACULTY ASSOCIATION

June 13, 1995

EXHIBIT 12 (Page 1 of 15)

11.8.4 Post July 1, 1994 Coverage

Medical Insurance for retired faculty employees hired after July 1, 1994

Effective July 1, 1994, faculty employees hired after this date may purchase medical insurance subject to carrier approval. The District's obligation to pay the cost of medical insurance for faculty employees hired after July 1, 1994 is discontinued. Section 10.15 Unfunded Liability shall not apply to faculty employees hired after July 1, 1994.

EXHIBIT 12 (Page 2 of 15)

11.15 UNFUNDED LIABILITY

1. Effective July 1, 1990, the District will contribute 2% of the employee's salary toward medical benefits for retirees.

2. Effective July 1, 1991, the District will deduct 1% from each full-time faculty employees' salary to be placed in a restricted fund for medical benefits for retirees. The District shall match this contribution of 1% of the employees' salary. The purpose of the fund is to guarantee fully paid lifetime medical benefits for District Faculty retirees.

3. Effective July 1, 1990, a joint labor management benefit committee will be established comprised of three (3) Faculty representatives from SCFA and two (2) management representatives. The purpose of this Committee is to oversee the restricted fund and to recommend modifications to the contributions as needed; to analyze alternative benefit structures and recommend implementation of new and/or revised benefit plans; to review all payroll processes to assure adherence to the Collective Bargaining Agreement and to recommend changes as needed. The joint committee shall establish procedures for administering the fund and shall develop an annual report for all employees regarding the fund. This committee shall meet on a regular basis and evaluate the unfunded liability of the retiree medical benefit, investments, and interests on the contributions and to determine when the fund is solvent, or

EXHIBIT 12 (Page 3 of 15)

determine when to start or stop contributions to the fund. Decisions regarding the fund shall be recorded and reported to SCFA.

4. Employees who do not elect to retire or who are not eligible for retirement at date of resignation will have their contributions refunded. Employer contributions for those employees shall remain in the fund.

5. Any Faculty employee who refuses District medical benefits shall make the 1% contribution into the fund. Faculty employees refusing medical benefits shall not be eligible for retiree medical benefits, unless they contribute into the fund.

6. If the fund is discontinued for any reason, the Faculty employees shall be paid the amount of employee contributions paid into the fund up to the time of termination. The joint benefit committee shall determine the procedures and any other related questions regarding the fund at that time.

7. For retirement benefit plans coverage, refer to Article 9 - Health and Welfare Benefits.

8. Process for Refunding of Employee Contributions

   Employees who have had payroll deductions for the Post Retirement Medical Benefit and who are permanently separated for other than retirement from the employment of the District will automatically receive a refund unless other wise directed by the separating employee.

EXHIBIT 12 (Page 4 of 15)

9. <u>Refund of Employee Contributions</u>

Employees who have had payroll deductions for the Post Retirement Medical Benefit and who are permanently separated for other than retirement from the employment of the District will receive a refund of all of their contributions plus interest through the preceding June 30. Employees may elect to receive their refund on June 30 of the separated fiscal year and will receive interest through that date.

10. <u>Interest Earnings on Contributions</u>

The interest which will be applied to the employee's contribution at June 30 of each year is established by the Management and Labor Benefits Committee. The interest rate paid will be annually calculated at 4% simple for the individual's actual contributions as averaged for the fiscal year with all funds invested in the "Post Medical Retirement Benefit Trust Fund" held in the Placer County Treasury.

EXHIBIT 12 (Page 5 of 15)

AGREEMENT

BETWEEN

BOARD OF TRUSTEES

SIERRA COMMUNITY COLLEGE DISTRICT

AND

SIERRA COLLEGE FACULTY ASSOCIATION

September 10, 1996

EXHIBIT 12 (Page 6 of 15)

11.8.4 <u>Post July 1, 1994 Coverage</u>

<u>Medical Insurance for retired faculty employees hired after July 1, 1994</u>

Effective July 1, 1994, faculty employees hired after this date may purchase medical insurance subject to carrier approval. The District's obligation to pay the cost of medical insurance for faculty employees hired after July 1, 1994 is discontinued. Section 11.15 Unfunded Liability shall not apply to faculty employees hired after July 1, 1994.

EXHIBIT 12 (Page 7 of 15)

11.15 UNFUNDED LIABILITY

1. Effective July 1, 1990, the District will contribute 2% of the employee's salary toward medical benefits for retirees.
2. Effective July 1, 1991, the District will deduct 1% from each full-time faculty employees' salary to be placed in a restricted fund for medical benefits for retirees. The District shall match this contribution of 1% of the employees' salary. The purpose of the fund is to guarantee fully paid lifetime medical benefits for District Faculty retirees.
3. Effective July 1, 1990, a joint labor management benefit committee will be established comprised of three (3) Faculty representatives

EXHIBIT 12 (Page 8 of 15)

from SCFA and two (2) management representatives. The purpose of this Committee is to oversee the restricted fund and to recommend modifications to the contributions as needed; to analyze alternative benefit structures and recommend implementation of new and/or revised benefit plans; to review all payroll processes to assure adherence to the Collective Bargaining Agreement and to recommend changes as needed. The joint committee shall establish procedures for administering the fund and shall develop an annual report for all employees regarding the fund. This committee shall meet on a regular basis and evaluate the unfunded liability of the retiree medical benefit, investments, and interests on the contributions and to determine when the fund is solvent, or determine when to start or stop contributions to the fund. Decisions regarding the fund shall be recorded and reported to SCFA.

4. Employees who do not elect to retire or who are not eligible for retirement at date of resignation will have their contributions refunded. Employer contributions for those employees shall remain in the fund.

5. Any Faculty employee who refuses District medical benefits shall make the 1% contribution into the fund. Faculty employees refusing medical benefits shall not be eligible for retiree medical benefits, unless they contribute into the fund.

6. If the fund is discontinued for any reason, the Faculty employees shall be paid the amount of employee contributions paid into the fund up to the time of termination. The joint benefit committee

EXHIBIT 12 (Page 9 of 15)

shall determine the procedures and any other related questions regarding the fund at that time.

7. For retirement benefit plans coverage, refer to Article 9 - Health and Welfare Benefits.

8. Process for Refunding of Employee Contributions

   Employees who have had payroll deductions for the Post Retirement Medical Benefit and who are permanently separated for other than retirement from the employment of the District will automatically receive a refund unless other wise directed by the separating employee.

9. Refund of Employee Contributions

   Employees who have had payroll deductions for the Post Retirement Medical Benefit and who are permanently separated for other than retirement from the employment of the District will receive a refund of all of their contributions plus interest through the preceding June 30. Employees may elect to receive their refund on June 30 of the separated fiscal year and will receive interest through that date.

10. Interest Earnings on Contributions

   The interest which will be applied to the employee's contribution at June 30 of each year is established by the Management and Labor Benefits Committee. The interest rate paid will be annually calculated at 4% simple for the individual's actual contributions as averaged for the fiscal year with all funds invested in the "Post Medical Retirement Benefit Trust Fund" held in the Placer County Treasury.

EXHIBIT 12 (Page 10 of 15)

AGREEMENT

BETWEEN

BOARD OF TRUSTEES

SIERRA COMMUNITY COLLEGE DISTRICT

AND

SIERRA COLLEGE FACULTY ASSOCIATION

JUNE 13, 2000

EXHIBIT 12 (Page 11 of 15)

11.8.4 **<u>Post July 1, 1994 Coverage</u>**

<u>Medical Insurance for Retired Faculty Employees Hired after July 1, 1994</u>

Effective July 1, 1994, faculty employees hired after this date may purchase medical insurance subject to carrier approval. The District's obligation to pay the cost of medical insurance for faculty employees hired after July 1, 1994 is discontinued. Section 11.16 Unfunded Liability shall not apply to faculty employees hired after July 1, 1994.

6-13-00

41

EXHIBIT 12 (Page 12 of 15)

11.16 **Unfunded Liability**

1. Effective July 1, 1990, the District will contribute 2% of the employee's salary toward medical benefits for retirees.

6-13-00

47

EXHIBIT 12 (Page 13 of 15)

2. Effective July 1, 1991, the District will deduct 1% from each full-time faculty employees' salary to be placed in a restricted fund for medical benefits for retirees. The District shall match this contribution of 1% of the employees' salary. The purpose of the fund is to guarantee fully paid life-time medical benefits for District faculty retirees.

3. Effective July 1, 1990, a joint labor management benefit committee will be established comprised of three (3) faculty representatives from SCFA and two (2) management representatives. The purpose of this committee is to oversee the restricted fund and to recommend modifications to the contributions as needed; to analyze alternative benefit structures and recommend implementation of new and/or revised benefit plans; to review all payroll processes to assure adherence to the Collective Bargaining Agreement and to recommend changes as needed. The joint committee shall establish procedures for administering the fund and shall develop an annual report for all employees regarding the fund. This committee shall meet on a regular basis and evaluate the unfunded liability of the retiree medical benefit, investments, and interests on the contributions and to determine when the fund is solvent, or determine when to start or stop contributions to the fund. Decisions regarding the fund shall be recorded and reported to SCFA.

10-9-96

48

EXHIBIT 12 (Page 14 of 15)

4. Employees who do not elect to retire or who are not eligible for retirement at date of resignation will have their contributions refunded. Employer contributions for those employees shall remain in the fund.

5. Any faculty employee who refuses District medical benefits shall make the 1% contribution into the fund. Faculty employees refusing medical benefits shall not be eligible for retiree medical benefits, unless they contribute into the fund.

6. If the fund is discontinued for any reason, the faculty employees shall be paid the amount of employee contributions paid into the fund up to the time of termination. The joint benefit committee shall determine the procedures and any other related questions regarding the fund at that time.

7. For retirement benefit plans coverage, refer to Article 9-Health and Welfare Benefits.

8. **Process for Refunding of Employee Contributions**

   Employees who have had payroll deductions for the Post Retirement Medical Benefit and who are permanently separated for other than retirement from the employment of the District will automatically receive a refund unless otherwise directed by the separating employee.

9. **Refund of Employee Contributions**

   Employees who have had payroll deductions for the Post Retirement Medical Benefit and who are permanently separated for other than retirement from the employment of the District will receive a refund of all

10-9-96

EXHIBIT 12 (Page 15 of 15)

SIERRA COLLEGE

BOARD OF TRUSTEES MEETING

CONFIDENTIAL PROCEEDINGS

Tuesday, March 14, 2000

Rocklin, California

DIAMOND COURT REPORTERS
1010- 8th Street, Sacramento, CA 95814
(916) 498-9288

EXHIBIT 13 (Page 1 of 14)

PROCEEDINGS

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[TRANSCRIBER'S NOTE: Some comments were inaudible due to some individuals not being close to a microphone.]

-o0o-

MR. DOUGHERTY: As John mentioned, my name is Dennis Dougherty. I'm an actuary with Price-Waterhouse-Coopers in San Francisco. And in working with the college for a few months to get together this actuarial valuation that is in the packet that you have and that was just handed out and I'm here tonight to briefly present the results of that actuarial valuation and then answer any questions that might arise.

The actuarial valuation is an estimate of the present value of future benefits that will be extended to retirees who qualify for post-retirement medical benefits and at the college that groups includes those people who are currently retired and their dependents and folks who were hired before July 1st, 1994. That's the group we're talking about which I think is about 290 active employees and roughly 300 retirees and dependents as of the date that we prepared this valuation, which was July 1st of 1999.

In completing the actuarial valuation we received census information from the District, worked closely with them to make sure that information was correct, so we have information on the demographic characteristics of those 200 --

Note: The correct spelling of Mr. Dougherty's name is actually Daugherty.

EXHIBIT 13 (Page 2 of 14)

roughly 290 active employees and the 300, roughly, retirees and dependents currently receiving benefits. We took that census information, developed a host of actuarial assumptions that we feel are appropriate for completing this valuation and then completed the valuation using a software tool that we have and use in our offices. The types of assumptions that we had to select were such things as: What are the -- what's an appropriate mortality rate to use for retirees; what is the rate at which active employees will retire, at what ages, that is; what is the likely turnover that might occur between now and retirement for teachers who are still -- who are in this group, that is, hired before July 1st, 1994 and still actively working at the District. We had to also make assumptions as to what is the likely rate of increase in health care costs going out into the future. That's not an easy one I must tell you. And, also, what is an appropriate discount rate or interest rate to use for calculating this present value of future benefits that I was describing.

And just briefly to tell you how the valuation works, what we do is try to project the future costs in each year out as many years as it takes, 60-70 years from now, when the last of the current active employees would have been retired and then, ultimately, deceased; what are the likely future costs in each of those years; and then using that discount rate or interest rate that I mentioned, figure out what is the present value of those benefits as of July 1st of 1999. And the calculations that we completed and reviewed with the District before issuing this final report are shown on, is it -- page 4 of the report. The present value of the future benefits that we estimated

EXHIBIT 13 (Page 3 of 14)

is just a little bit over $23 million of obligation. That's expected to be the future cost -- present value of future cost associated with these retiree health care benefits. You see on page 4 I actually show two numbers: one is 23.0 million and another is 24.6 million. Little bit higher, the second one.

I wanted to show for the District the numbers two ways. One, the subsidized premium basis which is in the first table on the top of the page is -- are the numbers calculated assuming that you continue to pay premiums for these benefits in the same manner that you have been up until now. The numbers on the bottom, which are a little bit higher, represent our estimate of what the liability would be if, instead of paying these premiums that you have been paying, if, instead, there was a way to carve out the true cost of the retirees separately from the active employees and just measure the cost of that -- of those true benefits -- true cost of those benefits out into the future. And the numbers are pretty close in this case.

The next page shows what is the actual unfunded liability. Now, it is true that the District does have a fund a year ago, or last July 1st, of almost $3 million and I understand it's slightly over $3 million now, that has been set aside for this -- to partially fund a portion of this obligation. So, actually, as of last July 1st, the unfunded obligation is right at $20 million. And we also show on Table 2-3 that if the District had the ability to pre-fund this obligation over the number of years that we've shown there, -- I've shown it for ten, 12,15 and 20 years, for example -- how much you'd have to set aside each year, if all of our assumptions played out perfectly, how

EXHIBIT 13 (Page 4 of 14)

much you'd have to set aside each year in order to pre-fund this obligation over that period of time. We estimate 12 years is the average future working lifetime of the current active employees who would -- might be eligible for this benefit.

The next page shows something that's maybe a little easier to get your hands around and that is, what do we think the costs are going to be each year out into the future. And, currently, it's running around five hundred and fifty, six hundred thousand a year for these benefits, but as you can see from Table 2-4, that's expected to increase rapidly over the next 20 or 30 years reaching an ultimate level in excess of $2 million a year before it starts to taper off. We've shown only a 40 year projection here. We could have taken it out another 20 or 30 years and in which case the numbers really would have tapered off quickly as the population decreases rapidly.

So those are -- that's the valuation -- those are the valuation results. The rest of the report describes what is this benefit that retirees are receiving, what are the eligibility rules that they must satisfy in order to receive these benefits, and how many people are we valuing? And so in the tables that follow in the following pages we lay out what the eligibility rules are. Generally, it's that a person must be at least age 55 and have varying years of service depending on when they were hired, and it states that they receive lifetime medical benefits for them and for their spouse, as long as the retiree's living, and then, generally, once the retiree dies the surviving spouse will receive benefits for three months, in most instances, although in a couple of instances lifetime benefits to the surviving spouse as well. And, again, we state here

EXHIBIT 13 (Page 5 of 14)

that anyone hired after July 1st, 1994 does not qualify for these benefits.

After that we do show the demographics of what were included in the valuation: 119 faculty employees, 133 classified, 19 classified supervisors and confidential employees, 15 administrative, six board members. And then the last table of demographic data that we show indicates that we valued 301 retirees, spouses, surviving spouses, and a few children included in that count as well. So that's the population that we valued. That's the group that generated the $20 million of unfunded liability.

After that, the report gets into these actuarial assumptions that I described earlier and if anyone had any questions about any of those, I could talk in more detail about that. And that's pretty much the end of the report. So that's the message that I'm delivering. That's $20 million of unfunded liability, roughly. Any questions?

Mr. Parker: [Inaudible].

Ms. Vineyard: Well, we didn't have a lot of time and we didn't get quite as far as he just got now, so we didn't have any time for discussion.

Mr. Parker: [Inaudible] locked in [inaudible].

Mr. Daugherty: Yeah, we got squeezed on the time earlier.

Ms. Vineyard: I think the important thing is what it would cost us to completely fund it [inaudible].

The Court Reporter transcribed the minutes of Sierra College from a tape of the Board of Trustees meeting provided under subpoena. The speakers' names were added by the Grand Jury on the basis of testimony of knowledgeable witnesses.

EXHIBIT 13 (Page 6 of 14)

Mr. Creek: Maybe it was a side conversation I had with John. This money, the three million, is stored where? Is it in a separate account?

Mr. DeLury: It's in a separate fund. Yes, post-retirement medical fund.

Mr. Creek: And -- and --

Mr. DeLury: Totally separate from general fund.

Mr. Creek: -- when do we draw money from it?

Mr. DeLury: Well, right now the District is paying, essentially, all of retiree benefits out of general fund.

Mr. Creek: Okay.

Mr. DeLury: Yours truly will get a little bit back when I leave and that's one circumstance where we actually do deplete that fund is when a person that's contributed to the fund and they leave the District, their one percent that they've contributed goes back to them. In other --

Mr. Creek: [Inaudible] circumstances?

Ms. Vineyard: [Inaudible] I think.

Mr. DeLury: So far, that's correct.

Ms. Vineyard: Vickie, you would know maybe.

Ms. Reader: Yes, that's correct.

Mr. Creek: So that's the only, at this point --

Ms. Vineyard: If someone quits before they retire.

EXHIBIT 13 (Page 7 of 14)

Mr. DeLury: That's the only, as far -- that's the only regular --

Ms. Reader: The only time we [inaudible].

Mr. DeLury: -- utilization of those funds.

Mr. Creek: So if I understand right, --

Mr. DeLury: We have consistently tried to grow it, grow it, grow it so that, you know, --

Ms. Vineyard: Right.

Mr. DeLury: -- the purpose of the fund [inaudible].

Mr. Creek: It's growing by a one percent or one-and-a-half percent employee contribution?

Mr. DeLury: One percent employee --

Mr. Creek: One percent matched by the --

Mr. DeLury: District.

Mr. Creek: -- matched by the District.

Mr. DeLury: Eligible employees contribute one percent of their gross, --

Mr. Creek: Okay.

Mr. DeLury: -- the District matches that one percent.

Mr. Creek: Okay.

Mr. DeLury: Total contribution is roughly

EXHIBIT 13 (Page 8 of 14)

$400,000.00 per year right now.

Mr. Creek: So we're falling, essentially, based on that 12 year [inaudible] we're -- with the employees and the District we're falling about a million short?

Mr. DeLury: Roughly. Yes. It would take another million dollar contribution, roughly, --

Mr. Creek: Right.

Mr. DeLury: -- to the fund on the12 year plan -- under the 12 year scenario to pre-fund the entire liability within a 12-year time frame.

Mr. Creek: And 12 years is sort of the magic number because that's when the last personnel working with [inaudible].

MR. DOUGHERTY: No, excuse me, that's the average future working lifetime.

Mr. Creek: It's -- average.

MR. DOUGHERTY: Average.

Mr. Creek: Average.

MR. DOUGHERTY: Average

Mr. Creek: Okay, average.

Mr. Parker: Any [inaudible]?

Mr. Ferrari: A couple of questions. One would be, is this -- is this fund and some of the things we've been getting in the mail and different

EXHIBIT 13 (Page 9 of 14)

things that -- there's a fund that we're -- that, supposedly, the college is using out of place to fund other things? Is this the fund that is --

Mr. DeLury: That's where the allegation is, but it's absolutely erroneous.

Mr. Ferrari: Is it sitting in an account that it can't be used?

Mr. DeLury: It's in -- it's in a totally separate fund that's audited separate from the general fund, it's audited separate from all other funds that we don't -- we could get access to it, but we haven't taken any money out of it.

Mr. Ferrari: Okay. The second question would be -- is, since this is your last meeting, you know, you know the budget and everything as well as anybody, what would be -- with what you know today, what would be your recommendation as to how we go about funding this?

Mr. DeLury: Well, since it's negotiable that makes it difficult at best. One option for the District is just to take a look incrementally as you go -- as you take a look at page 6, is just absorb the cost of doing business -- an incremental cost of doing business, put that much more into the budget each year to pay for the incremental costs of the plan.

Mr. Ferrari: This is part of salary negotiations. That what you -- negotiable, is that what you mean that it gets -- it's built into that [inaudible].

EXHIBIT 13 (Page 10 of 14)

Mr. DeLury: If employees are to contribute to the fund, then it becomes negotiable.

Mr. Ferrari: Okay.

Mr. DeLury: If the District just wants to absorb through the general fund the incremental costs, you could do that, but they have to be paid and they go up to $200,000.00 a year, so that is an option. So the answer really lies in the ability of the District to negotiate some terms with employees who will benefit from this, as opposed to just paying all out of the general fund.

Mr. Creek: How did we arrive at this point? That is, what -- take me back in history. How come when the original magic number of one percent and a match was set up that it wasn't, I don't -- two percent.

Mr. DeLury: I can't answer that. John, you were here?

Mr. Bukey: I wasn't here.

Mr. DeLury: Peter, you were here?

____________: [Inaudible].

[Laughter]

Mr. Kolster: [Inaudible] we had to make inroads and once we realized it [inaudible] million dollars [inaudible] recognizing that it was Yasbee?

Mr. DeLury: Yes. Yasbee.

EXHIBIT 13 (Page 11 of 14)

Mr. Kolster: [Inaudible] private agencies, they're required by law to have a fund set aside to take care of the unfunded [inaudible]. Public agency then [inaudible] talk about it and I was presuming that [inaudible] in anticipation of that we started the [inaudible] fund to get it prepared for the inevitable event that they may apply to us and at least get that reserve up to the point that we can [inaudible] sometimes take all of the money out of the [inaudible] reserve to come up with the money [inaudible]. We came up with this [inaudible] one percent each trying to make an indentation and made some inroads [inaudible].

Mr. DeLury: I would also let you know that many community college districts have no process to contribute to a fund like the post-retirement medical fund that we have established here in Sierra College. I believe it's very prudent among community colleges to do that. And many community colleges have not severed the obligation of lifetime benefits for newly hired employees yet. So those colleges have got nothing in the bank to assist in these obligations long term and they have got nothing, no way to actually, you know, confine it to a fixed population. Sierra College, vis-a-vis the rest of the system, I think is in fairly good shape.

Mr. Creek: If I did the math right, would a two percent contribution would essentially do it both sides? Two percent contribution --

Mr. DeLury: Oh.

Mr. Creek: -- employees and --

Mr. DeLury: Yes.

EXHIBIT 13 (Page 12 of 14)

Mr. Creek: -- college?

Mr. DeLury: If it were to be four percent --

Mr. Creek: Right.

Mr. DeLury: -- instead of two percent?

Mr. Creek: Somewhere between --

Mr. DeLury: If you were to double it to eight hundred thousand a year, plus what we're contributing?

Mr. Creek: Right, right.

Mr. Ferrari: But that's just income [inaudible] that are eligible --

Mr. DeLury: That's correct.

Mr. Ferrari: -- for the plan, right, so everybody doesn't --

Mr. Parker: That's right.

Mr. Ferrari: -- pay. And as those folks begin to retire, then that two percent --

Mr. DeLury: They drop out.

Mr. Ferrari: -- becomes less, so --

Mr. DeLury: That's exactly right.

Mr. Ferrari: -- it would shrink a little bit.

Mr. Ramirez: John, could you enlighten us a little bit

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EXHIBIT 13 (Page 13 of 14)

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[Whereupon the proceedings in the above matter were concluded.]

EXHIBIT 13 (Page 14 of 14)