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MCERA Board of Trustees and
Administrator Jeff Wickman
Marin County Employee Retirement System
1 McInnis Parkway, #100
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The "public service exemption" to conflict of interest rules as described by the court in the Lexin decision relies on members of the board having, in the words of the court, "a shared interest with the *entire* membership of the retirement system" and with the "*membership as a whole*."

For the purposes of this discussion, MCERA's membership is divided into two mutually exclusive groups, and these groups have different interests.

The first group includes retirees and current employees who do or will benefit from any of the pension enhancements under discussion. This group may include some or all of the "employee" and "retiree" members of the MCERA board. It may also include the County Director of Finance.

The second group includes retirees and current employees who do not and who will not benefit from any of the increases under discussion. This group comprises at least a substantial minority of the plan's members, and perhaps even a majority.

All members of the Board should determine whether they fall into the first group, the one that does or will benefit from the enhancements. These members do not have a "shared interest with the entire membership of the retirement system". They cannot meet the standard set by the Lexin Court. Therefore, the "Public Service Exemption" cannot apply to them. They must recuse themselves from any discussion of the topic at hand.

Sincerely,

David C. Brown

What are the disadvantages to group two?

1. As a result of the enhancements, especially the retroactive enhancements, the plan has a greater unfunded liability than it otherwise would.

2. The funds available to pay benefits are not unlimited.

3. The increased unfunded liability may cause the plan to elect a riskier investment strategy than it otherwise would.

4. The unfunded liability causes larger contributions by the employers putting them under increased financial stress, putting plan members at greater risk.

4. In the event of the failure of the plan or the inability of an employer to make the necessary payments, the distributions to the haves and the have-nots will be different than they would be had the benefit enhancements not taken place. The benefit-haves will receive more and the benefit-have-nots will receive less than they otherwise would have.