

# **3% at 50 Court Case**

## **Frequently Asked Questions**

**Q: Why did the Board of Supervisors decide to bring a court case?**

- This case will bring certainty to County peace officers about their future pension rights and their ability to keep the pension money they already have received.
- The County estimates it will save at least \$187 million if the court decides the retroactive pension is invalid.
- The court's decision will result in transparency and accountability in future County decision making.

**Q: It has been reported that the County has sought advice from several law firms about this issue. Why?**

- Given the magnitude of the issue, the Board of Supervisors wanted to get the best legal advice possible before deciding how to proceed.
- As a result of all the advice it received, including legal analyses prepared by attorneys for AOCDS, the Board decided that bringing a court case regarding the constitutionality of the retroactive pension benefits is the best course of action.

**Q: Why didn't the Constitutional legality of the retroactive pension come up at the time it was approved in 2001?**

As best as we can tell, County decision makers did not focus on the issue in 2001, perhaps because they assumed (wrongly) that the issue had been considered and addressed in Sacramento when the statute allowing for retroactive "3 percent at 50" benefits was enacted. In any event, after the County became aware of the issue last year it acted promptly but carefully to investigate the issue and resolve it in an orderly manner with the support of the courts.

**Q: How much has the County spent on this matter?**

Through the end of April 2008, the County spent approximately \$560,000 on this court case. The County is hopeful that, with OCERS and AOCDS's cooperation, this court case can be resolved in an efficient, cost-effective manner.

**Q: How much does the County expect to spend on the court case?**

- That depends. What we know at this point is that all litigation decisions will be made with an eye towards maximizing the benefit to the taxpayers of the dollars spent.
- Whatever amount is ultimately spent, it will certainly be many, many times less than the \$187 million that will be saved by the County if the court case achieves its objectives.
- The potential dollar benefits of litigation are so great compared to projected costs that a private enterprise, finding itself in the County's current position, would likely deem itself duty bound to go to court in order to vindicate the financial interests of its owners.

**Q: Will this cause peace officers to leave for cities and other counties and jeopardize the safety of the public?**

We believe this court action is unlikely to cause peace officers to leave for other jurisdictions. Orange County's peace officers will continue to receive substantial compensation and pension benefits comparable to those provided by cities and other counties. Further, there is no incentive to leave Orange County because peace officers who leave Orange County will not be granted retroactive benefits covering their Orange County service by their new jurisdictions.

**Q: Will the pensions of general County employees be impacted by this?**

- No. The court action will impact only the retroactive compensation awarded by Resolution No. 01-410 to Orange County peace officers. The anticipated litigation will have no affect on pension benefits that were not retroactively awarded, or on retroactive benefits for which employees, through their union MOUs, are reimbursing County costs.
- Also, the County is not seeking the repayment of any monies already paid out by the Orange County Employees Retirement System and received and retained by retired peace officers.