

LOS ANGELES COUNTY \_\_\_\_\_  
*ECONOMY AND EFFICIENCY COMMISSION*

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September 11, 1992

Honorable Deane Dana, Chair  
Los Angeles County Board of Supervisors  
500 W. Temple  
Room 822, Hall of Administration  
Los Angeles, CA 90012

Dear Chairman Dana:

During a recent meeting you requested that the Economy and Efficiency Commission provide your Board with a brief summary of the independent legal counsel opinion on the question of what constitutes compensation earnable for retirement purposes. Per that request the following is a brief summary of the major conclusions of that opinion:

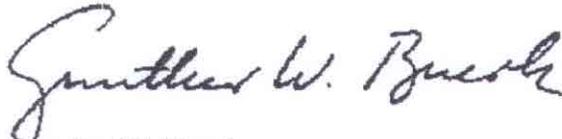
- Flexible benefits were probably properly included as a part of compensation earnable for purposes of the retirement system.
- Under judicial precedent, transportation allowances would not be treated as compensation earnable, but the existing judicial precedent is questionable and may well not be followed by another court.
- Deferred compensation is compensation earnable when deferred and not, as it has been treated, compensation earnable when it is paid.
- An actuarial impact statement does not appear to have been required before the decisions were made on the treatment of flexible benefits, transportation allowances and deferred compensation. Even if required, the failure to obtain an actuarial impact statement would probably not defeat the employees vested rights existing in the present method of treatment of these items.

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- Although contrary arguments can be made, it is likely that the courts would find that the current employees of the County have vested and contractual rights to continue to have flexible benefits, transportation allowances and deferred compensation considered in the definition of compensation earnable.

This summary has been reviewed by and concurred with by Mr. Frank Smith, the independent auditor issuing the opinion.

Sincerely,



Gunther W. Buerk  
Chairperson

c: Each Supervisor  
Each Commissioner  
Roger Whitby, County Counsel  
Frank Smith, Esq.  
Don Landis, Chair, Productivity Commission  
Bruce Staniforth, Executive Director