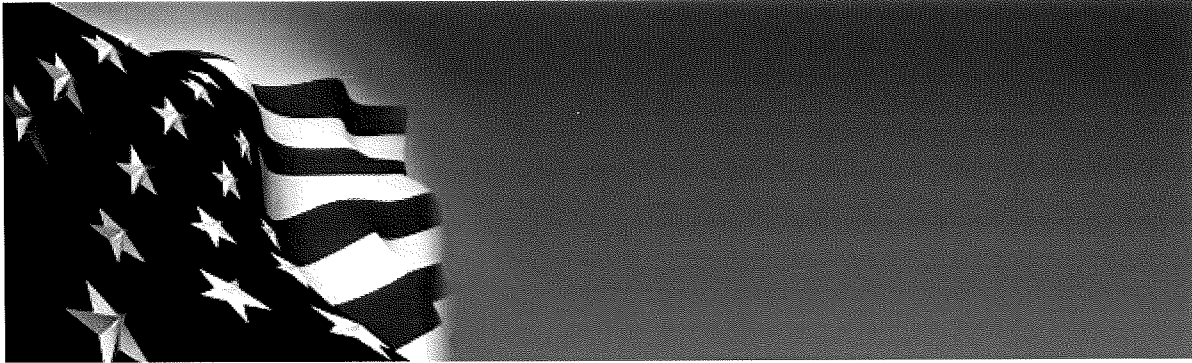


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# CYPEN & CYPEN NEWSLETTER for MARCH 5, 2015

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Stephen H. Cypen, Esq., Editor

Never Forget September 11, 2001

and

Always Remember May 2, 2011

**1. MOST AMERICANS BELIEVE THE NATION FACES A RETIREMENT CRISIS:** National Institute on Retirement Security has released a new nationwide public opinion research report entitled “Retirement Security 2015: Roadmap for Policy Makers/Americans’ Views of the Retirement Crisis.” Some of the more specific findings are that:

- An overwhelming majority of Americans believes there is a retirement crisis. Some 86% agree that the nation faces a retirement crisis, and 57% strongly agree there is a crisis.
- Three in four Americans remain highly anxious about their retirement outlook, but the concern has dissipated slightly as the economy has recovered. Seventy-four percent of Americans say they are concerned, down from 85% in 2015.
- Even though Americans feel slightly less stressed about their retirement prospects, support for steady and reliable retirement

income from a pension is high and growing. In fact, 82% say a pension is worth having because it provides steady income that will not run out, while 67% indicate they would be willing to take less in pay increases in exchange for guaranteed income in retirement.

- Americans continue to feel that leaders in Washington do not understand their struggle to save for retirement, and they strongly support efforts by states to set up retirement plans for those workers without access to an employer sponsored plan. Eighty-seven percent of Americans say Washington policymakers do not understand how hard it is to prepare for retirement, while 84% say Washington needs to do more to help ensure retirement security.
- Americans see retirement benefits as a job feature that is almost as important as salary. Salary is viewed as important by 75% of Americans, and retirement benefits are close behind at 72%.
- Americans express strong support for pensions for public employees. Few Americans realize that 75% of public pension costs are paid for with employee contributions and investment returns. Eighty-seven percent of Americans say pensions are a good way to recruit and retain qualified teachers, police officers and firefighter. But, only one-fourth of Americans understood that public employers pay for 25% or less of public pension costs. More than eight out of ten say that all employees, not just the public sector, should have a pension. Eighty-seven percent of Americans say pensions are a good way to recruit and retain qualified teachers, police officers and firefighters.
- Protecting Social Security benefits is increasingly important. Some 73% of Americans say it is a mistake to cut government spending in such a way as to reduce Social Security benefits for current retirees, up from 67% in 2013. When it comes to benefits for future generations, 69% oppose cutting government spending that reduces Social Security benefits. Americans are divided when it comes to increasing the amount of Social Security benefits by delaying the withdrawal of benefits at an older age: 42% agree with a delay while 50% disagree.
- This biennial nationwide public opinion research is the fourth poll that measures how Americans feel about their financial security in retirement, and assesses their views on policies that could improve their retirement outlook. It is intended to serve as a tool

for policymakers, thought leaders and retirement service providers as they work to stem the retirement crisis and re-fortify the U.S. retirement infrastructure. Bravo.

**2. CHOOSE A RETIREMENT PLAN:** Internal Revenue Service, Tax and Exempt Governmental Entities, Employee Plans, has released a plan feature comparison chart entitled “Choose a Retirement Plan.” Among other things, the publication highlights eight types of retirement plans, noting latest tax laws specific to each plan:

<i>Sponsor/Eligible Employer</i>	<i>Key Advantage</i>	<i>Plans to Consider</i>
Any employer	easy to set up and maintain	Payroll Deduction IRA
Any employer	easy to set up and maintain	SEP
Employers with 100 or fewer employees that do not currently maintain another plan	salary reduction plan with little administrative paperwork	SIMPLE IRA Plan
Any non-government employer	permits high level of salary deferrals by employees	401(k)
Governments, only if plan was established prior to May 1986	may include designated Roth program	
Public education employers	permits high level of salary deferrals by employees	403(b)
501(c)(3) organizations	may include designated Roth program,	
State and local governments	permits high level of salary deferrals by employees	457(b) Governmental
	may include designated Roth	
Any tax-exempt organization	permits high level of salary	457(b) Tax-Exempt

	deferrals by employees,	Organization (Non-Church)
Any employer	provides a fixed, pre-established benefit for employees	Defined Benefit

For full details, go to <http://www.irs.gov/pub/irs-pdf/p4484.pdf>.

**3. HOW TO CREATE A PUBLIC PENSION DISASTER:** *Governing* says it is easy: by putting off dealing with retirement-system underfunding problems, New Jersey has dug itself into a draconian fiscal hole. When government discovers a problem, addressing it can be difficult. But if state and local leaders put off dealing with the problem, difficult often becomes disastrous. New Jersey provides the most recent proof of this simple truth. In the mid-1990s, the state started deferring payments to its pension plan, instead using the money to plug short-term budget holes. Predictably, the state's public-pension and retiree health benefits system is now the fourth most underfunded in the country. Governor Chris Christie and state legislators finally tried to address the issue in 2011. They enacted legislation under which the state would increase its pension contribution, and state employees would pay more toward both their pensions and health benefits. But by then the magnitude of the problem had grown exponentially. Last year, almost 20 years after the state began deferring pension payments, a bipartisan state commission pegged New Jersey's pension and health care liability at \$90 billion -- almost three times the annual state budget. Last summer, just a few weeks before the commission released its estimate, state revenues were well below projections, and New Jersey faced a \$2.7 billion shortfall. Governor Christie responded during the final days of the 2014 fiscal year by cutting that year's pension payment from nearly \$1.6 billion to less than \$700 million. For fiscal 2015, what was supposed to be a state contribution of almost \$2.3 billion was again slashed to less than \$700 million. It was exactly what the 2011 law that Christie had signed was designed to prevent. Public employee unions sued to reverse both the fiscal 2014 and 2015 pension cuts. Last June, a judge allowed the 2014 cut to stand, finding that the state's revenue shortfall created a fiscal emergency.

But last month, the same judge ruled that the fiscal 2015 cut substantially impaired employees' contractual rights to payments guaranteed under the 2011 reforms. (See C & C Newsletter for February 26, 2015, Item 4). Unless an appeal is successful, Christie and the legislature will have to find an additional \$1.57 billion in a \$32.5 billion budget. According to State Assembly Leaders, the resulting cuts would be draconian. New Jersey's plight raises many questions, such as why state revenues fell so far short of projections during relatively good economic times. But the headline here is that New Jersey faces a crisis that could easily have been avoided had elected officials acted to address the issue soon after the state started using pension payments to close budget shortfalls. Shame, shame.

#### **4. BUDGET-FRIENDLY WAYS TO REWARD EMPLOYEES:**

Recognizing employee accomplishments is one of the best ways to motivate and maintain a loyal employee base. A recent 10-year global study showed barely half (51%) of the more than 2.5 million employees surveyed felt appreciated. Further, another report indicated 87% of employee recognition programs are based solely on tenure instead of on performance. The report from Employee Benefit News showed:

- **Recognition.** Ask staff to post recognition notes to each other on a bulletin board or internal link. Add testimonies from external customers.
- **Time off.** Give people time off. Time is the most precious gift, and people will always remember that afternoon or day to do what they love.
- **Reach out.** Send a letter to the employee's family, telling them why their loved one is so important to the company's mission.
- **Pitch in.** Do one of the employee's least favorite tasks.
- **A small gift.** Give a coffee or carwash gift card.
- **Office fun.** Create a fun "traveling award" such as a rubber chicken or whoopee cushion.
- **Flexibility.** Allow people to work from home or present them with a "flexible day" certificate. You will be amazed at what gets accomplished.
- **Department shout outs.** Give departments their own week: Accounting Week, Programmer Week, *etc.* Recognize the contributions made, take them to lunch, make certificates.

- **New ventures.** Create opportunities: be a mentor, chair a committee, do research.
- **Life events.** Celebrate birthdays, babies, weddings, graduations, and any happy time. Bring people together for cake and socializing.
- **Wall of Fame.** Establish a "Wall of Fame" for photos and clippings that recognize outstanding achievement. Mention staff in the company newsletter, too.
- **Just say it.** Say "I am glad you are here." and "Thank you." Priceless!

#### **5. WHY IS LONG TERM SAVING SO HARD FOR PARTICIPANTS?:**

About 10,000 Baby Boomers retire daily, and more than half are not prepared to support themselves. The industry has done a good job educating participants and delivering information about the importance of retiring with the kind of income that will be sustainable. Prudential Total Retirement Solutions recently asked why years of education, communication strategies and support have not done as much to move the needle on retirement plan participant retirement readiness as plan sponsors and advisers hope to see. People are not bad planners, and they do have some self control; but their brains are hard wired to take care of immediate needs. Research uncovered five innate human behaviors that cut across all economic groups, behaviors that may have dire consequences for participants' secure retirement:

- **Underestimation.** "I don't know how long I will live."
- **Procrastination.** "I'll do it later."
- **Optimism bias.** "It won't happen to me."
- **Peer pressure.** "I just can't resist (that vacation or a new car)."
- **Immediate gratification.** "I want it now."

**6. THE AVERAGE RETIREMENT AGE:** After nearly a century of decline, work activity among older people began to increase in the 1980s in response to a variety of factors, according to an issue brief from Center for Retirement Research at Boston College. The question is whether the impacts of those factors have played themselves out in recent years or whether the trend toward working longer has continued. Since working longer is the key to a secure retirement, the labor force activity of people in their 50s and 60s is a crucial issue. This brief proceeds in five steps. The first section describes the

turnaround in labor force activity that began in the 1980s, within the context of the long-run decline in the labor force participation of men. The second section describes the factors responsible for the turnaround. The third section looks at the labor force participation rates of men and women for four years -- 1963, 1983, 2003, and 2013 -- showing recent workforce activity significantly above the low point in the 1980s. The fourth constructs, for men and women, average retirement ages -- the age when 50% of the population is out of the labor force. Today's average retirement ages of 64 for men and 62 for women are just about where they were a decade ago, suggesting that some of the factors spurring the turnaround since the 1980s may have exhausted themselves. The final section concludes that, given the importance of working longer for retirement security, a major educational initiative may be warranted to help convince individuals of the benefits. March 2015, Number 15-4.

**7. UPON COUNTY COMMISSION'S RESOLUTION OF IMPASSE UNDER FLORIDA STATUTE, MAYOR NOT PERMITTED TO VETO SUCH RESOLUTION:** Dade County Police Benevolent Association appealed an final order of the Public Employees Relations Commission concluding that Miami-Dade County did not commit an unfair labor practice when its Mayor vetoed the County Commission's resolution of an impasse under Section 447.403, Florida Statutes. The District Court of Appeal agreed that Section 447.403, does not permit a local executive branch official to veto the legislative body's resolution of an impasse. Section 447.403 requires the legislative body to resolve an impasse, and the Mayor is not a member of the County's legislative body. The County Commission's resolution of the impasse is governed by state law, not the County's Charter. Section 447.403 gives the Commission exclusive authority to resolve the impasse. Courts generally defer to PERC's interpretation of provisions of Chapter 447, because of its special expertise in public sector labor law matters. But the Court does not have to accord deference to PERC's interpretation of the law if the law is clearly erroneous or conflicts with the plain and ordinary meaning of the statute. The case was remanded to PERC to determine the appropriate remedy for the unfair labor practice. *Dade County Police Benevolent Association v. Miami-Dade County Board of County Commissioners and Miami-Dade County*, 40 Fla. L. Weekly D528, (Fla. 1<sup>st</sup> DCA February 26, 2015).

**8. FUNDED STATUS OF U.S. CORPORATE PENSIONS RISES FIVE PERCENT IN FEBRUARY:** A release from PR Newswire says funded status of the typical U.S. corporate pension plan increased 5.1% points to 87.5% in February, more than offsetting January's declines, as surging equity markets boosted assets and rising interest rates resulted in lower liabilities, according to BNY Mellon. It was the best month for gains in the funded status of corporate plans since January 2011; and public plans, endowments and foundations had their best increases relative to their targets since February 2014. For the typical U.S. corporate plan, assets in February rose 2.1% as U.S. stocks, international developed markets equities, and emerging markets equities all gained. Liabilities for the typical corporate plan in February fell 3.9% as the Aa corporate discount rate rose 28 basis points to 3.84%. Plan liabilities are calculated using yields of long term investment grade bonds. Higher yields on these bonds result in lower liabilities. Public defined benefit plans benefited from their allocations to U.S. large cap equities and high yield fixed income, while returns of endowments and foundations were boosted by private equity and emerging markets equities. Public defined benefit plans in February beat their targets by 2.4% as assets returned 3.0%. For endowments and foundations, the real return in February was 3.0% as assets returned 3.0%.

**9. THOSE LACKING FINANCIAL SECURITY PLAN TO STOP WORKING AT LATER AGE:** The Buffalo (New York) *News* reports that while more Americans are working past age 65, not everyone will be able to control retirement timing. Even as many people who have not put aside enough money to leave the workforce plan to make up the difference by working longer, statistics show workers are not always able to delay retirement as long as they had hoped. A 2014 survey by Employee Benefit Research Institute found that 49% of retirees surveyed had retired earlier than they had planned. The survey did not indicate their ages, only that they left their jobs before they intended to. The highest percentage of people who participated in the study (35%) retired before age 60. Most people say they will work forever and never retire. But rarely does that ever happen. They have to quit for health problems, disability and other reasons beyond their control. A lot times either a person can no longer perform the job or has family issues, such as providing day care to grandchildren or caring for a sick spouse. The EBRI report found, as one might expect,

that workers who were not confident about their financial security once they stop working planned to retire later than those who were more financially prepared. Researchers said the annual survey has consistently shown that many Americans find themselves retiring unexpectedly, and many retirees cited negative reasons for leaving the workforce, such as health problems or disability (61%), changes such as downsizing or a company closure (18%), and having to care for a spouse or another family member (18%). Others cited changes in the skills required for the job (7%) or other work related reasons (22%). Some retirees did mention positive reasons for retiring early, such as being able to afford an earlier retirement (26%) or wanting to do something else (19%). The moral of the story is that relying on working longer to prepare for retirement is likely to be a failed strategy for many. Therefore, people need to be preparing for retirement now. They need to save more and potentially look at disability coverage if their own health fails them or look at strategies for caring for loved ones who get sick.

**10. IRS WEBINAR ON RETIREMENT PLAN LOANS TO PARTICIPANTS:** Internal Revenue Service puts on free phone forums and webinars featuring IRS employees discussing retirement plan topics. On March 26, 2015, at 2:00 p.m. Eastern Time, IRS will present “Retirement Plan Loans to Participants.” Learn about

- What type of plans can make loans to participants
- What are the conditions a plan must follow to make loans
- What are the required terms of a plan loan
- How plan loans may be taxable under IRC Section 72(p)
- When plan loans violate the prohibited transaction rules of IRC Section 4975
- How to fix plan errors involving loans

Estimated duration is sixty minutes. Register and you will receive a confirmation email:

<http://www.visualwebcaster.com/IRS/101560/reg.asp?id=101560>.

**11. DILLERISMS:** Burt Reynolds once asked me out. I was in his room. Phyllis Diller

**12. STUFF YOU DID NOT KNOW:** Each king in a deck of playing cards represents a great king from history. Spades – King David; Hearts – Charlemagne; Clubs - Alexander, the Great; and Diamonds – Julius Caesar.

**13. TODAY IN HISTORY:** Having been conscripted in 1958, Elvis Presley ends 2-year hitch in U.S. Army.

**14. KEEP THOSE CARDS AND LETTERS COMING:** Several readers regularly supply us with suggestions or tips for newsletter items. Please feel free to send us or point us to matters you think would be of interest to our readers. Subject to editorial discretion, we may print them. Rest assured that we will not publish any names as referring sources.

**15. PLEASE SHARE OUR NEWSLETTER:** Our newsletter readership is not limited to the number of people who choose to enter a free subscription. Many pension board administrators provide hard copies in their meeting agenda. Other administrators forward the newsletter electronically to trustees. In any event, please tell those you feel may be interested that they can subscribe to their own free copy of the newsletter at <http://www.cypen.com/subscribe.htm>.

**16. REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED RETIREMENT BENEFIT.**

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