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CYPEN & CYPEN NEWSLETTER for JUNE 11, 2015

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Stephen H. Cypen, Esq., Editor

Never Forget September 11, 2001

and

Always Remember May 2, 2011

1. N.J. SUPREME COURT SIDES WITH GOVERNOR IN PENSION CASE: In this appeal the Court considers whether a 2011 statutory enactment that requires the State to make certain annual contributions to public pension funds created an enforceable contract that is entitled to constitutional protection. The state's public pension systems are defined benefit plans, which guarantee participants a calculable amount of benefits payable upon retirement based on the participant's salary and time spent in the pension system. The benefits are paid using revenues received from employee contributions, public employer contributions, and investment returns. Under the statutes governing the pensions systems, the legislature has required the state to contribute not only the present value of the actual benefits that active pension members earned in the current year, but also the amounts necessary to amortize the systems' unfunded liabilities over a period of years. The combination of these

amounts is known as the annually required contribution. In 2011, with the enactment of L.2011, c.78 (Chapter 78), the legislature added language explicitly declaring that each member of the state's pension systems "shall have a contractual right to the annual required contribution amount" and the failure of the state to make the required contribution "shall be deemed to be an impairment of the contractual right." A separate statutory provision, enacted earlier, required the state to increase its ARC beginning with fiscal year 2012 over the course of seven years at increments of 1/7 of the ARC per year, until the contribution covered the full ARC. The state made the required contributions in FY12 and FY13, and the Appropriations Act signed into law for FY14 included the required contributions of 3/7 of the ARC. In February 2014, the Governor released the FY15 proposed budget, which also included funding to satisfy the State's required payment (i.e., 4/7 of the ARC). On May 20, 2014, the Governor issued Executive Order 156, which reduced the state payments into the pension systems for FY14, explaining that the reduction was due to a severe and unanticipated revenue shortfall. Instead of paying the required 3/7 of the ARC contribution, which totaled \$1.582 billion, the state made a total contribution of \$696 million for FY14. The next day, citing new information that placed the state's projected revenue at less than previous projections, the state treasurer announced that the proposed budget for FY15 was being revised to reduce the amount that would be contributed to pension systems. The revised FY15 budget thus advanced would include a total contribution of \$681 million, reflecting \$1.57 billion less than what was required. In response, plaintiffs -- individuals and unions acting on behalf of hundreds of thousands of New Jersey state public employees filed complaints alleging statutory violations, impairment of contractual rights under the New Jersey and United States Constitutions, violations of substantive and procedural due process under both Constitutions, a violation of plaintiffs' Equal Protection rights, promissory estoppel, and violations of the New Jersey Civil Rights Act. Plaintiffs sought injunctive and mandamus relief for both FY14 and FY15. The trial court consolidated plaintiffs' claims into one action. With respect to the budgetary action involving the then -- imminently concluding FY14, the Law Division upheld the Governor's determination not to make the required FY14 ARC payment, declaring the action lawfully within the Executive's emergency powers and reasonable and necessary under the Contracts Clauses of the New

Jersey and United States Constitutions. The court held that plaintiffs' claims for FY15 were not ripe because the legislature had not yet passed a FY15 Appropriations Bill. When the Legislature passed its FY15 Appropriations Bill, it included the full 4/7ths required ARC, or \$2.25 billion. This was financed, in part, by companion bills establishing new taxes whose projected revenue streams were incorporated into the legislature's anticipated revenue for FY15. On June 30, 2014, Governor Christie exercised his line item veto authority deleting, among other items, \$1.57 billion of the State's required pension payment from the Appropriations Act. In his line item veto message, Governor Christie stated that he opposed raising taxes to pay for the budget deficit, that he eliminated the new revenues projected for new taxes as presented by the Legislature, and cited his constitutional responsibility to deliver a balanced budget as the reason for reducing the State's FY15 contribution. The Legislature did not take action to override the line item veto. Therefore, the 2015 Appropriations Act became law, subject to the line item veto changes. Plaintiffs filed amended complaints in the Law Division. The State responded by filing a motion to dismiss, and plaintiffs, in turn, filed a motion for summary judgment. Plaintiffs argued that, in enacting Chapter 78, the state undertook a contractual obligation to make the ARC payment to the pension system and that the state's failure to make the full FY15 ARC payment constituted an impairment of that contract in violation of the Contracts Clauses of the State and Federal Constitutions. Plaintiffs requested that the court require the legislature and the executive branch to adopt an appropriations act consistent with the contractual obligations outlined in Chapter 78. The state asserted that Chapter 78 could not create a valid contract right because it violated the Appropriations and Debt Limit Limitation Clauses and the line item veto provision of the New Jersey Constitution. Even assuming, but not conceding, that an enforceable contract right was created, the state maintained that it did not substantially impair that contract right. Further, again assuming but not conceding that substantial impairment occurred, the state submitted that its decision was reasonable and served a legitimate public purpose. The trial court issued a detailed and comprehensive opinion on February 23, 2015, that granted summary judgment to plaintiffs on their impairment-of-contract claims and denied defendants' motion to dismiss. The court accepted the argument that Chapter 78 created a contract and that the state's failure to

appropriate the full value of ARC in the FY15 Appropriations Act substantially impaired plaintiffs' rights under the contract. In so finding, the court rejected arguments that Chapter 78 was unenforceable as violative of the Debt Limitation Clause, the Appropriations Clause, and the gubernatorial line item veto power. The court did not order a specific appropriation, but rather determined to give the other branches an opportunity to act in accordance with the court's decree. The state filed a motion for leave to appeal to the Appellate Division, and shortly thereafter, moved for direct certification to this Court. The motion was unopposed. On April 6, 2015, this Court issued an order granting direct certification, establishing a briefing schedule, and setting the matter down for oral argument on May 6, 2015.

- The Court held: Chapter 78 does not create a legally enforceable contract that is entitled to constitutional protection. The Debt Limitation Clause of the State Constitution interdicts the creation, in this manner, of a legally binding enforceable contract compelling multi-year financial payments in the sizable amounts called for by the statute.
- No analysis of this matter fairly can commence without initially recognizing the promises made on the state's part toward meeting the scheduled payments to reduce the unfunded liability of the pension systems. Plaintiffs emphasize the many statements praising the bipartisan legislative endeavor and referring to the legislative achievement as a contract. The Court does not question the good intentions of those participating in the enactment of Chapter 78 or that they intended to create a contractual arrangement to address future payment into the funds to promote the fiscal health of the retirement systems. But a strictly legal question is before the Court. That, and that alone, is what must be resolved in this matter of great public importance to members of the public pension systems and citizens throughout the state.
- Both the New Jersey and Federal Constitutions prohibit the passage of laws impairing the obligation of contracts. Legislation unconstitutionally impairs a contract when it: (1) substantially impairs a contractual relationship; (2) lacks a significant and legitimate public purpose; and (3) is based on unreasonable conditions and unrelated to appropriate governmental objectives.

The premise for performing a contract impairment analysis is the existence of a valid enforceable contract under state law. When a contractual relationship is purportedly created through a statute's enactment, two questions must be addressed in analyzing whether a contract was successfully formed: (1) did the legislature speak with sufficient clarity to evince intent to create a contract right; and (2) did state law grant the legislature the authority to enter into the binding and enforceable contract.

- Here, the legislature and Governor clearly expressed an intent that Chapter 78 create a "contract right" to timely and recurring ARC payments to reduce the unfunded liability of the pension funds. But, that conclusion does not address the question of authority to do so. The essential question that must be answered is whether legislative authority could be exercised through Chapter 78 to create a legally binding, enforceable contract compelling future state appropriations to pay down the unfunded liability. In making such a determination, it is generally recognized that state law governs the existence of a valid contract, even for impairment claims under the Federal Contracts Clause. The Court therefore turns to New Jersey law that pertains to the legal enforceability of the purported statutory contractual right to Chapter 78's required annual pension payments.
- The Debt Limitation Clause of the New Jersey Constitution provides that the Legislature may not create "a debt or debts, liability or liabilities of the state" that exceed one percent of the amount appropriated in a given fiscal year unless "submitted to the people at a general election and approved by a majority ... of the voters of the state voting thereon." N.J. Const. art. VIII, § 2, ¶ 3. The animating principle applied by the Court in its decisions regarding the Debt Limitation Clause is that the State cannot by contract or statute create a binding and legally enforceable financial obligation above a certain amount that applies year to year without voter approval. Such long term financial arrangements require voter approval to be enforced; or, such financial promises otherwise avoid the Debt Limitation Clause's interdiction by being regarded as expressions of intent to provide the funding, but they must be subjected to the annual appropriation process for fulfillment in whole, in part, or not at

all.

- In *Lonegan v. State (Lonegan II)*, 176 N.J. 2 (2003), the Court confronted a broad challenge to the validity of fourteen New Jersey statutes authorizing contract or appropriations backed debt. The Court found that the statutory financing mechanisms did not violate the Debt Limitation Clause because payments on contract or appropriations backed debt are necessarily left to the Legislature's discretion to appropriate and the State is not legally bound to make such payments. Among other things, *Lonegan II* recognized that the variety of financing mechanisms employed today were unheard of when the Debt Limitation Clause was adopted, and noted the difficulty in differentiating among acceptable and unacceptable types of twenty-first century appropriations backed debt. In this matter, the trial court based its Debt Limitation Clause analysis on a misperception of the flexibility that as discussed in *Lonegan II*. The *Lonegan II* decision acknowledged the need for flexibility in modern financing, and adjusted for the same in the performance of a Debt Limitation Clause analysis by reducing the prohibited conduct to an easily understood principle: so long as the state's full faith and credit is not pledged and a legally enforceable financial obligation, above a certain amount and lasting year to year, is not created, without voter approval, no Debt Limitation Clause violation ensues. As applied in the circumstances presented in *Lonegan II*, if a financial obligation is made dependent on securing an appropriation from year to year, then parties are apprised of the element of risk and no constitutional debt limitation violation arises.
- Plaintiffs assert that Chapter 78 does not implicate the Debt Limitation Clause because that Clause's language and intent is to prevent the state from creating new debts or liabilities, not to prevent it from paying overdue ordinary expenses. The Debt Limitation Clause is clearly written to have wide sweep, covering "debts" or "liabilities" created "in any manner," thereby reaching various forms of financial arrangements. Nothing about that language supports that traditional borrowing scenarios were the only intended prohibited transactions. The Debt Limitation Clause's prohibition against incurring of future debt or liability is vital and it is broad—sufficiently broad to reach long-term financial

obligations addressing so-called operating expenses. In combination, the Debt Limitation Clause and the appropriations Clause of the New Jersey Constitution interdict the legislature from creating a debt or liability, in any manner, in excess of a certain amount that binds the State to appropriate funds in future fiscal years.

- Under the Appropriations Clause, the power and authority to appropriate funds is vested in the legislature. N.J. Const. art. VIII, § 2, ¶ 2. The Clause has three requirements: (1) all withdrawals of money from the State Treasury must be accomplished through legislative appropriation; (2) the legislature must provide for that appropriation in one law covering only that fiscal year; and (3) the budget created by the appropriations law must be balanced. Because the power and authority to appropriate funds lie solely and exclusively with the legislative branch of government, there can be no redress in the courts to overcome either the Legislature's action or refusal to take action pursuant to its constitutional power over state appropriations. The Appropriations Clause firmly interdicts the expenditure of state monies through separate statutes not otherwise related to or integrated with the general appropriation act governing the state budget for a given fiscal year. Given the legislature's inherent power to disregard prior fiscal enactments, the Court cannot compel the Legislature to appropriate in accordance with other statutes that are not incorporated into the general appropriation act. In circumstances where legislation sought to bind future legislatures in a manner that implicated both the Debt Limitation and Appropriations Clauses, this Court was careful to note that the legislation survived those Clauses because the Legislature retained its constitutionally enshrined power to annually appropriate funds as necessary for the fiscal health of the State. No such reservation of power can be found in Chapter 78.
- Applying those principles here, the Legislature and Governor were without power, acting without voter approval, to transgress the Debt Limitation Clause and the corresponding Appropriations and other budget clauses of the State Constitution. The Legislature and Governor, as well as the many interested parties involved in the legislative process, may have included

contractual words in Chapter 78, but those words, no matter their clarity, could not create an enforceable contract of the type asserted. Voter approval is required to render this a legally enforceable contractual agreement compelling appropriations of this size covering succeeding fiscal years; otherwise, this agreement is enforceable only as an agreement that is subject to appropriation, which under the Appropriations Clause renders it subject to the annual budgetary appropriations process. In that process, the payment may not be compelled by the Judiciary. The Legislature's strong expression of intent remains clear in Chapter 78, but it does not bind future legislatures or governors in a manner that strips discretionary functions concerning appropriations that the State Constitution leaves to the legislative and executive branches.

- Because of the importance of maintaining the soundness of the pension funds, the loss of public trust due to the broken promises made through Chapter 78's enactment is staggering. The Court recognizes that the present level of the pension systems' funding is of increasing concern. But this is a constitutional controversy that has been brought to the Judiciary's doorstep, and the Court's obligation is to enforce the State Constitution's limitations on legislative power. The State Constitution simply does not permit Chapter 78's payment provisions to have any more binding effect than that of a contract that is subject to appropriation. To be clear, the Court emphasizes that it is not declaring Chapter 78 unconstitutional. Chapter 78 remains in effect, as interpreted, unless the legislature chooses to modify it. There is therefore no need to address severability or the mutuality of obligations and the Court leaves those considerations for the political branches. The Court also emphasizes that its analysis does not conflate the issue of the state's obligation to pay pension benefits with the issue whether Chapter 78 legally binds the state annually to make the scheduled payments into the pension systems. The Court's holding is, simply, that Chapter 78 cannot constitutionally create a legally binding, enforceable obligation on the state to annually appropriate funds as Chapter 78 purports to require.
- That the State must get its financial house in order is plain. The need is compelling in respect of the state's ability to honor its

compensation commitment to retired employees. But the Court cannot resolve that need in place of the political branches. They will have to deal with one another to forge a solution to the tenuous financial status of New Jersey's pension funding in a way that comports with the strictures of our Constitution. The Debt Limitation Clause and the Appropriations Clause envisioned no role for the Judiciary in the annual budget-making process and prevent it from having to perform the unseemly role of deciding in that process whether a failure to fully fund a statutory program, including one labeled a contract, was reasonable and necessary. A Contracts Clause analysis would require annual incursions by the Judiciary into second-guessing spending priorities and perhaps even revenue-raising considerations in recurring years. Under the Debt Limitation Clause and the Appropriations Clause, the responsibility for the budget process remains squarely with the Legislature and Executive, the branches accountable to the voters through the electoral process. This is not an occasion for the Judiciary to act on the other branches' behalf.

The judgment of the Law Division is reversed. JUSTICE ALBIN, dissenting, joined by CHIEF JUSTICE RABNER, believes that public workers have protectable contractual rights under the United States Constitution -- as the Legislature and Governor intended in enacting Chapter 78. He expresses the view that Chapter 78 is a binding contract on the state that cannot be nullified without offending the Federal Constitution's Contracts Clause. *Burgos v. State of New Jersey*, No. A-55-14 (N.J. June 9, 2015).

2. S&P 1500 PENSION FUNDED STATUS SEES STEADY IMPROVEMENT OF 9% SINCE JANUARY: The estimated aggregate funding level of pension plans sponsored by S&P 1500 companies improved by 1% to 83% as of May 31st, 2015, due to increases in equity markets and interest rates used to calculate corporate pension plan liabilities. The estimated aggregate deficit of \$381 billion as of May 31st, 2015 improved by \$43 billion from the end of April. Funded status is up by \$123 billion from the \$504 billion deficit measured at the end of 2014, according to Mercer. The S&P 500 index gained 1.1% in May while the MSCI EAFE index lost 1.0%. Typical discount rates for pension plans as measured by the Mercer Yield Curve increased by 19 basis points to 3.99%. The trend of improvements in

funded status since the end of January 2015 continues in May as interest rates rise above 2014 year end levels and equity markets hold steady. Mercer is seeing many plan sponsors lock into these gains by executing risk transfer strategies like vested terminated cashouts and annuity purchases. Mercer estimates the aggregate funded status position of plans sponsored by S&P 1500 companies on a monthly basis and shows the estimated aggregate surplus/(deficit) position and the funded status of all plans sponsored by companies in the S&P 1500. The estimates are based on each company's year-end statement and by projections to May 31, 2015 in line with financial indices. The estimates include US domestic qualified and non-qualified plans and all non-domestic plans. The estimated aggregate value of pension plan assets of the S&P 1500 companies as of April 30, 2015, was \$1.90 trillion, as compared with estimated aggregate liabilities of \$2.32 trillion. Allowing for changes in financial markets through May 31, 2015, changes to the S&P 1500 constituents, and newly released financial disclosures, at the end of May the estimated aggregate assets were \$1.89 trillion, compared with the estimated aggregate liabilities of \$2.27 trillion.

3. WHY HAVE GOVERNMENT CONTRIBUTIONS TO NEW YORK PENSION PLANS SOARED SINCE 2010?:

New York State's pension plans are among the best funded plans in the nation, but they have become increasingly costly for taxpayers, according to a new brief from Urban Institute. Between 2002 and 2012, contributions by the state and local governments to public employment retirement plans rose more than 500% in New York, more than in any other state. This surge in government contributions has created financial problems for local governments and raised questions about the sustainability of the state's retirement plans, prompting some observers to advocate cutting retirement benefits for public employees. To explore why government pension contributions in New York have risen so rapidly, the brief examines retirement benefits paid to members of the New York State and Local Employees Retirement System and describes how they are financed. ERS covers general state and local government employees in New York, but it excludes public school teachers and public safety workers. New York City employees are covered by their own plan and thus do not participate in the state-administered plan. The authors found that recent hikes in government contributions to the plan have been driven primarily by

plan investment losses as well as the plan's practice of adjusting government contributions to offset unexpectedly high or low investment returns. Although plan benefits are more generous than in other states, recent cutbacks will sharply curtail future retirement benefits for new hires.

- **How Are Benefits Computed?** General state and local government employees in New York receive lifetime pensions equal to a share of final average salary multiplied by completed years of service. Plan rules have changed several times over the past four decades, but members already enrolled in the plan when changes were implemented are grandfathered under existing plan rules. As a result, the plan now includes six tiers with different benefit and member contribution rules. Tier membership depends on when employees were hired. Employees hired after 2012 are enrolled in tier 6 of the plan. Final average salary is calculated over an employee's three highest compensated years of service. For members with less than 20 service years, pensions are computed as 1.66% of final average salary per year of completed service. For members with 20 or more service years, the percentage equals 1.75% for each of the first 20 years and 2% for all subsequent years. Tier-6 members may begin collecting full benefits at age 63 if they have completed 10 years of service, the tier's vesting requirement. Reduced early retirement benefits are available at age 55 after 10 years of service. Retirees who are at least 62 years old and have been retired for at least five years receive cost-of-living adjustments equal to one-half the change in the consumer price index. However, the cost-of-living adjustment may never fall below 1% or exceed 3%. Government employees hired before 2012 receive more generous pensions. For example, earlier hires may begin collecting their pensions at younger ages than tier-6 members, and benefits for employees hired before 2010 vest after only five years of service. In addition, the formula that determines pensions applies a smaller multiplier to certain years of service for tier-6 members than for members of earlier tiers and averages final salary over more years of service.
- **How Are Benefits Funded?** New York's pension benefits are funded by contributions from plan members and their employers and by earnings on plan assets. In 2014, the fund took in \$23.1

billion, with \$5.1 billion coming from employer contributions and only \$274 million coming from employee contributions. Except for the period between 1998 and 2002, income from employer contributions far exceeded employee contributions, which vary by tier. Tier-1 and tier-2 members do not contribute to the plan at all, and tier 3 and tier 4 members must contribute 3% of salary for their first 10 years of service but nothing in subsequent years. Tier-5 and tier-6 members must contribute to the retirement plan throughout their career. The contribution rate is 3% of salary in tier 5, but it varies with salary in tier 6, rising from 3% for employees earning less than \$45,000 per year to 6% for employees earning more than \$100,000 per year. About four-fifths of plan members belong to tiers 3 and 4, which cover employees hired from the middle of 1976 to 2009. Only 9% belong to tier 5 covering employees hired in 2010 and 2011, and 10% to tier 6. New York's relatively low reliance on employee contributions is apparent when compared to other states. According to 2012 US Census data on state and local government retirement systems, employee pension plan contributions to all public plans in New York, not just the state's ERS plan for general state and local government employees, equal only 3.3% of payroll, the fifth lowest rate in the nation. The national average is 7.4%, more than twice New York's rate. However, government contributions relative to payroll are higher in the New York plans (37%) than in any other state and more than double the national average of 17%. Although employer contributions cover a large share of paid benefits, income from existing assets and appreciation of those assets can easily exceed other sources of plan revenue when investment returns are strong. Annual investment gains or losses of more than \$20 billion dwarf funding from employer contributions, which despite steady and dramatic growth since 2000 barely exceeded \$5 billion in 2014. However, the plan assumes significant risk by investing in assets that, on average, generate high rates. ERS's annual investment rates have fluctuated significantly over the past 34 years, ranging from highs of 30% in 1998, 29% in 2004, and 26 percent in 2010 to lows of -26% in 2009, -10% in 2003, and -9% in 2001. Historically, unexpected swings in the plan's asset returns have been largely offset by changes in employer contributions, which have varied dramatically over time. The

sharp drop in employer contribution rates in the 1980s and the sustained near zero rates of the 1990s provided a windfall to the system's employers. Subsequent years, however, highlight the downside of asset volatility. Large, sometimes double-digit increases in the required employer contribution as a share of payroll have proved much less palatable to employers than the equivalent sharp drops in contributions they experienced previously. After the 2000 collapse of the dot-com bubble and the 2008 financial crisis, the state passed ad hoc legislation easing plan funding rules and allowing public employers to make up funding shortfalls gradually over time instead of in a single year. These measures depart from the plan's stated funding procedures and essentially enable public employers to borrow against plan assets. The most recent asset-smoothing exceptions credit the deferred balances at 5% interest, a significant subsidy for employers given that the plan trustees assume plan assets earn 7.5% annual returns. However, employers who take advantage of the new contribution smoothing rules must accept a contribution floor in the future. Had this provision been in place earlier, it would have prevented the rapid run-down, and subsequent run-up, of contribution rates. Smoothing changes in employer rates over time would limit sharp increases in pension plan outlays by the state and local governments.

The recent surge in government contributions to New York's retirement plan for general state and local government employees was driven primarily by investment losses sustained by the plan as well as the plan's practice of adjusting government contributions to offset unexpected investment gains and losses. The sharp rise in state and local government contribution rates to the ERS plan between 2002 and 2014 followed dramatic declines in the equities market in the wake of the 2000 collapse of the dot-com bubble and the 2008 financial crisis. The impact was especially pronounced because government contribution rates were unusually low for much of the 1990s. Contribution rates in 2013 were similar to those in the early 1970s. The plan announced in late 2014 that government contribution rates will drop slightly in 2015, as the plan's investment returns have continued to improve. The volatility in required employer contribution rates to New York's public employee retirement plan

highlights the downside of investing pension funds in risky assets. Over the past three decades public pension plans across the nation have increasingly shifted away from fixed-income investments such as government and high-quality corporate bonds in favor of equities and alternative investments such as hedge funds, real estate, and commodities. This strategy often allows plans to meet their target investment returns, but it increases the risk of investment losses in bad years. In New York, those losses forced the state and local governments to increase their contributions to maintain the plan's strong financial standing. Other states confronted with poor investment returns did not raise contributions to their retirement plans and instead allowed the plans' financial status to deteriorate. New York could help protect the budgets of municipalities in the state as well as the finances of the state-administered retirement plan by maintaining the level of required government contribution rates when investment returns are high so rates do not have to rise much when returns fall. The plan benefit structure did not cause required government contributions to surge over the past decade. Although current retirees from New York's state and local governments receive more generous pensions than government employees in most states, recent cutbacks have significantly reduced pensions for new hires. The state-financed pension benefits received over a lifetime by employees hired since 2012 will be only 10 to 60 percent as large as the benefits they would have received if the benefits rules for 1973 were still in place. Further benefit cuts do not seem warranted.

4. ACTUARIAL STANDARDS BOARD TO HOLD PUBLIC HEARING REGARDING PUBLIC PENSION ISSUES: The Actuarial Standards Board will hold a public hearing on July 9, 2015, to hear comments on proposed actuarial standards of practice related to actuarial work regarding public pension plans. As the standards-setting body for actuaries in the United States, the ASB is seeking comments from interested parties on how to improve pension-related ASOPs and plans to use the information gathered at the hearing as it considers next steps in the evolution of these standards. This public hearing follows the ASB's issuance of a Request for Comments on ASOPs and Public Pensions Plan Funding and Accounting in July 2014. The ASB establishes and improves standards of actuarial practice. These ASOPs identify what the actuary should consider, document, and disclose when performing an actuarial assignment.

The ASB's goal is to set standards for appropriate practice for the United States. The ASB was established within and is supported by the American Academy of Actuaries, an 18,500+ member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States. The American Academy of Actuaries is an 18,500+ member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

5. DOES MORTALITY DIFFER BETWEEN PUBLIC AND PRIVATE SECTOR WORKERS?: That provocative question is posed by Center for Retirement Research at Boston College. Defined benefit plans pay pension benefits from retirement until death. Thus, the longer workers live, the higher the expense for the plan. On average, states and localities assume their workers will live slightly than longer private sector workers. The issue brief asks a simple question: do state and local workers actually live longer on average than their private sector counterparts? If so, why? The discussion proceeds as follows. The first section explains the nature and limitations of available data -- the *National Longitudinal Mortality Study*. The second section presents the percentage of public and private sector workers ages 55-64 who died within either an 11-year period or a separate 6-year period after being interviewed. The third section uses regression analysis to assess how various factors impact the likelihood of dying. The final section concludes that public sector workers -- especially women -- do live longer than private sector counterparts, and that most of the difference can be explained by the higher education levels of public sector workers.

6. FPPTA 31ST ANNUAL CONFERENCE: The Florida Public Pension Trustees Association's 31st Annual Conference will take place on June 28 through July 1, 2015 at the Boca Raton Resort & Club, Boca Raton. A link on FPPTA's web site, www.fppta.org, will

take you to the Boca Raton Resort & Club site to make your room reservations. You may access information and updates about the Conference at FPPTA's website. All police officer and firefighter plan participants, board of trustee members, plan sponsors and anyone interested in the administration and operation of the Chapters 175 and 185 pension plans should take advantage of this conference.

7. APHORISMS: Do you realize that, in about 40 years, we will have thousands of old ladies running around with tattoos?

8. TODAY IN HISTORY: In 1962, U.S. President John Kennedy accepts an honorary degree from Yale.

9. 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.

10. 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>.

11. REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED RETIREMENT BENEFIT.

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