



CYPEN & CYPEN

NEWSLETTER

for

July 20, 2017

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Never Forget September 11, 2001
and
Always Remember May 2, 2011

1. NEW YORK CITY'S PENSION SYSTEM IS SOUND: Responding to an earlier piece in the *New York Times* that criticized New York City for not having fully funded pensions, the city's chief actuary said that pension plans are intended to be funded over the working lifetime of employees. The cost for a 25-year-old is expected to be paid in full not at career onset, but when benefits actually start at retirement. Pension

costs are spread out, so the costs are not inequitably borne by current taxpayers. Similarly, artificially overstating pension costs by using market-value discount rates or low-yield bond rates that do not reflect expected asset earnings unnecessarily overburdens current taxpayers. Also, liabilities from 40 years ago have been paid. They are not part of the shortfall you characterize, but subsequently arose from proactive management and responsible valuation of pensions, like lowering the actuarial discount rate to 7 percent, more conservative than the majority of public plans, and updating mortality assumptions to better reflect life spans. The city consistently makes 100 percent of its pension contributions. Retirees receive their pension checks. The pension system is sound.

2. EBRI 2017 RETIREMENT CONFIDENCE SURVEY: The 27th wave of the Employee Benefit Research Institute Retirement Confidence Survey (RCS), the longest-running survey of its kind in the nation, finds that the share of American workers who are *very* confident in their ability to afford a comfortable retirement remains low, and some workers report that preparing for retirement is emotionally or mentally stressful. However, among retirees, confidence in their ability to afford a comfortable retirement continues to be comparably high.

Findings in this year's RCS include:

- Six out of 10 American workers feel very or somewhat confident

about having enough money for a comfortable retirement, though just 18 percent feel very confident. The share of workers reporting that they feel either very or somewhat confident has declined compared with last year (60 percent from 64 percent in 2016). Worker confidence now resembles levels measured in 2015 (when 59 percent were either very or somewhat confident).

- In addition to lacking confidence, 3 in 10 workers report that preparing for retirement causes them to feel mentally or emotionally stressed. These stressed workers feel less financially secure and are far less confident about having enough money for a comfortable retirement than those who do not feel stressed.
- Another 3 in 10 workers say that they worry about their personal finances while at work (30 percent). More than half of these workers believe they would be more productive at work if they did not spend time worrying. Among all workers, about half say that retirement planning (53 percent), financial planning (49 percent), or health care planning (47 percent) programs would be helpful in increasing their productivity at work.
- Retiree confidence in having enough money for a comfortable

retirement continues to exceed worker confidence levels. Seventy-nine percent of retirees report feeling either very or somewhat confident about having enough money to live comfortably throughout their retirement years, including one-third of retirees who feel very confident (32 percent).

- Workers who have a retirement plan, whether a defined contribution plan, defined benefit plan, or IRA, are far more likely to feel confident about having enough money for retirement. Indeed, they have saved more than those without a plan, have taken more steps to prepare for retirement, and feel less stressed about retirement preparations.
- Nearly 3 in 4 workers (73 percent) not currently saving for retirement say they would be at least somewhat likely to save for retirement if contributions are matched by their employer. Approximately two-thirds of non-saving workers say they would be likely to save for retirement if automatic paycheck deductions with the option of changing or stopping them, at either 3 percent or 6 percent of salary, were used by their employer.

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3. KELLY DAYS, HOURS WORKED, AND OVERTIME UNDER

FLSA: Curt Varone, JD, EFO, has provided Fair Labor Standards Act tips on Kelly days, hours worked and overtime. A Kelly day is a scheduled day-off commonly incorporated into a firefighter's work schedule in order to avoid the need to pay overtime. The origins of the term date back to the Chicago Fire Department in the years following the Great Depression. According to Chicago Firefighters IAFF Local 2's web site, in 1936 Mayor Edward J. Kelly agreed to give Chicago Firefighters one day-off for every seven days worked in order to reduce their hours to 72 per week. Thereafter, the term became associated with days-off granted to firefighters. Kelly days are commonly utilized in today's fire service as a means of minimizing overtime liability under the FLSA. By scheduling firefighters for a designated Kelly day, a budget conscious administrator can avoid paying FLSA mandated OT to firefighters. While most employers must pay their employees overtime for all hours worked in excess of 40 each week, the FLSA grants a partial exemption to fire departments allowing firefighters to work up to 53 hours per week before overtime is required. The FLSA also allows a fire department to adopt up to a 28 day work period, in which case firefighters may work up to 212 hours in each 28-day period before overtime is required. In a three-platoon department working a 24-on 48-off schedule, during each 28-day work period, two shifts work 9 shifts (216 hours) and the third shift works 10 shifts (240 hours). Without a Kelly day firefighters working 216 hours in 28 days are entitled to 4 hours of overtime while firefighters working 240 hours are entitled to 28 hours of overtime. The most common use of a Kelly day is to reduce the hours worked by members of the shift

working 240 hours down to 216. Some departments also use Kelly days to reduce the hours of all three shifts to 212 or below. The various options are too numerous to list. One of the most common mistakes that fire departments make with regard to Kelly days, is allowing firefighters to bank a Kelly day for use at a future date without paying the firefighter overtime for the hours worked over 212. The FLSA requires employers to compensate employees for hours actually worked in each work period. Extra hours worked (over the 212 in 28 days) in one work period cannot be carried over to a future work period. Any overage must be paid at time and one-half, or banked as comp time at a rate of one and one-half hours of comp time for each hour worked.

4. PHILANTHROPY WILL NOT STEP IN FOR THE GOVERNMENT: A recent Op-Ed piece in the *New York Times* asserts that megadonors are gaining too much influence as they try to solve community challenges. Predicting that philanthropy will increasingly tackle problems that government cannot or will not, the writer sees an impending power shift. Vikki Spruill, President and Chief Executive, Council on Foundations, has responded. While she lauds the admission that philanthropists and foundations can be nimble in finding solutions, she takes issue with his suggestion that philanthropy will act in place of government spending. Charitable giving accounts for 2.1 percent of gross domestic product, a percentage that has not risen above 2.2 percent in 40 years. In 2016, about \$390 billion was donated to charity, of which foundations gave nearly \$59 billion. Just \$1.4 billion came from megadonors. At the same time, federal government spending topped \$3.9 trillion in 2016. While

philanthropy can offer the risk capital to innovate, there are inherent responsibilities that citizens expect of their government that philanthropy cannot and should not supplant. So, there.

5. A FIRST LOOK AT ALTERNATIVE INVESTMENTS AND PUBLIC

PENSIONS: Center for State & Local Government Excellence has released its “First Look at Alternative Investments and Public Pensions,” which explores which state and local pension plans have the largest allocations in investments outside of public equities, bonds, and cash and the broader impact of aggregate allocation shifts on returns and volatility. Since the financial crisis, public pension plans – like other large institutional investors – have moved a significant portion of their portfolios into investments outside of traditional equities, bonds, and cash. These alternative investments include a diverse assortment of assets – private equity, hedge funds, real estate and commodities. This shift reflects a search for greater yields than expected from traditional stocks and bonds, an effort to hedge other investment risks, and a desire to diversify the portfolio. Data show the allocation to alternatives more than doubling (from 9 percent to 24 percent) between 2005 and 2015. The brief begins to explore the implications for state and local pension plans of moving away from traditional stocks and bonds to other types of assets. The scope of the inquiry is narrow; it does not address fees, disclosure, or administrative issues. It does not assess how these alternative assets are utilized within each plan’s overall investment strategy. Rather, the analysis investigates two basic questions: (1) which plans have made the largest shift to alternatives? and (2) how has the shift affected investment

returns and volatility? The discussion proceeds as follows. The first section provides a quick overview of alternative investments. The second section documents the extent to which state and local pension plans engage in alternative investing. The third section attempts to find a link between plan characteristics and the proportion of the overall investment portfolio allocated to alternatives, and uncovers no systematic relationship. The fourth section looks at the relationship between alternatives and investment performance, finding lower after-fee returns, primarily due to poor hedge fund performance. Hedge funds do reduce volatility, but their effect is offset by the greater volatility associated with real estate and commodities. The final section concludes that, while the focus on returns and volatility may be too narrow and the time periods analyzed too short to draw any definitive conclusions, the relationship between alternatives and public plan performance merits further analysis.

The brief's key findings include:

- Public pension plans have boosted their holdings in alternative assets, defined as private equity, hedge funds, real estate, and commodities.
- This shift reflects a search for higher returns, a hedge for other investment risks, and diversification.
- The question is how the shift has affected returns and volatility over two periods: 2005-2015 and 2010-2015.
- In terms of returns, a 10-percent increase in the average allocation

to alternatives was associated with a reduction of 30-45 basis points, primarily due to hedge funds.

- In terms of volatility, alternatives did not have a statistically significant effect. Hedge funds reduced volatility, but real estate and commodities increased it.
- This analysis is only a first look at this area; further research is clearly warranted.

6. EBSA SCHEDULES FREE WEBCAST TO TAKE THE MYSTERY OUT OF RETIREMENT PLANNING: – Department of Labor’s Employee Benefits Security Administration has scheduled a webcast entitled, “Taking the Mystery Out of Retirement Planning,” on August 10, 2017 at 2:00 pm Eastern Time. Information and registration are available at <http://mp163422.cdn.mediaplatform.com/163422/wc/mp/4000/15208/30195/91584/Lobby/default.htm?ref=ProductionTeamEmail>.

7. FLORIDA WOMAN STOPS ALLIGATOR ATTACK USING A SMALL BERETTA PISTOL: This is a story of self-control and marksmanship by a brave, cool-headed woman with a small pistol against a fierce predator. What is the smallest caliber that you would trust to protect yourself? Here is the story in her own words: "While out walking along the edge of a pond just outside my house with my soon to be ex-husband, discussing property settlement and other divorce issues, we were surprised by a huge alligator, which suddenly emerged from the murky water and began charging us with its large jaws wide open. She must have been

protecting her nest because she was extremely aggressive. If I had not had my little Beretta .25 caliber pistol with me, I would not be here today! Just one shot to my estranged husband's knee cap was all it took. The gator got him easily, and I was able to escape by just walking away at a brisk pace. It is one of the best pistols in my collection, plus the amount I saved in lawyer's fees was really incredible. His life insurance was a big bonus.

8: WOW! DO YOU HAVE ANY IDEA HOW MUCH FIRE VEHICLES COST? The following are a few examples we picked at random for purchase of used fire apparatus. The descriptions will no doubt mean more to those-in-the-know than to us laypersons:

- 2015 Rosenbauer 101 Platform Quint:\$820,000
- 2002 Pierce 100 Aerial Tower Platform\$239,000
- 2001 KME 1500/1000 Rural Pumper\$139,000
- 2008 International KME Medium Duty Rescue\$110,000
- 2002 Freightliner 1250/1000 Rural Pumper\$99,000

Can you image what this stuff cost new?

9. NEW OFFICE ADDRESS: Please note that Cypen & Cypen has a new office address: Cypen & Cypen, 975 Arthur Godfrey Road, Suite 500, Miami Beach, Florida 33140. All other contact information remains the same.

10. CRAZY STATE LAWS: *Good Housekeeping* reminds us that there are crazy laws in every state. In Nevada ... it is illegal to sit on sidewalks. Sin City never sleeps, or even rests for that matter. It is also unlawful to sit or lie down on public sidewalks, as it interferes with the primary purpose of the sidewalk. (Spitting?)

11. CYNICAL THINKING: Relationships are a lot like algebra. Have you ever looked at your X and wondered Y?

12. PONDERISMS: If you look like your passport picture, you probably need the trip.

13. TODAY IN HISTORY: On this day in 1969 Astronauts Neil Armstrong and Buzz Aldrin made the first moon landing from Apollo 11. Over half a billion people watched live global broadcast.

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.