



CYPEN & CYPEN
NEWSLETTER
for
December 14, 2017

Copyright, 1996-2017, all rights reserved
Stephen H. Cypen, Esq., Founding Editor
Robert D. Klausner, Esq., Senior Editor

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

**1. MICHIGAN LEGISLATURE PASSES BILL TO CREATE
STABILITY BOARD TO ASSIST MUNICIPAL PENSION**

PLANS: The Michigan Senate and House passed legislation creating a Municipal Stability Board within the state's treasury department to

oversee the funded status of municipal pension plans, reports *Pensions & Investments*. The proposed Protecting Local Government Retirement and Benefits Act creates the board for municipalities in Michigan that have a funding ratio of 60% or less, and whose annual pension contribution is more than 10% of its revenue. The three-member board, which will consist of a state official, local official and member representing employees and retirees appointed by the Michigan governor, will review and annually update a list of best practices for municipalities with underfunded plans, and those municipalities will be required to submit a corrective action plan within 180 days of receiving notification from the board of their underfunded status.

2. LABOR VOICES: IT IS TIME TO PROTECT

PENSIONS: Pensions supply a secure retirement for millions of Americans across the country. But, increasingly, some plans have faced financial challenges that threaten the nest eggs of many who toiled for decades with the understanding they would be taken care of in their golden years, explains *The Detroit News*. About 200 multi-employer pensions across the country, including the Teamsters' Central States Pension Fund that oversees the retirements of tens of thousands of Michigan Teamsters in every congressional district, stand on the brink of failure. The Teamsters have been working diligently for years with key members of Congress trying to come up with a solution to this pension crisis. And with the release of new legislation last month, the union believes it has found it. The bill would

boost financially troubled multi-employer pensions so they do not fail. It would create a new agency under the U.S. Treasury Department that would sell bonds in the open market to large investors such as financial firms. The dollars raised, in turn, would go to these retirement plans to stave off cuts or complete failure. Leaders in Congress are endorsing the plan because it protects workers.

“Democrats are offering hardworking Americans across the country a better deal to protect their pensions, because the families of ironworkers, truck drivers, steelworkers and many more deserve a secure and bright future,” Senate Democratic Leader Chuck Schumer (D-N.Y.) said. Sen. Sherrod Brown, (D-Ohio), a lead sponsor of the measure, called the introduction of the “Butch Lewis Act of 2017,” named after the former Teamsters Local 100 president who died in late 2015 while fighting to prevent cuts to Central States Pension Fund, one of the proudest days of his life. He said workers deserve to receive the pensions they worked so hard for to get. “This bill is comprehensive. It includes the miners, the Teamsters and others,” he said. “It makes no cuts. We started with the ideas of no cuts and there will be no cuts. This is a plan that will work.” Rep. Richard Neal, (D-Mass.), sponsor of the House version of the bill, added, “With this bill, we responsibly shore up multi-employer pension plans and guarantee retirees the full benefits they earned.” A new agency, the Pension Rehabilitation Administration (PRA), would lend money from the sale of the bonds to the financially troubled pension plans. Plans that are deemed “critical” and “declining,” as well as recently insolvent but non-terminated plans and those that have suspended benefits, would

be eligible to apply for the program. For those plans needing additional help, the Pension Benefit Guaranty Corp. would be available to make up the difference. Pension plans that have borrowed money would have to submit reports every three years to the PRA to show that the loans are working. If failing pension plans are allowed to go belly up, the retirement benefits of some 1.5 million Americans could be at risk. That, in turn, would affect the nation's coffers. In 2015, for instance, multi-employer pensioners paid more than \$35 billion in federal taxes. It is time lawmakers stick up for working Americans who have played by the rules. Passing this bill would be a good start. Note: Labor Voices columns are written on a rotating basis by United Auto Workers President Dennis Williams, Teamsters President James Hoffa, Michigan AFL-CIO President Ron Bieber and Michigan Education Association President Paula Herbart.

3. CORPORATE PENSION FUNDING RISES IN NOVEMBER: The funded status of U.S. corporate pension plans improved in November, said reports from Milliman, Mercer, Northern Trust Asset Management and Aon Hewitt, reports *Pensions & Investments*. The funded status of the 100 largest U.S. corporate pension plans rose 40 basis points to 85.2% in November, the Milliman 100 Pension Funding index showed. Assets rose 0.5% over the month to \$1.484 trillion, the result of a 0.82% investment return. Liability values, meanwhile, remained unchanged at \$1.742 trillion as discount rates rose 1 basis point to 3.67%. If the pension funds achieve a median 7% asset return and the discount rate remains at 3.67%, the funding ratio would increase

to 88.1% by the end of 2018 and 91.1% by the end of 2019, Milliman predicted. Barring a calamity in the next month, 2017 has been a stellar year with strong double-digit investment returns for corporate pensions. If discount rates can hold and December investment returns mirror the past 11 months, the funded ratio for these plans will end higher than it was in 2016. Should discount rates end the year with a strong uptick, this will result in more funding optimism as we turn the corner into the new year. The funded status was 83.3% as of Dec. 31. According to Mercer, the estimated aggregate funding ratio of defined benefit plans sponsored by S&P 1500 companies rose 1 percentage point to 84% as of Nov. 30. The S&P 500 and MSCI EAFE indexes returned 2.81% and 0.88% over the month, respectively, while discount rates rose 2 basis points to 3.69%. The estimated aggregate value of pension fund assets of S&P 1500 companies totaled \$1.94 trillion as of Nov. 30, down from \$1.93 trillion as of Oct. 31, while estimated aggregate liabilities totaled \$2.3 trillion, down from \$2.32 trillion at the end of October. Equity markets continued to rise, leading to the highest pension funded status in over three years. Plan sponsors are looking at high equity valuations and rightfully asking themselves if now is the right time to dial back risk. At the same time, looming reductions in corporate tax rates provide a strong incentive to accelerate funding. If tax reform comes to pass, we expect many plan sponsors to accelerate funding while at the same time derisking using both investment policy and risk transfer. As measured by Northern Trust, the average funding ratio for S&P 500 companies with corporate defined benefit plans rose 40 basis points over the month to

83.4%. The funding increase was driven by a nearly 2% return from global equities, which offset a 3-basis-point-drop in the discount rate to 3.66% that drove up liabilities. Year-to-date through Nov. 30, the funded status is up 3.4 percentage points, discount rates are down 34 basis points and global equities are up about 22%. According to the Aon Hewitt Pension Risk Tracker, the aggregate funded status for DB plans sponsored by S&P 500 companies rose 70 basis points in November to 82.4%. Asset values increased 0.82% over the month to \$1.774 trillion, the result of investment returns of 1.2%. Meanwhile, liabilities rose 0.03% to \$2.153 trillion, the result of 1-basis-point-drop in the discount rate to 3.49%. Year-to-date through Nov. 30, the funded status is up 1.5 percentage points, according to Aon Hewitt.

4. PROTECTING RETIREMENT PLANS FROM IDENTITY

THEFT: Identity theft and related crimes are on the rise, and they can have a devastating impact on employer-sponsored retirement plans, such as 401(k)s. Retirement plans can have very large balances compared to other cyber targets such as bank accounts, and therefore, have become quite attractive to cyber criminals, reports www.icemiller.com. Cybercrime related to retirement plans can occur as a result of threats such as phishing, ransomware, “social engineering,” and wire transfer fraud, among others. For example, a cybercriminal may send out phishing emails in the hope of installing ransomware on the recipient’s system, which can then spread throughout the company. These phishing attacks will look like authentic emails from a known outside company, a package delivery

service or even an executive within the retirement plan. The fake email contains a link, which, when clicked, triggers ransomware that locks the company's system or files until a ransom is paid. And phishing is not the only way ransomware infiltrates a company. In May 2017, the widespread ransomware attack called "WannaCry" froze computers and systems across the world, demanding payment to restore the data. Unlike most ransomware, WannaCry was unleashed not through the user clicking a malicious link, but through a digital "worm" that scanned the internet for vulnerable devices to attack, exploiting a flaw in an outdated version of Windows. As a result, the Securities and Exchange Commission issued a cybersecurity alert to investment firms reminding them to upgrade systems on a timely basis. Phishing emails can also target the retirement plan's customers themselves. These attacks are disguised as an authentic email from the retirement company, claiming the recipient's account has been compromised and will be closed unless the recipient verifies some information. When the recipient clicks the link, he is taken to a lookalike website that asks for personal and account information. From there, the criminal can log into the individual's retirement account and request that funds be wired into the criminal's account, often overseas. Finally, cybercriminals can use information obtained from an unrelated data breach in order to commit their crimes via "social engineering." The most common way this is done is through wire transfer fraud, tricking retirement plan employees into releasing someone else's retirement funds. Let's say a criminal obtains someone's name, Social Security number, birth date, and address—

all information that was exposed in the recent Equifax breach. The criminal may call the investment company that holds the individual's retirement account and, pretending to be that person by using the stolen identifiers, request that the company transfer the funds to the criminal's own account. A lifetime's worth of savings evaporates in an instant. Given all these threats, retirement plans should remind their employees to confirm the identity of individuals who call claiming to be a plan participant, especially if the individual is calling to make a withdrawal or transfer. Moreover, employers should review cyber safety with employees telling them not to click links in emails, to check the email address where the email originates to verify the sender really is who they claim to be and to keep software up to date. Importantly too, retirement plans should frequently remind their customers of best practices in cybersecurity. Many retirement plans have online fraud policies, guaranteeing reimbursement if the participant practices cyber safety—such as changing their passwords frequently and verifying emails that claim to be from the retirement plan—but disclaiming responsibility if the participant negligently allowed someone else to access his or her account by clicking a link in an email or falling for a social engineering scheme. For instance, Fidelity has a Customer Protection Guarantee in which it promises Fidelity will “reimburse you for losses from unauthorized activity in covered accounts occurring through no fault of your own.” But, to be covered, the customer must adopt all of Fidelity's recommended security practices. The careful wording on this policy protects Fidelity as much as it does the participant. Retirement plans and their

sponsors should also be mindful of the potential liability for cyber losses and protect themselves accordingly.

5. AMERICANS ARE MAKING MORE AND SPENDING

MORE: Should it be a surprise that Americans are spending more as their income rises? The U.S. Department of Commerce released a strong reading on personal income and outlays (spending) for the month of October, says www.47wallst.com/economy. With gross domestic product being roughly two-thirds influenced by consumer spending, this report and more recent retail sales data should offer some underlying support for fourth-quarter GDP. Personal income rose by 0.4%, or by \$65.1 billion, and disposable personal income rose by 0.5%, or \$66.1 billion. Personal consumption expenditures increased by 0.3%, or \$34.4 billion, in October. Excluding food and energy, the PCE price index increased by 0.2%. According to the Commerce Department's views, the increase in personal income in October primarily reflected increases in wages and salaries and in personal interest income. To breakdown expenditures, there was an increase of \$11.4 billion in spending for goods and a \$2.7 billion increase in spending for services. Within the spending on goods, the category of "other nondurable goods" (including prescription drugs and recreational items) was the leading contributor to the increase. And within services, the largest gaining contributor was spending for "other services" (including passenger fares for foreign travel and communication services). Personal outlays increased by \$38.7 billion in October, and the personal savings figure was \$457.3 billion. The

personal saving rate, which tracks personal saving as a percentage of disposable personal income, was 3.2%. While this is only one month's worth of data and while it has a month look-back, the overall rate of personal income and personal spending should offer a stronger base for the belief of continued growth in the fourth quarter.

6. THREE THINGS YOU NEED TO KNOW ABOUT SEASONAL WORK AND SOCIAL SECURITY: Right after Halloween, stores and businesses begin advertising that they are looking for seasonal workers. It is a good way to make extra income during the busy holiday season. We know you may have some questions about seasonal work and how it affects your work record. Social Security is here to answer your top three questions about seasonal work.

- ***Do I earn credits toward future Social Security benefits if I get a job during the holidays?***

Yes, your seasonal earnings count toward your future benefits. You earn Social Security credits when you work in a job and pay Social Security taxes. We use your total yearly earnings to figure your [Social Security credits](#).

- ***I get Social Security benefits. Will seasonal work affect my benefits?***

You can get Social Security retirement or survivors benefits and work at the same time. But if you are younger than full retirement age, and earn more than certain amounts, [your benefits will be reduced](#). Your

benefits will increase when you reach full retirement age. If you receive Social Security disability benefits or Supplemental Security Income (SSI), special rules make it possible for people to work and still receive monthly payments. If you want to try working again, seasonal work may help you ease back into the work force. If you are ready to work again, or would like to try this holiday season, read [Working While Disabled](#).

- ***How do I make sure my seasonal wages are posted correctly?***

Your personal [my Social Security](#) account is the easiest and most efficient way to verify your earnings. If you do not have an account, create one today. Your personal [my Social Security](#) account puts you in the driver's seat of your personal record. You can view your *Social Security Statement*, request a replacement card, report your wages if you are getting disability, and more!

7. 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.

8. CRAZY STATE LAWS: *Good Housekeeping* reminds us that there are crazy laws in every state. In West Virginia hats were banned in theaters (until 2010). In 2009, hats were banned inside West Virginia theaters after a very large hat obstructed everyone else's view. This

law was repealed in 2010, because we all have bad hair days every once in a while!

9. INSPIRATIONAL QUOTE: People often say that motivation does not last. Well, neither does bathing. That is why we recommend it daily. – Zig Ziglar

10. LEXOPHILES: When the smog lifts in Los Angeles, U.C.L.A.

11. FUNNY TOMBSTONE SAYINGS: Over my dead body!

12. TODAY IN HISTORY: On this day in 1988 NBA's Miami Heat wins 1st game ever, 89-88 (Clippers), after 17 loses.

13. 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.

14. 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>.

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