



CYPEN & CYPEN

NEWSLETTER

for

January 11, 2018

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

1. MINIMUM WAGE HIKES IN 18 STATES SET FOR NEW YEAR:

The lowest wage workers in 18 states got a boost in their paychecks starting on New Year's Day, as minimum wage hikes take effect. Many of the wage hikes are phased-in steps toward an ultimately higher wage, the product of ballot initiatives pushed by unions and workers rights groups over the last few years. The minimum wage in Washington state will rise to \$11.50 an hour, up 50 cents and the highest statewide minimum in the

nation. Over the next three years, the wage will rise to \$13.50 an hour, thanks to a ballot measure approved by voters in 2016. Mainers will see their minimum wages rise the most, from \$9 an hour to \$10 an hour, an 11 percent increase. Voters approved a ballot measure in 2016 that will eventually raise the wage to \$12 an hour by 2020. Arizona, California, Colorado, Hawaii, New York, Rhode Island and Vermont will see their minimum wages increase by at least 50 cents an hour. Smaller increases take effect in Alaska, Florida, Michigan, Minnesota, Missouri, Montana, New Jersey, Ohio and South Dakota. States have been more willing to raise minimum wages because those who take low-wage jobs are more likely to be better educated now than they were in the past, a sign of an economy where fewer high-wage jobs are available. As the population of low-wage workers has become a bit more upscale, many places are willing to adjust their minimum wages, especially given the pervasive research. States and localities have been increasingly willing to raise their own minimum wages as the federal value has been stuck at \$7.25. Several big cities will see significant increases in the minimum wage starting in the new year, a legacy, observers said, of the Fight for 15 campaign spearheaded by the Service Employees International Union in recent years. California localities are especially likely to see big boosts: The lowest-paid workers in Mountain View and Sunnyvale, Calif., will get \$2 an hour increases, to \$15 an hour. Workers in Cupertino, El Cerrito, Los Altos, Palo Alto, San Jose and San Mateo will all see their wages rise to at least \$13.50 an hour. Minimum wages will jump to \$15.64 in SeaTac, Wash., home of Seattle's international airport, and to \$15.45 in Seattle. Wages are also set to rise in Minneapolis, Albuquerque, N.M., and Flagstaff, Ariz. Generally, it is shown that if you raise the minimum wage, you tend to see reductions in hours for younger employees. In recent years, Iowa and Missouri have joined 23 other states in adopting so-called preemption laws, and other states are likely to introduce their own preemption measures in upcoming legislative sessions. States are trying to impose preemption on their localities, disallowing increases, essentially doing the bidding of low-wage employers and trying to block such initiatives. States are understanding that regardless of where you stand on the merits of raising the minimum wage, having a state standard rather than a patchwork of local laws. Supporters of a higher minimum wage are beginning to circulate petitions in Massachusetts, Michigan, Missouri and Ohio, in hopes of securing a spot on the 2018 ballot. Legislatures in Massachusetts and Connecticut are likely to consider minimum wage hikes, too.

2. HEDGE FUND BETS BILKED KENTUCKIANS OUT OF THEIR PENSIONS, LAWSUIT SAYS:

Three hedge funds allegedly benefited from decisions that helped impoverish Kentucky's state pension system. Years of risky hedge fund investments helped plunge Kentucky's public pension system billions of dollars into the red, making it one of the worst-funded state pension systems in the country. Now, eight current and former state employees are suing a trio of hedge fund operators and current and former members of Kentucky's pension board, alleging that they breached their financial duties to the state and its taxpayers by sinking millions of dollars into "exotic" hedge fund bets. The lawsuit, filed in Kentucky circuit court, takes aim at three hedge fund firms — KKR/Prisma, Blackstone and Pacific Alternative Asset Management Company — and its executives, as well as seven current and former members of the Kentucky pension board, the pension system's former chief investment officer and a consulting firm that advised the board. Together, the defendants "chose to cover up the true extent" of the pension plans' financial shortfalls and to "take longshot imprudent risks" in an effort to make up for the funding problems, the suit contends. "They misled, misrepresented and obfuscated the true state of affairs ... from at least 2009 forward," the suit alleges. Kentucky's pension plans, collectively known as Kentucky Retirement Systems, hold savings for more than 350,000 current and former state workers. At the turn of the 21st century, the suit states, the system held enough money to cover all its obligations with \$2 billion in surplus. But over the ensuing decade, it lost more than \$6 billion in assets. Today, it holds enough cash to cover just 37 percent of its obligations. The largest of the state's plans, the Kentucky Employee Retirement System, has enough in assets to pay only 17 percent of its future obligations. The system as a whole is facing a nearly \$27 billion shortfall, according to official figures. The lawsuit estimates the actual funding gap could be as large as \$50 billion. A major cause of those problems, the suit asserts, is the pension system's investments in so-called hedge "funds of funds" — that is, hedge funds composed of other hedge funds. As *HuffPost* laid out in a deep dive into Kentucky's pension mess, such funds of funds feature little to no transparency when it comes to fees paid to investment managers and firms or their performance. They tend to offer higher costs and lower returns than traditional investments, all while potentially greasing the wheels for corruption inside public pension plans. The three hedge fund operators named as defendants created special funds for the state of Kentucky — the suit refers to such funds as "black boxes," for their notable lack of

transparency. The operators allegedly promoted the funds to Kentucky Retirement Systems as safe and virtually guaranteed investments. Instead, they helped “generate excessive fees” for the hedge fund managers while producing “poor returns and ultimately losses” for the pension plans, “damaging [Kentucky Retirement Systems] and Kentucky taxpayers” in the process. Most of the assertions in the lawsuit involve decisions made during the administration of then-Gov. Steve Beshear (D), who held office from 2008 to 2016. The suit also references at least one decision the Kentucky Retirement Systems board made after Gov. Matt Bevin (R) took office in January 2016. In May 2016, after Bevin had drastically reshaped the board, the system’s investment committee plunged \$300 million into the hedge fund of funds created by KKR/Prisma. At the time, the state was supposedly making some effort to reduce the pensions’ overall involvement in hedge funds. The KKR/Prisma fund was the “worst performing” of the “black box” funds: It had a negative 8 percent return in 2016, even as the stock market rose 15 percent. Bevin had previously appointed William Cook, a former KKR/Prisma employee, to the pension board as part of the reshuffling. Cook said upon his appointment that he would recuse himself from any decisions involving his former company. But the lawsuit alleges that he was among the investment committee members who “permitted” Kentucky Retirement Systems to enter into the deal, in which KKR/Prisma was also able to place one of its current employees inside the pension system on a part-time basis. That deal, the suit claims, “was not done ‘solely’ in the interest of the members and the beneficiaries” — as required by Kentucky law — “but to help KKR/Prisma” and Pacific Alternative Asset Management Company. Investments in hedge funds of funds have created legal scandals for state pensions across the country, including in California and New York. Amid more scrutiny, California, New York and other states have pledged to rid their pension systems of hedge fund investments. Although Kentucky has attempted to reduce its reliance as well, Kentucky Retirement Systems still held 8.4 percent of its assets in hedge funds as of March 2017. The lawsuit does not allege any federal crimes. It seeks an undisclosed sum in damages on behalf of the state, the taxpayers and Kentucky Retirement Systems. Any damages the eight plaintiffs themselves received would go to Kentucky Retirement Systems, the suit says, to help shore up the pensions. Blackstone and KKR/Prisma both denied the allegations in statements to the Louisville *Courier-Journal*. Kentucky’s state legislature returns to work next week, and pension reform is expected to be near the top of its 2018 agenda. Last year Bevin released a proposal to transition from a traditional,

defined contribution-style pension program to one featuring plans that resemble 401(k)s. That idea has met with widespread opposition from public employees, who, along with economic analysts, say it would reduce benefits for future retirees and could even exacerbate some of Kentucky's current pension woes.

3. MUTIMILLION-DOLLAR CITY PENSION CASE COULD GO TO TRIAL IN SECRET:

Houston voters signed off on Mayor Sylvester Turner's landmark pension reforms at the ballot box, but the city still is suing the actuarial firm it says helped create the mess in the first place in a blockbuster case that may go to trial next year with at least \$430 million at stake. It just does not want you to know all the details. A federal magistrate agreed with the city, denying the actuarial firm Willis Towers Watson's request to unseal an expert's report crucial to Houston's case. The report used data about individual firefighter pensioners to mirror the work of the actuarial firm - then known as Towers Perrin - to identify errors and estimate monetary damages to the city. That report, motions related to it and the court hearings at which they have been discussed have been redacted, sealed or closed to the public. The city maintains that the report by actuary Kim Nicholl of Segal Consulting contains "highly confidential" data about firefighters, and is exempted from public disclosure by an order negotiated and agreed to among all those involved with the case, including Towers's attorneys. Towers's lawyers say the report holds no personal or individual data, only collective analysis of that individual data, and asked a federal judge to unseal the documents and ensure all hearings - and the trial itself, which is scheduled to begin in May - are held in open court. "If the reports are under seal, so is the heart of the city's case and Towers's defenses." "After publicly accusing Towers of wrongdoing for four years, the city now wants to hide the actual substance of its case." U.S. Magistrate Judge Frances Stacy denied Towers's motion, saying the protective order the parties negotiated "contemplated, and specifically provided for, the shielding of expert reports." Towers's broader appeals for disclosure in the public interest, the judge added, did not convince her that the protective order "should be modified at this time." The city's lawyers had argued in court filings that the need for confidentiality "outweighs the abstract interest Towers purports to assert the public's behalf." City Council approved the filing of the lawsuit in July 2014, saying Houston officials' reliance on the advice of Towers Perrin led them to boost firefighters' retirement benefits in 2001 and saddle taxpayers with unaffordable pensions costs as a result. Rather than increasing slightly, as the projections indicated, the city's

pension costs spiked, leading Houston repeatedly to fall short on its annual payments to its pension funds. That, along with a recession, created a debt of more than \$8 billion that Turner sought to address by shepherding a reform package through the Legislature this year, which cuts benefits, prevents the city from continuing to short its payments and includes a mechanism to cap the city's future pension costs. Voters signed off on that deal by approving a \$1 billion pension bond referendum. As for the firefighters pension fund - the source of the data at issue and a participant in the negotiations about what should be sealed - spokesman Joe Gimenez said the fund would be happy to weigh in on whether the expert's report contains private information but has not seen a copy. Court filings show the city has not agreed to share the report with the firefighters, in part because the fund and the city are engaged in ongoing lawsuits not related to the Towers case. The city's multibillion-dollar pension mess - which Turner hopes the reform package passed by the Legislature and confirmed by voters this year will erase over time - began with a series of 2001 benefit changes. Towers actuaries then predicted the changes would not greatly adjust the payment rate to the firefighters or municipal workers funds for many years, but the city's payments to both pensions, as well as the police officers' fund, skyrocketed soon after the changes were approved. Both Towers reports were commissioned by the employee- and retiree-controlled pension boards, and then-Mayor Lee Brown's administration did not seek second opinions. That history, and former Mayor Annise Parker's inability to make headway in getting legislative support for the sorts of reforms that Turner negotiated this year, helped lead to the 2014 lawsuit.

4. FEES RISE FOR UNDERFUNDED PENSIONS:

Shortfalls mean more risk for a company's retirees and shareholders. The largest pension plans held by S&P 500 companies face a \$348 billion funding gap. As a result, they are paying higher annual fees to the U.S. Pension Benefit Guaranty Corp., the government agency that backstops plans. "There's increased awareness that an underfunded plan imposes risk on employees, it imposes risk on shareholders and it is getting more expensive," says Olivia Mitchell, a professor at the University of Pennsylvania's Wharton School and executive director of the Pension Research Council. The fees, called variable-rate premiums, are set by Congress and meant to encourage companies to set aside more money in their pension funds. They have more than tripled in four years for companies including General Electric Co. and Boeing Co., according to data obtained by

Bloomberg News through a Freedom of Information Act request. GE's fees surged more than sixfold, to about \$238 million, in 2017 from 2012, according to the PBGC data (that does not include the agency's flat-rate participation fees). Boeing's bill was \$151.7 million, about four times what it paid in 2014. GE and Boeing had the largest pension shortfalls among S&P 500 companies. GE, whose pension fund is short by about \$31 billion, said in November it would borrow \$6 billion to fund its plan. After Boeing's fund fell short by about \$20 billion at the end of 2016, the company said in July that it would add \$3.5 billion of its shares to a scheduled \$500 million pension contribution. Employers have found it "more and more difficult to offer a pension," says Dennis Simmons, executive director of the [Committee on Investment of Employee Benefit Assets](#), an industry group. "Part of that is because of rising PBGC fees and more difficult regulations." Booms and busts in the stock market have made it harder for companies to keep up with their contributions. The pensions have become "big, and they've been quite volatile since 2000, when we've seen some serious ups and downs in the market," says Peggy McDonald, a senior vice president who works on pension risk transfers at Prudential Financial Inc. The rising fees and pending Republican tax overhaul legislation are encouraging some companies to build up their funds. Because pension contributions are tax-deductible, it is more valuable to contribute to a pension while tax rates are higher. Employers with the 100 largest defined benefit plans added a combined \$43 billion to plans last year, compared with just \$31 billion the year before, according to Milliman, an actuarial company. Most are eager to get out of the pension business, preferring 401(k) plans, where the employee bears the risk of falling short at retirement. More are offloading their pension plans, paying insurance companies such as Prudential or MetLife Inc. to take them on instead. Such transactions could exceed \$19 billion this year, according to industry group Life Insurance and Market Research Association (LIMRA). Only about two dozen companies in the S&P 500 have overfunded pensions. Nine of them are banks. Offloading risk is not on the table for every company. Insurers do not take on obligations from underfunded plans, McDonald says. That means companies need better to fund their plans, limiting those variable-rate premiums, before they can transfer the obligations. "In the short term, these PBGC premiums are having a really significant impact," she says. "This is in a way an expense-management exercise."

5. IRS Criminal Investigation Releases Fiscal Year 2017 Annual Report:

The Internal Revenue Service announced the release of the [Criminal Investigation Division's \(CI\) annual report](#), reflecting significant accomplishments and criminal enforcement actions taken in fiscal year 2017. Focusing on employment tax, refund fraud, international tax enforcement, tax-related identity theft, public corruption, cybercrime, terrorist financing and money laundering, CI initiated 3,019 cases in FY 2017. The number of cases initiated is directly tied to the number of special agents that CI has 2,200—the same number as 50 years ago. Financial crime has not diminished during that time— in fact, it has proliferated in the age of the Internet, international financial crimes and virtual currency. Despite these challenges, CI continues to do amazing work, investigating some of the most complicated cases in the agency's history. Criminals would be foolish to mistake declining resources for a lack of commitment in this area. The annual report is released each year for the purpose of highlighting the agency's successes while providing a historical snapshot of the make-up and priorities of the organization. CI is the only federal law enforcement agency with jurisdiction over federal tax crimes. This year, CI again boasted a conviction rate rivaling all federal law enforcement at 91.5% while spending more than 72% of their investigative time working tax cases. That conviction rate speaks to the thoroughness of the investigations, and CI is routinely called upon by prosecutors across the country to lead financial investigations on a wide variety of financial crimes including international tax evasion, identity theft, terrorist financing and transnational organized crime. CI investigates potential criminal violations of the Internal Revenue Code and related financial crimes in a manner to foster confidence in the tax system and compliance with the law. The interactive report summarizes a wide variety of CI activity throughout the fiscal year and includes case examples from each field office on a wide range of financial crimes. CI continues to set the standard for financial investigations worldwide. Bravo!

6. STANDARD MILEAGE RATES FOR 2018 UP FROM RATES FOR 2017:

The Internal Revenue Service today issued the 2018 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes. Beginning on Jan. 1, 2018, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be: 54.5 cents for every mile of business travel driven, up 1 cent from the rate for 2017. 18 cents per mile driven for medical or moving purposes, up 1 cent from the rate for 2017. 14 cents per mile driven in

service of charitable organizations. The business mileage rate and the medical and moving expense rates each increased 1 cent per mile from the rates for 2017. The charitable rate is set by statute and remains unchanged. The standard mileage rate for business is based on an annual study of the fixed and variable costs of operating an automobile. The rate for medical and moving purposes is based on the variable costs. Taxpayers always have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates. A taxpayer may not use the business standard mileage rate for a vehicle after using any depreciation method under the Modified Accelerated Cost Recovery System (MACRS) or after claiming a Section 179 deduction for that vehicle. In addition, the business standard mileage rate cannot be used for more than four vehicles used simultaneously. These and other requirements are described in Rev. Proc. 2010-51. Notice 2018-03, posted today on IRS.gov, contains the standard mileage rates, the amount a taxpayer must use in calculating reductions to basis for depreciation taken under the business standard mileage rate, and the maximum standard automobile cost that a taxpayer may use in computing the allowance under a fixed and variable rate plan.

7. CHECK OUT THESE *my* SOCIAL SECURITY FEATURES IN THE NEW YEAR:

It is here: It is now 2018, a new year. There is no better time to tell you about the features we have in *my Social Security*. They not only save you time, but also put you in control of your retirement future. There is a growing number of states (and the District of Columbia) where, if you are a resident, you can request a replacement Social Security card online. Our new online version of the *Application for a Replacement Social Security Card* can make getting a replacement easy and stress free. It allows people to apply for a replacement card through *my Social Security* without traveling to a field office or card center, as long as you are not requesting a name change or any other change to your card. We are working to add this capability to every state. Your personal *my Social Security* account is secure and gives you ready access to earnings, Social Security benefit estimates and printable *Social SecurityStatement*. Those who already receive benefits can view their payment history, current status, and manage their benefits. Social Security has also made replacing your annual Benefit Statement even easier. The Benefit Statement (known as the SSA-1099 or the SSA-1042S) shows the amount of benefits you received the previous year, and is needed for filing taxes. Now you have the ability to download it

using our online services. There is no need to visit a field office. A replacement SSA-1099 or SSA-1042S is available after February 1 for the previous tax year. If you do not have a *my* Social Security account, creating a secure account is very easy to do, and usually takes less than 15 minutes. Putting you in control of your future is a key part of securing today and tomorrow. With *my* Social Security, we give you the power to steer your future in the direction you deserve.

8. 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.

9. CLEVER WORDS

Avoidable: What a bullfighter tries to do.

10. INSPIRATIONAL QUOTE:

Life is about making an impact, not making an income. – Kevin Kruse

11. LEXOPHILES:

With her marriage, she got a new name and a dress.

12. TODAY IN HISTORY:

On this day in 1861, Alabama secedes from the Union (US Civil War)

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