



CYPEN & CYPEN

NEWSLETTER

for

March 22, 2018

Copyright, 1996-2018, 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. IRS ANNOUNCES 2018 PENSION PLAN LIMITATIONS NOT AFFECTED BY TAX CUT AND JOBS ACT OF 2017:

The Internal Revenue Service announced that the Tax Cut and Jobs Act of 2017 does not affect the tax year 2018 dollar limitations for retirement plans announced in [IR 2017-177](#) and detailed in [Notice 2017-64](#). [For example, the limitation on the annual benefit under a defined benefit plan under § 415(b)(1)(A) is increased from \$215,000 to \$220,000.] The

tax law provides dollar limitations on benefits and contributions under qualified retirement plans, and it requires the Treasury Department to adjust annually these limits for cost of living increases. Those adjustments are to be made using procedures that are similar to those used to adjust benefit amounts under the Social Security Act. As the recently enacted tax legislation made no changes to the section of the tax law limiting benefits and contributions for retirement plans, the qualified retirement plan limitations for tax year 2018 previously [announced](#) in the news release and [detailed](#) in guidance remain unchanged. The tax law also specifies that contribution limits for IRAs, as well as the income thresholds related to IRAs and the saver's credit, are to be adjusted for changes in the cost of living using procedures that are used to make cost-of-living adjustments that apply to many of the basic income tax parameters. Although the new law made changes to how these cost of living adjustments are made, after taking the applicable rounding rules into account, the amounts for 2018 in the [news release](#) and the [guidance](#) remain unchanged. IR-2018-19 (February 6, 2018).

2. RETIREMENT SECURITY IN PERIL:

“Retirement Security in Peril” says that American workers are facing a crisis: the inability to retire with dignity after a life of hard work. After years of supporting families and contributing to society, American workers are confronting a nearly empty retirement nest egg. Half of all American families near retirement have \$12,000 or less in formal retirement savings. Not only do far too many workers earn too little adequately to save for retirement, but many more also lack access to good retirement saving plans. Many other factors, including the 2007 financial crisis and slow wage growth, have exacerbated the problem. Congress must now focus on policies that broaden access to low cost, high-yield retirement savings options, strengthen Social Security, secure pension plans, and restore access to a stable and adequate retirement for an aging population. Working Americans face a host of challenges in planning and saving for retirement, including inadequate savings, stagnant wages, limited access to low-cost and high return accounts, among others. These challenges, which all have compounding impacts on later life living standards, are making it more difficult for families and workers to establish a foundation for a secure retirement. Most employers no longer provide defined benefit plans, such as traditional pension plans that provide a guaranteed source of income into retirement. Instead, they have shifted the responsibility of preparing for retirement onto employees

through defined contribution retirement plans, like 401(k)s and IRAs. Only 25 percent of private sector employees in medium and large firms participate in defined benefit plans, a sharp decline from the 1985 high of 80 percent. The drop in availability and participation in these plans comes as employers attempt to reduce the risk and cost of providing benefits. Teacher pension plans are an example of the key role that defined benefit plans play in providing families a stable retirement. Teacher pensions, much like other defined benefit plans, provide a more secure path to retirement, helping many teachers overcome the multitude of obstacles that prevent saving for retirement. More than 75 percent of teachers participate in defined benefit plan. These pension plans reward longevity with an employer, creating economic incentives for high-quality teachers to stay in the profession. These plans serve as effective recruitment and retention tools for schools, helping attract and maintain the best teachers to ensure student success. Pension plans also afford teachers a more predictable source of income into retirement, which is particularly important for low- and middle-income teachers. “Retirement Security in Peril” was authored by the Democratic Staff of the Joint Economic Committee of the U.S. Congress.

3. JANUS AND FAIR SHARE FEES:

Over the last decade, a number of cases attacking the rights of public-sector union members have been quietly working their way through the courts and, finally, up to the U.S. Supreme Court. The most recent of these challenges is *Janus v. AFSCME Council 31*, which the U.S. Supreme Court heard on February 26. If the court rules for Janus, it will likely have the most significant impact on workers’ freedom to organize and bargain collectively in 70 years. *Janus* is the third case to come before the Supreme Court in five years involving public-sector unions’ ability to collect “fair share” (or “agency”) fees. As this report will show, *Janus*, and the two fair share cases that preceded it, did not grow from an organic, grassroots challenge to union representation. Rather, the fair share cases are being financed by a small group of foundations with ties to the largest and most powerful corporate lobbies. These organizations and the policymakers they support have succeeded in advancing a policy agenda that weakens the bargaining power of workers. In *Janus*, these interests have focused their attack on public-sector workers—the workforce with the highest union density. By tracing the origins of these legal challenges, and explaining how the challenges target unions, challenging fair share fees in the courts appears to be part of a broader billionaire-financed agenda to weaken unions and shift

power away from ordinary workers. Collective bargaining is the process by which workers join together to negotiate with employers for better pay and safer working conditions. Under federal law, no one can be forced to join a union as a condition of employment. Workers who choose not to join their workplace's union—but are covered by the union's collective-bargaining agreement—do not pay union dues; instead they pay “fair share” fees to cover the basic costs that the union incurs representing them. Because unions are legally required to represent all employees in a bargaining unit, not just union members, fair share fees is crucial to the work of collective bargaining. Stripping unions of their ability to collect these fees would encourage workers to access the benefits of union representation without paying for these benefits. In this way, eliminating fair share fees defunds unions, and goes a long way toward stripping workers of their ability to organize and bargain collectively. Celine McNicholas, Zane Mokhiber, and Marni von Wilpert are the authors of this report.

4. OP-ED ON TEACHER AND PUBLIC EMPLOYEE PENSIONS WAS INACCURATE, MISLEADING:

A recent guest column in the Montana *Standard* suggested that Montana's Public Retirement Systems are grossly underfunded, and that the benefits paid to retirees are somehow excessive. We would like to address some issues raised in that article, and provide your readers with actual numbers and historical performance so they can draw their own conclusions. The Teachers' Retirement System provides benefits to 15,566 retired education professionals who worked, on average, 25.3 years to earn an annual gross benefit of \$22,614. This averages a benefit of \$1,884 per month — before taxes, insurance and other withholdings. The Montana Public Employees' Retirement System provides benefits to 21,644 retired public employees who worked, on average, 20.1 years to earn an annual gross benefit of \$17,543, or an average gross monthly benefit of \$1,462. Neither of these amounts seems excessive or unjustified after a twenty-plus year career as a professional educator or public employee. Article 8, Section 15 of the Montana Constitution requires the Legislature to fund the State's public retirement systems on an actuarially sound basis, which means they must amortize in 30 years or less. As of December 31, 2017, TRS has just over \$4.1 billion in assets and receives statutory contributions sufficient fully to amortize any unfunded actuarially accrued liability within 22 years. Likewise, PERS has just over \$5.76 billion in assets and receives contributions

sufficient fully to amortize any unfunded liability within 30 years. Simply put, these large systems are actuarially sound. Public pension plans use an assumed rate of return to project future investment earnings and to discount future liabilities, and this fact has received a lot of attention in recent years. The goal of both the Teachers' Retirement Board and the Montana Public Employees' Retirement Board is to set an assumed rate of return that is attainable over 20 or 30 years. This assumption is specifically reviewed by each system's actuary as part of an experience study conducted every four to six years. TRS's actuarially assumed rate of return currently is 7.75% but the net investment return on TRS assets for calendar year 2017 was 14.79% and the inception to date (23.5 years) rate of return was 7.85%. PERS's actuarially assumed rate currently is 7.65%; however, the net investment return on PERS assets for calendar year 2017 was 14.8% and the inception to date (23.5 years) rate of return was 7.84%. The past twenty-plus years of actual investment experience tells us the actuarial assumptions for both TRS and PERS have been on the mark. We will not speculate as to whether the inaccurate numbers in the February 19 column were purposely misrepresented to push a particular political agenda. Such actions by the author would be counterproductive and harmful to the thousands of Montanans who worked hard over their entire adult life to earn these pensions and to the Montanans who deserve to know the truth about their tax dollars.

5. SIX REASONS TO E-FILE TAX RETURN:

For taxpayers who still file a paper return, there is no better time to switch to e-file. The IRS expects 90 percent of individual taxpayers to file electronically in 2018. Choosing e-file and direct deposit for refunds remains the fastest and safest way to file a complete and accurate income tax return and receive a refund. Here are the top six reasons why taxpayers should file electronically in 2018:

- **It is accurate and easy.** [E-file](#) software helps taxpayers avoid mistakes by doing the math. It guides filers through each section of their tax return. The software uses a question-and-answer format that makes doing taxes easier.
- **It is secure.** E-file meets strict security guidelines. It uses modern encryption technology to protect tax returns. The IRS continues to work with states and tax industry leaders to protect tax returns from identity theft refund fraud. This [effort](#) has helped to put strong safeguards in place to make tax filing a safe and secure option.

- **It is convenient.** Taxpayers can buy [commercial tax software](#) to e-file right from their home computer. They can also ask their [tax preparer](#) to e-file their tax return. Most paid preparers must file their clients' returns electronically.
- **Most e-filers get their refunds faster.** When someone files electronically, there is nothing to mail, and the return is virtually mistake-free. This means the fastest way for a taxpayer to get a refund is to combine e-file with direct deposit.
- **It is often free.** Many taxpayers can e-file for free through [IRS Free File](#). Free File is only available on IRS.gov. Some taxpayers may also qualify to have their taxes e-filed for free through [IRS volunteer programs](#). Volunteer Income Tax Assistance offers free tax preparation to people who generally earned \$54,000 or less. Tax Counseling for the Elderly generally helps people who are age 60 or older.
- **There are several options for making payments.** Taxpayers who owe taxes can e-file early and set up an automatic payment on any day until the April deadline. They can pay electronically from their bank account with [IRS Direct Pay](#). Taxpayers can visit [IRS.gov/payments](#) for information on the other payment options.

6. 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.

7. CLEVER WORDS:

Relief: What trees do in the spring.

8. INSPIRATIONAL QUOTE:

Twenty years from now you will be more disappointed by the things that you did not do than by the ones you did do, so throw off the bowlines, sail away from safe harbor, catch the trade winds in your sails. Explore, Dream, Discover. – Mark Twain

9. LEXOPHILES:

The roundest knight at King Arthur's round table was Sir Cumference. He acquired his size from too much pi.

10. TODAY IN HISTORY:

On this day in 1954, first shopping mall opens in Southfield, Michigan.

11. THINK YOU KNOW EVERYTHING?:

A dragonfly has a life span of 24 hours.

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