



# **CYPEN & CYPEN**

## **NEWSLETTER**

**for**

### **January 31, 2019**

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Stephen H. Cypen, Esq., Founding Editor  
Robert D. Klausner, Esq., Senior Editor

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

#### **1. PENSION POLITICS: SHOULD STATES BE INVESTING IN CONTROVERSIAL COMPANIES?:**

Earlier this year, even before a gunman killed 12 patrons at a bar in Thousand Oaks, there was a groundswell of calls for California's two largest pension funds to sell off their investments in gun retailers. But Jason Perez, a Southern California cop, balked. As a protest against "politically correct" investing, he decided to run for a seat on the California

Public Employee Retirement System's board of directors. And it wasn't just any seat; it was the one held by CalPERS Board President Priya Mathur. Mathur had been on the board for 15 years. She is a globally recognized leader in the sustainable investment community and holds a seat on the board of the United Nations-supported Principles for Responsible Investment, a network of international investors working to create and promote standards for sustainable investing. She's worked to apply those standards to CalPERS. Perez and his union, the Corona Police Officers Association, have routinely criticized the board for spending too much time on environmental and social investment programs. Association members regularly attended CalPERS meetings 430 miles away in Sacramento to urge pension officials to focus instead on making money for the \$360 billion pension fund. During his campaign, Perez painted a picture of an investment strategy overrun by politics and emotion, particularly proposals before the board to divest the portfolio of gun manufacturers and retailers and to drop the controversial Dakota Access Pipeline. Even though the board ultimately rejected both ideas, Perez's campaign was successful. In October, Mathur was easily unseated when Perez won 57 percent of the vote. While it's by no means a total repudiation of the board -- fewer than 17,000 votes were cast by the more than 400,000 eligible voting beneficiaries of the fund -- it was the second time in a year a divestment critic ousted a CalPERS board member. The first came last December, when Margaret Brown, an Orange County school district administrator, unseated incumbent Michael Bilbrey. At issue in California and elsewhere is what's called ESG investing, a strategy based on an asset's environmental, social and governance factors. Environmental factors might include a firm's carbon footprint or its contributions to deforestation. Social considerations would look at working conditions or impact on local communities. Governance covers things like corruption or how a corporate board behaves. The idea is that firms with sustainable environmental practices, who are good social stewards and have strong governance practices, are more likely to produce stronger returns over the long run. While the notion of ESG investing has been around for decades under one name or another, its current form has taken off in popularity as more sustainably minded millennial and Generation X investors have entered the stock and bond markets. Many governments have positioned themselves as good ESG investments in order to attract these investors. They've even generated new vehicles for investments, such as green bonds and pay for success bonds. But as a result, they're finding themselves awash in controversy, accused of playing politics. As our nation has grown

more politically divided, it's become more tempting for politicians to use pension funds as a political club in the name of responsible investing. Of course, social divestment isn't new. It began in earnest in the 1980s as a reaction to apartheid. In protest, pension funds sold off their stakes in companies that were doing business in South Africa. Since then, funds have dumped tobacco stocks and holdings in companies doing business in Darfur because of ongoing human rights violations. More recently, there's been increasing pressure on state and local pension funds to sell off equity in gun retailers, fossil fuel companies and private prisons. The American Federation of Teachers, for instance, lobbied teacher pension funds this year to cut their exposure to investment firms that funneled money into private prisons used to house migrants whose children had been separated from them at the border. The Chicago teachers fund obliged. What is new is the extent to which public funds have embraced ESG investing. In fact, it's a booming business: Assets under management in such portfolios have grown to an estimated \$23 trillion globally, an increase of more than 600 percent over the past decade, according to mutual fund researcher Morningstar. Technology has helped increase the overall profile of ESG investing by making it easier for any investor -- institutional or not -- to adopt the approach and filter out unwanted assets. What's more, of the seven U.S. pension funds that are signatories to the U.N.-supported Principles for Responsible Investment, three signed on in just the past three years. The overriding point of the principles is that certain factors such as climate change and human rights can affect a company's performance and should therefore be considered alongside more traditional financial factors. Proponents of the investing strategy say it's about buying, not selling, bonds. That is, rather than socially divesting, pension funds would dabble in social activism, buying into companies to encourage and maintain sustainable practices. For many, the crucial question isn't whether a pension investment does good, but whether it does well: Does it ultimately fulfill a government's fiduciary duty to earn a healthy rate of return? The research on whether pension funds are leaving money on the table with ESG investing is mixed. A 2016 paper by the Boston College Center for Retirement Research found that the returns of mutual funds that screen for such investments generally underperformed when compared to unrestricted funds. But that wasn't always because the investments themselves were underperforming. The center notes that the fees in the ESG funds are roughly 100 basis points higher than their counterparts, which may reflect the additional costs to screen investments. More recently, Trillium Asset Management, which is one of

the major ESG investment firms in the U.S., found that Massachusetts' pension trust lost an estimated \$79 million on its \$1.6 billion fossil fuel holdings over a five-year period ending in 2017. If the fund had instead invested \$1.6 billion in an anti-fossil fuel index fund, Trillium said it would have paid off \$1 billion over the same period. There's another way to look at ESG profitability. Ohio State University law professor Paul Rose thinks that evaluating return on investment is a limited view of a pension fund's fiduciary duty. Rose, who studies sovereign wealth funds, says pensions also have a duty to consider wealth maximization for taxpayers and the broader impact of their investments. While an industry may appear to be a sound investment on paper, it may also be contributing to higher costs for governments in areas like water quality, health care or welfare. While private investors can ignore such negative effects, a pension fund should consider whether it's aiding something that ultimately costs taxpayers more money. It's not uncommon for other investors to consider these impacts, says Rose. He points to revolving loan funds for minority businesses. These may be considered riskier, but such funds can help create long-term wealth and stability for taxpayers. "You could create a colorful argument that [certain types of] ESG investing does help taxpayers over the long term," he says. Still, Rose notes, those pushing for or against certain types of investments can't just say they think the move is good for the long term. "You need to be able to demonstrate that you've run the numbers." Meanwhile, critics of ESG investing by pension systems contend that fund managers have a fiduciary duty to get the highest returns possible for their beneficiaries at a reasonable level of risk. If investing in a certain fund will add performance, then "do it," says former Connecticut Treasurer Chris Burnham, who has decried socially responsible investing. But too often, he continues, decisions are based on the desires of "politicians playing politics with the fund's money." Take Illinois. In 2015, state lawmakers voted to require the state's pension systems to divest from companies that boycott Israel. In a recent paper, the Institute for Pension Fund Integrity noted that the American public is deeply divided over the many issues surrounding the Israeli-Palestinian conflict, making it "all but certain there are members of the Illinois pension systems who lie on both sides of this issue and do not want their funds being used to make this political statement." In California, Beth Richtman, managing investment director of CalPERS' Sustainable Investment Program, couldn't agree more with taking the emotion out of investment decisions. This year, CalPERS revamped its investment division, created a new one to monitor ESG investing across its entire portfolio and named Richtman to run it.

Her philosophy is “not in any way focused on exclusions based on ethical grounds,” she says. Rather, it’s about assessing the fund’s exposure to environmental, social or governance dangers down the road. She is pushing for improving the fund’s research while prioritizing sustainable investment opportunities and using CalPERS’ reputation as a responsible investor to affect what it views as positive change through its investments. “We have long-term liabilities stretching out over decades, so we need to make sure our risks align with that.” Richtman points to climate change as a classic example. Some investments such as coal might look very attractive in the near term. But decades out, they could be long-term losers. “It’s important we get this right,” she says. “Otherwise, we might end up mispricing investments.” This approach gets murkier around social issues. While there’s plenty of data to show the benefits of environmental investments or that certain governance practices such as a diverse corporate board are linked with better performance, social issues are steeped in emotion and politics. Richtman says her division is in the process of mapping social issues to determine where CalPERS is at risk. The most recent anti-gun movement is a clear illustration of the way the ESG strategy of working with companies can achieve results -- better results than a straight-up divestment approach. After the mass shooting last February at Marjory Stoneman Douglas High School in Parkland, Fla., student-led activism put pressure on Wall Street and investors to reevaluate their gun-related holdings. Amid the outcry, California Treasurer John Chiang went before his fellow CalPERS board members to request they divest from national retailers selling guns that are illegal in California. To help make his case, Chiang, who was running for governor at the time, brought families who had lost loved ones in mass shootings to a board meeting to plead with the board to pull its money from gun-related retailers. Given CalPERS’ divestment history, the idea wasn’t out of line. As recently as 2013, the board opted to sell off the fund’s stakes in two manufacturers of guns and high-capacity ammunition clips. In his argument, Chiang pointed out that gun stocks had plummeted following the Parkland shooting. Chiang’s original request to divest came in 2017, following a mass shooting in Las Vegas that claimed 58 lives and injured 851 others. In response, CalPERS began pressuring companies such as Walmart and Dick’s Sporting Goods to change their firearms sales. Following the Parkland shooting, more investors did the same. Those companies and others eventually agreed to discontinue the sale of assault-style weapons, cease selling high-capacity magazines as well as bump stocks, and sell firearms only to people who are 21 years of age or older. “I don’t think that

would have happened had we just divested,” says board member Theresa Taylor. In March, the board rejected Chiang’s request to divest, tabling the discussion until 2019. But the discussion was still enough to compel Perez to shake up the CalPERS board by running for a seat. Meanwhile, gun stocks have generally recovered. And most board members believe they took the moral high ground in working with the retail companies to affect firearms sales. “Yes, this conversation involves politics,” says Chiang. “But politics reflects values, and values are important.” Liz Farmer, *Governing*, December 2018.

## **2. ADDRESSING INFLATION IN THE DESIGN OF DEFINED BENEFIT PENSION PLANS:**

A long standing criticism of public sector defined benefit pension plans is that, unlike their private sector counterparts, public plans typically provide for inflation related adjustments to retiree benefits (commonly called COLAs). The common assertion is that since there is a difference between the public and private sector in this regard, the public sector must be wrong. If you are among the naysayers, the following may not change your mind about who is getting it right but, at least, it should help you become a better informed critic. However, before addressing COLAs there is another issue related to public/private distinctions that I believe may benefit from a dose of factual information. Many people will probably wonder why even bother to compare public and private sector defined benefit plans because it is “common knowledge” that defined benefit plans have all but vanished from the private sector landscape. If you are among those who have that impression, please refer to the information in the sidebar. Now on to the subject of COLAs, starting with a few points that I believe to be generally accepted considerations:

- The purpose of a retirement plan is generally to allow people who are not able to work because of advancing age or disability to leave the workforce with dignity and continue to be financially self-sufficient during retirement.
- Some level of inflation is to be expected and, in fact, most economists believe it is necessary for economic growth.
- In financing public and private sector defined benefit plans, the assumptions regarding future return on investments include an inflation component, typically in the area of 3% plus or minus ½%.

Let’s assume that plan participants should have financial resources that will last at least

20 years following retirement. With a 20 year time horizon, the following schedule illustrates the impact of various rates of inflation on the remaining purchasing power of \$1 at the end of the period relative to \$1 at the beginning of the period with no COLA. The rate of inflation over the past 20 years has seemed somewhat benign, particularly to those who were trying to make ends meet in the 1970s. However, at just 2.6% per year, a dollar loses 40% of its value in 20 years. At the long term average of 3.4% the loss over 20 years is half of the value. Those who believe in reversion to the mean (not to mention a number of other current factors) are expecting something in excess of 3% inflation prospectively. Finally consider the person who retired in 1965 with no COLA - at the end of 20 years, a fixed dollar benefit had lost 70% of its value. The decision regarding whether or not defined benefit pension plans should include a COLA provision in the plan design is, indeed, a policy decision. However, there is a serious question regarding whether or not plan sponsors with no COLA provision should have the latitude to ignore that fact in describing the benefits provided by their plans. By federal law, private sector plans must provide participants with summary plan descriptions that are calculated to be understood by the average plan participant. By practice, public sector plans commonly do the same thing. Ostensibly, the purpose of these documents is to permit plan participants to make informed decisions regarding their financial futures. As long as they are working, employees typically have an awareness of inflation but they are probably not giving it serious consideration for long term planning purposes since wages will eventually be adjusted for at least some portion of inflation. Accordingly, they do not have experience in planning for a protracted period during which inflation will be impacting their expenses but not their income. This brings to mind two of the current industry buzzwords that come up in one way or another on almost a daily basis - sustainability and transparency. In order to have a sustainable standard of living during retirement, active employees need to begin planning as early as possible. Since inflation is not an everyday consideration while working, efforts should be made to elevate active employee awareness of its potential impact on lifestyle sustainability during retirement if their pension has no COLA. This leads directly to transparency with respect to the obligation of a plan sponsor with no COLA to notify active employees that, by design, their pension plan will, over time, probably be paying them off at pennies on the dollar. (This has particular relevance in the common case where the plan sponsor is consciously funding the benefit with the expectation of receiving inflation generated investment return.) Consequently, participants in plans with

no COLAs need to be planning to somehow make up for the shortfall due to the eroding purchasing power of their retirement benefit dollars if they hope to sustain their standard of living. In fact, it is a little surprising that the Department of Labor's Employee Benefit Security Administration has not mandated such disclosures. This all takes us back to the initial question: Is it the public sector or private sector that is getting it right with respect to COLAs? Gary Findlay, National Association of State Retirement Administrators (NASRA).

### **3. FEDERAL INCOME TAX INDIVIDUAL PERSONAL RESPONSIBILITY HARDSHIP EXEMPTION:**

[Notice 2019-05](#) expands, for the 2018 tax year, the current list of hardship exemptions that may be claimed on Federal income tax return to include all hardship exemptions available under 45 CFR 155.605(d)(1). In guidance released on September 12, 2018, HHS announced that all hardship exemptions available under 45 CFR 155.605(d)(1) may be claimed by a qualifying individual (or the taxpayer who may claim a qualifying individual as a dependent) on a Federal Income Tax return for the 2018 tax year without obtaining a hardship exemption certificate from the Marketplace. IRS GuideWire, Issue Number: N-19-05, December 21, 2018.

### **4. TOP SUPREME COURT CASES TO WATCH IN 2019:**

The Supreme Court's 2018-2019 term got off to a sleepy start, but there are a number of potential blockbusters on the docket for the new year. The justices are scheduled to wade into a dispute over a WWI memorial in Maryland that ignited the age-old debate over the separation of church and state, and they'll hear a case involving a controversial citizenship question in the 2020 Census. Other major cases could also find their way to the Supreme Court before the term ends in late June. The Trump administration has made a flurry of requests in recent weeks, asking the justices to leapfrog the appeals courts and hear its challenges to district court rulings against the administration's decision to phase out the Deferred Action for Childhood Arrivals (DACA) program and its ban on transgender people serving in the military. Here's a look at the top five cases to watch.

#### **Deferred Action for Childhood Arrivals**

The Trump administration has asked the Supreme Court to decide whether its decision to phase out the Obama-era DACA program is lawful. Federal district courts in California and

New York have issued preliminary injunctions that force the administration to keep the program in place nationwide. The administration went around the 2nd, 9th and D.C. circuits when it asked the court to hear its appeal of district court rulings that found the administration's decision to end DACA was either unlawful or likely unlawful. In February, the Supreme Court denied a similar request by the administration to bypass the 9th Circuit, saying it expected the court of appeals to proceed expeditiously to decide this case. The 9th Circuit issued its ruling and upheld the nationwide injunction that keeps the program intact, and in doing so protects from deportation hundreds of thousands of young people who came to the country illegally as children.

### **Transgender military ban**

The government is asking the Supreme Court to hear its appeal of three district court orders that have kept the administration from enforcing its ban on transgender people serving in the military. Government attorneys bypassed normal judicial order in asking the Supreme Court to review the rulings together this term before rulings in the 9th and D.C. circuit courts. Without the court's intervention, the government argues it will be forced to maintain a policy which the military says poses a threat to "readiness, good order and discipline, sound leadership, and unit cohesion," components that the Pentagon says are "are essential to military effectiveness and lethality." The government has also asked the court to issue an emergency order that blocks the lower court rulings.

### **Partisan gerrymandering**

The justices will have an opportunity to determine when the use of politics in redistricting is so extreme that it's unconstitutional. The court punted similar cases last term from Maryland and Wisconsin. The Maryland case, which has been before the court twice already, will be back for a third time. State Attorney General Brian Frosh (D) is appealing a district court ruling that requires the state to redraw its 2011 congressional redistricting plan before the 2020 election. The district court found that state officials specifically intended to flip control of the 6th Congressional District, which Rep.-elect David Trone (D) won in November, from Republicans to Democrats. A separate challenge out of North Carolina is also back before court. Republican lawmakers are appealing a second ruling from a three-judge district court panel striking down the state's 2016 congressional maps. Common Cause and the League of Women Voters challenged the maps in two cases that

were consolidated in the lower court. The groups argue the maps were drawn to give Republicans a partisan advantage.

### **2020 census**

The justices will hear arguments in a dispute over whether Commerce Secretary Wilbur Ross can be ordered to answer questions under oath in a lawsuit challenging his decision to add a citizenship question to the 2020 census. The administration argued it would be “highly unusual” for a court to allow the questioning of Ross’s mental processes leading up to the Commerce Department’s decision. The agency oversees the Census Bureau. In March, Ross said he was adding the question to help the Department of Justice better enforce the Voting Rights Act. But New York state officials note the district court found Ross was personally involved “to an extraordinary degree” in the decision. “Significant gaps in the record remain that only the Secretary’s testimony will fill,” state officials argued in a court filing. The challengers, which include 18 blue-leaning states led by New York, argue the question was added to scare immigrants away from responding to the census. States with large immigrant communities fear they will lose federal funding and fair representation in Congress if their populations are undercounted.

### **Federal agency powers**

The justices have agreed to hear arguments in a dispute over how much courts should defer to federal agencies in deciding legal challenges to ambiguous regulations. James Kisor, a Vietnam War veteran, is asking the court to overturn precedent that directs courts to generally rely on the agency’s own interpretation of its own regulation. The lawsuit against the Department of Veteran Affairs stems from a dispute over disability benefits. Kisor argues the court’s precedent incentivizes agencies to promulgate vague and broad regulations, which they can later clarify through interpretive rules without having to go through public notice-and-comment procedures. The Trump administration, however, argues this is a poor case for the court to reconsider its precedent. In a *Wall Street Journal* op-ed, Peter Wallison, a senior fellow at the conservative American Enterprise Institute, said ruling in favor of Kisor could significantly limit the powers of the federal administrative state.

Lydia Wheeler, The Hill, December 30, 2018.

## **5. PENSIONOMICS 2018: MEASURING THE ECONOMIC IMPACT OF DEFINED BENEFIT PENSION EXPENDITURES:**

Economic gains attributable to defined benefit (DB) pensions in the U.S. are substantial. Retiree spending of pension benefits in 2016 generated \$1.2 trillion in total economic output, supporting some 7.5 million jobs across the U.S. Pension spending also added a total of \$202.6 billion to government coffers, as taxes were paid at federal, state and local levels on retirees' pension benefits and their spending in 2016. *Pensionomics 2018: Measuring the Economic Impact of Defined Benefit Pension Expenditures* reports the national economic impacts of public and private pension plans, as well as the impact of state and local plans on a state-by-state basis. This study finds that in 2016:

\$578.0 billion in pension benefits were paid to 26.9 million retired Americans, including:

- \$294.7 billion paid to some 10.7 million retired employees of state and local government and their beneficiaries (typically surviving spouses);
- \$83.0 billion paid to some 2.7 million federal government beneficiaries; and
- \$200.3 billion paid to some 13.5 million private sector beneficiaries.

Expenditures made out of those payments collectively supported:

- 7.5 million American jobs that paid nearly \$386.7 billion in labor income;
- \$1.2 trillion in total economic output nationwide;
- \$685.0 billion in value added (GDP); and
- \$202.6 billion in federal, state, and local tax revenue.

DB pension expenditures have large multiplier effects:

- Each dollar paid out in pension benefits supported \$2.13 in total economic output nationally.
- Each taxpayer dollar contributed to state and local pensions supported \$8.48 in total output nationally. This represents the leverage afforded by robust long-term investment returns and shared funding responsibility by employers and employees.

The largest employment impacts occurred in the real estate, food services, health care

and retail trade sectors. The purpose of this study is to quantify the economic impact of pension payments in the U.S. and in each of the 50 states and the District of Columbia. Using the IMPLAN model, the analysis estimates the employment, output, value added, and tax impacts of pension benefit expenditures at the national and state levels. Because of methodological refinements explained in the Technical Appendix, the state level results are not directly comparable to those in previous versions of this study. Ilana Boivie, National Institute on Retirement Security, January 2019.

#### **6. PENSIONS AMONG THE VICTIMS OF STOCKS WORST YEAR SINCE 2008:**

Steep year-end declines in U.S. stocks left America's largest public companies deeper in the hole for their pension obligations, according to analysis by consulting firm Willis Towers Watson. Pension funding levels for Fortune 1000 companies dipped to an estimated 84 percent after a volatile fourth quarter culminated in sharp losses in December. The Standard & Poor's 500 stock index, Nasdaq Composite Index, and Dow Jones Industrial Average all ended the year in the red, marking the stock market's worst year since 2008. Among the corporate pensions analyzed by Willis Towers Watson, investment returns averaged a negative 4.7 percent. Losses were recorded in large- and small-cap domestic equities as well as in long government and corporate bonds typically used in corporate pensions' liability-driven investing strategies. Overall, pension assets declined by \$150 billion to an estimated \$1.33 trillion. "The steep decline in the equities market during the fourth quarter, particularly in December, negated what had been a very positive year," senior WTW consultant Jennifer DeMeo said in a statement. Before the fourth quarter, U.S. corporate pensions were making strides toward closing their funding gaps. Companies had contributed \$47 billion to their pension plans as many sought to take advantage of new tax benefits, and their total pension obligations fell to \$1.59 trillion from \$1.74 trillion, Willis Towers Watson said. At the end of September, the aggregate funded status was 90 percent, up from 85 percent at the end of 2017. Royce Kosoff, a senior consultant at Willis Towers Watson, said plan sponsors are likely to look toward new investment approaches, lump-sum buyouts, and annuity purchases as they continue to focus on risk management. "The volatility in the fourth quarter, and especially in December, which was one of the worst months since the Great Recession, demonstrates how quickly conditions change," he said. Amy Whyte, Institutional Investor, January 2, 2019.

## **7. HOW TO MAKE COMPANIES FULLY FUND THEIR PENSIONS:**

Corporations are allowed to underfund their pension promises while paying dividends to shareowners and leaving taxpayers to fund any shortfalls [["Bankruptcy aids firms in shedding their pension debts,"](#) front page, Dec. 29]. We need a simple federal law to stop this. First, ban any dividend payments until a pension fund is fully funded. Second, prevent any worker pay increase until the pension is fully funded. Don't burden taxpayers with bailouts for this irresponsibility. Third, executive pay should be heavily backloaded (far lower annual pay and bonuses, with big pension packages only if a firm remains successful). If fat executive retirements depend on fully funding those pensions, they would be funded. Those fat retirement packages for execs can be wiped out until the pensions are given first priority. Workers deserve retirement security. We need to prevent judges from wiping out promised pensions. And taxpayers should not foot the bill, either. By Letters to the Editor, *The Washington Post*, January 2, 2019.

## **8. ANNUAL LEVY TO GO UP TO HELP PAY FOR PENSIONS:**

Having been put in an unenviable position, the Pontiac City, Michigan, Council took a step at its Dec. 3 meeting that it was unwilling to take the year prior -- the body voted to increase its annual levy beyond the 2.1 percent rate of inflation in order to combat the growing costs of local pensions. Despite some dissent in 2017, the more palatable choice then was to not raise taxes. Avoiding the ire of taxpayers did not allow the city to cut into its ballooning pension deficit for public jobs, which have hurt municipalities as much as they've hurt the state government. But a recently released study suggests that there's a way to help curtail the pension crisis without risking an incensed public. Part of the trouble, City Administrator Bob Karls has noted, is the tight restrictions on how pension boards, such as the local fire and police pension boards, are allowed to invest. Pension boards are allowed to put 40 percent of its allocations in the stock market, which makes hitting the 6 percent rate of return factored into the state's actuarial calculations difficult. The success of this measure has been mixed, predicated on a pension board's chosen investment firm's ability to accurately forecast the stock market. Some pension boards of smaller municipalities might not have the same talent pool of those with market acuity that larger cities might. Yet the pension problem remains significant enough locally to require a property tax hike, albeit a small one. The increased levy, which would tack on about

\$37,000 from the new equalized assessed valuation, amounted to about an extra \$7 a homeowner would have to pay -- provided they possessed a \$100,000 property. Beating the pension problem will require more than very modest tax increases. A study commissioned by the Illinois Public Pension Fund Association argues that there's merit in easing a pension fund investment restriction. Doing this would increase average annual pension fund returns statewide by at least \$418 million over 20 years, the study's authors, Anderson Economic Group, LLC, argued. This would go a long way in helping municipalities meet the state's goal of pensions being 90 percent funded by 2040. At present, for example, the fire and police pensions are both below 70 percent. Anderson Economic Group examined what would happen if the state government voted to ease the investment restrictions on local pension funds with less than \$10 million in assets -- that is, allow them to invest more than the 40 percent of its funds in the stock market or to be able to diversify portfolios more liberally. The study showed that gains for the 228 smallest funds in Illinois would average as much as 5 to 6.8 percent per year if the restrictions were eased. Yearly returns for the Pontiac pension boards have typically been much more meager: in their joint January report from last year, the fire pension fund had received a return of 6.5 percent while the police pension fund had an investment return of 6.3 percent. These rates of return were much healthier than their respective 0.8 and 0.7 percent returns the year prior. Something that has been suggested to reverse ballooning deficits is for consolidation of police and fire pensions with the statewide Illinois Municipal Retirement Fund, which currently provides pensions for many city and county workers who do not fall under the umbrella of fire and police employees. Since it is structured differently and subject to different investment rules, it is at present about 97 percent funded. Anderson Economic Group warns against such consolidation in its study, however. Such a consolidation would require that all assets from each local fund be liquidated and then re-invested in the larger fund, the group stated, noting that this move would generate a one-time cost of up to \$155 million in commissions, taxes and other fees, which would increase the pension funds' unfunded liability by that amount as well. Moreover, consolidation poses an even higher risk if the transfer occurs during a period of stock market growth and the local pension funds miss out on the resulting dividends from their existing investments, the study found. Illinois Public Pension Fund Association (IPPPFA) President James McNamee argued that consolidation would also take control away from local municipalities; however, given that some municipalities are less than 50

percent funded at present, taking control might bring some measure of relief from the pension burden. Paul Westermeyer, Pontiac *Daily Leader* (Michigan), January 2, 2019.

#### **9. LAWMAKER SEEKS TWEAK TO FLORIDA RETIREMENT LAWS, TO HELP WITH TEACHER SHORTFALL:**

Florida's [teacher shortage](#) has been well documented and growing. It has come at a time when national data show educators quitting the profession at the highest rate in years. A Sarasota Democrat hopes to ease the resulting burden school districts face with a simple tweak to [state retirement laws](#). As it stands, a teacher who retires from his or her public school job cannot be rehired by any agency in the state retirement system for six months. If they take such a position, they can lose their related benefits. That includes work as a substitute teacher. State Rep. Margaret Good, D-Sarasota, seeks an exception for that particular job. With [HB 137](#), Good proposes to allow retired school teachers to immediately take substitute positions without falling subject to the six-month provision. Her legislation, which so far has no Senate companion, would allow the retirees to continue to receive their benefits. It would not permit them to receive any additional employment credit toward their retirement, though. More than a decade ago, lawmakers tightened the rules on retirement benefits after investigations showed several state employees abused the process to effectively "double dip" by receiving both salaries and pensions. Some employees continue to do both, by sitting out the required six months. In the case of teachers, though, the shrinking pool of qualified applicants to fill classrooms has led some people to suggest that six months is too long to wait. Good could not be reached for comment. Jeffrey S. Solocheck, Tampa Bay *Times*, January 2, 2019.

#### **10. NEAL INTRODUCES BIPARTISAN LEGISLATION TO ADDRESS MULTIEMPLOYER PENSION CRISIS:**

Washington, Ways & Means Committee Chairman Richard Neal (D-MA) introduced his first bill of the 116th Congress, the Rehabilitation for Multiemployer Pensions Act, legislation to address the nation's worsening multiemployer pension crisis. Currently, there are about 1,400 multiemployer plans covering about 10 million people across the country. Although multiemployer pension plans have been successful historically, today, a significant number of these plans have funding problems, and many are almost certain to run out of money. If they do, retirees, workers, and their families would lose benefits

earned over a lifetime of work, through no fault of their own. Rep. Peter King (R-NY) is an original co-sponsor of the bipartisan legislation, which has an additional four Democrat and four Republican co-sponsors. “We all know retirees with failing multiemployer pension plans who now find themselves in a devastating predicament - from truck drivers to autoworkers to ironworkers, these Americans live in all of our communities,” said Chairman Neal. “In fact, there are 1.5 million Americans who are in plans that are quickly running out of money. These are American workers who planned for their retirement, who year after year chose to contribute to their pensions instead of taking a wage increase. Now, after working for decades, their planned retirements may be taken away from them. And taken away at a time when they no longer have time to prepare for retirement because they’re now in retirement. There’s no time to waste in addressing this crisis, and that’s why I’ve chosen to make this the first piece of legislation I introduce as Chairman of the Ways & Means Committee.” The bill establishes the Pension Rehabilitation Administration (PRA), a new agency within the Department of the Treasury, authorized to issue bonds in order to finance loans to “critical and declining” status multiemployer pension plans, plans that have suspended benefits, and some recently insolvent plans currently receiving financial assistance from the Pension Benefit Guaranty Corporation (PBGC). The PRA would be headed by a Director, who will have a term of five years and be appointed by the President. “This is not a bailout. These plans would be required by law to pay back the loans they receive from the PRA - the federal government is simply backstopping the risk,” added Chairman Neal. “Importantly, my bill does not allow for any cuts to the benefits these workers and retirees earned through years on the job. Americans need our help, and it’s time to answer that call.” Additional original co-sponsors of the legislation are Rep. Bobby Scott (D-VA), Rep. Don Young (R-AK), Rep. Debbie Dingell (D-MI), Rep. Chris Smith (R-NJ), Rep. Donald Norcross (D-NJ), Rep. John Katko (R-NY), Rep. Marcy Kaptur (D-OH), and Rep. Jeff Fortenberry (R-NE). A summary of the bill can be found [HERE](#), and full text of the legislation is available [HERE](#). Ways & Means Committee, January 9, 2019.

#### **11. DID YOU KNOW BENJAMIN FRANKLIN SAID THIS?:**

Tell me and I forget. Teach me and I remember. Involve me and I learn.

#### **12. POSERS:**

If you replace "W" with "T" in "What, Where and When", you get the answer to each of them.

### **13. INSPIRATIONAL QUOTES:**

It's your place in the world; it's your life. Go on and do all you can with it, and make it the life you want to live. - Mae Jemison

### **14. TODAY IN HISTORY:**

On this day in 1865,

- Congress passes the 13th Amendment, abolishing slavery in America (passes 121-24).
- General Robert E Lee named Commander-in-Chief of Confederate Armies during US Civil War.

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

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