



CYPEN & CYPEN NEWSLETTER for June 27, 2019

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

1. NEW YORK COMPTROLLER AIMS TO DOUBLE PENSION PLAN'S ESG FUNDING:

New York State Comptroller Thomas P. DiNapoli pledges to double the [New York State Common Retirement Fund's](#) sustainable investments. That will bring the pension program's environmental, social and governance (ESG) investments to \$20 billion over the next decade. To aid in that effort, he will next create a multi-asset climate solutions program, that will operate similarly to its emerging manager program. It will work with managers, consultants, and index providers on creating alignment with the fund's sustainability goals. The fund intends better to assess its exposure to climate-heavy risk sectors recommended by the Task Force on Climate-related Financial Disclosures. These include energy and utilities, transportation, materials and buildings, agriculture, food and forest products and financials. Also, the fund will also create new evaluation tools, hire ESG-centric staff, and help managers, data and index providers, and consultants in

meeting asset class-specific metrics and its own standards for companies in each high-risk sector, starting with thermal coal. “The Fund has taken many steps to assess and address climate risk already, but clearly more must be done and done quickly,” he said. “This is a proactive plan to mitigate climate risk, capitalize on opportunities in the growing low-carbon economy and protect the fund’s long-term value.” His new initiative allows the fund to divest from companies that fail to meet minimum standards set by the \$210.2 billion pension plan. The strategy, which piggyback the [Decarbonization Advisory Panel’s](#) April findings, will now also seek to eliminate thermal coal and other sectors with [climate-related issues](#) where it has invested. The panel was created by DiNapoli and Gov. Andrew Cuomo. In addition, DiNapoli will establish a “watch list” of managers not hip to the fund’s ESG policy. New York Common will also develop eco-friendly strategies for businesses it is vested in that do not incorporate the best sustainability practices. “The Panel delivered its ambitious recommendations in early April 2019, and in response, I directed staff to build on the Fund’s existing work by formulating this bold Climate Action Plan to put the CRF on the path to achieving a sustainable portfolio,” wrote DiNapoli in the strategy’s outline, which he said is the Common Retirement Fund’s “next level of climate-related assessment, investment, engagement and advocacy work.” Chris Butera, *Chief Investment Officer*, June 10, 2019.

2. THE IRS DATA BOOK TELLS A STORY OF SHRINKING STAFF, FEWER AUDITS AND LESS CUSTOMER SERVICE:

The IRS published its annual trove of tax statistics [Internal Revenue Service Data Book, 2018](#) on May 20. On its face, the volume is a collection of statistics. But it tells a powerful story of declining enforcement and in-person taxpayer services resulting from a shrinking budget and staff. While the growing use of electronic filing and third-party data reporting can ease compliance, budget and staff cuts have been so draconian that the agency has been forced to do less with less. That gives a green light to tax cheats, jeopardizes the entire voluntary compliance system, and risks the failure of still-antiquated tax processing systems. The *Data Book* is over 80 pages of facts and figures, charts and tables. And all that raw data make it possible to spot trends. One fact to remember: Nearly all the data are based on fiscal years (FY), not calendar or tax years. Don’t ask. Few of the year-to-year changes are dramatic, but cumulatively and over time, they reinforce concerns about the tax collector’s effectiveness. IRS enforcement activities--audits, levies, liens, seizures, and criminal investigations--continue to erode, especially for high-income individuals, giant corporations, and pass-through businesses. In 2018, the IRS spent \$11.7 billion, up slightly from 2017 but down from \$12.4 billion in 2010, not adjusted for inflation. The enforcement budget fell from \$5.5 billion in 2010 to \$4.7 billion in 2018. The agency’s workforce was 22 percent smaller than in 2010, and its enforcement staff was down by about one-third. The effects were clear: In 2018, the IRS audited only 0.5 percent of the

196 million returns filed in calendar year 2017. Audits were down 10 percent from 2017, by 42 percent from 2010, and off two-thirds from a half century ago. The IRS audited 0.6 percent of over 150 million individual income tax returns, the audit rate down 47 percent from 2010 and the lowest coverage level since 2002. As the table below illustrates, the drops were sharpest for the highest income taxpayers. Filers with positive incomes under \$25,000 were audited at a higher rate than filers reporting incomes up to \$500,000. From 2010 to 2018, the number of corporate audits (excluding S-corporations) fell by nearly half while the percentage of corporate returns audited fell by more than a third to 0.9 percent. Less than half of the growing number of giant corporations--those with assets of \$20 billion or more--were audited in 2018. By contrast, in 2010, the IRS audited nearly all of them. Only 0.2 percent of partnerships or S-corporations were audited in 2018, half the share in 2010. Of \$3 trillion in 2018 net tax collections, 90 percent came from individual and self-employment taxes while only 7 percent came from corporations, the lowest corporate share since at least 1960. The IRS received 152.9 million individual returns in 2018. Roughly nine-in-ten were electronically filed, the share growing by more than a quarter since 2010. While a majority of individual returns are filed by paid preparers, the share is declining as more taxpayers turn to commercial software. In 2018, preparers filed just under 52 percent of returns, down from 60 percent a decade ago. Between filers using paid preparers and those using do-it-yourself desktop or online software, over 90 percent of individual taxpayers receive some form of help in filing their tax return. The *Data Book* documents the continuing shift in taxpayer service from live assistance--via telephone assistors or at IRS Taxpayer Assistance Centers (TACs)--to web-based or automated support. The number of taxpayers visiting TACs for face-to-face help fell by 11 percent from 2017 and by 54 percent from 2010 as the IRS has reduced the number and services of its walk-in sites and encouraged taxpayers to use the web or telephone for help. Visits to the IRS.gov website were twice what they were in 2010. And a growing share of phone calls is being handled by automation rather than live staffers. About 2.7 million returns were prepared using *IRS Free File* in 2018, up 5 percent over FY 2017 but 10 percent below 2010. Some GOP Members of Congress argue that technology should enable the IRS to do more with less if it improves management and customer service, audits more efficiently, and targets resources more strategically. But the *Data Book* shows just how difficult that is. (Posts and comments are solely the opinion of the author and not that of the Tax Policy Center, Urban Institute, or Brookings Institution). Robert A Weinberger, Tax Policy Center, June 7, 2019.

3. PUBLIC WORKER PENSION PLANS MAY FACE LOWER INVESTMENT RETURN:

New Mexico's pension system for public employees is not expected to hit its target for investment returns this year, officials said. Wayne Propst, executive director of the Public Employees Retirement Association, told lawmakers Wednesday that missing the target

could have a serious effect, the Albuquerque Journal reported. Investment returns this year for the \$15 billion pension fund serving state and local government retirees, including police officers, firefighters and judges, may come in at 3% to 5%, instead of the standard 7.25% target used by many plans in the nation, Propst said. If the state program has a 5% return this year, the projected ratio of how well the plan is funded in 2043 would drop from 74% to 69%. "This has been a very volatile year in the markets for public pension plans across the country," Propst said. The plan has generated an average 10% annual investment gain over the past decade, Propst said. The state's Educational Retirement Board said it is too early to predict whether its pension fund for teachers will reach the 7.25% target this year. Officials at both pension plans stressed that 7.25% is a long-term goal. Financial experts warned New Mexico officials last month to prepare for the possibility of poor investment returns or other conditions that could further damage the health of the pension systems, the newspaper reported. "We can't invest our way out of this," Democratic state Sen. George Muñoz said Wednesday after Propst's presentation. A task force established by Democratic Gov. Michelle Lujan Grisham is preparing recommendations to improve the retirement association's financial health. The task force has private meetings scheduled in June and July and will meet again publicly Aug. 8. *Houston Chronicle*, June 7, 2019.

4. STATE PENSION FUNDS CALL ON FACEBOOK'S ZUCKERBERG TO GIVE UP BOARD CHAIR:

Several public pension fund leaders are calling on Facebook CEO Mark Zuckerberg to give up his position as the company's board chairman. At Facebook's annual meeting, a shareholder proposal recommending an independent board chair was defeated, garnering 20% support, according to an 8-K filing Monday. But 68% of non-insider voters supported the proposal, up from 51% on a similar proposal in 2017, Connecticut State Treasurer Shawn T. Wooden said in a statement. Mr. Wooden, principal fiduciary of the state's \$35.3 billion Connecticut Retirement Plans and Trust Funds, Hartford, joined treasurers and other public pension fund leaders, including Illinois Treasurer Michael W. Frerichs, Rhode Island Treasurer Seth Magaziner, Pennsylvania state Treasurer Joe Torsella, Oregon Treasurer Tobias Read and New York City Comptroller Scott M. Stringer, in co-filing the resolution led by primary filer Trillium Asset Management. Mr. Magaziner oversees the Rhode Island State Investment Commission, Providence, which runs the \$8.1 billion [Rhode Island Employees' Retirement System](#), Providence. Mr. Stringer is the fiduciary for the \$200.1 billion [New York City Retirement Systems](#). "While the head of Facebook has served a dual role as board chairman and CEO, there have been numerous missteps--from the role of its platform in election propaganda to the sharing of the personal data of tens of millions," Mr. Wooden said in Thursday's statement. "The vote results for our shareholder resolution actually prove the point: With the majority of shares

under his control, Facebook's CEO effectively shut down a corporate structure that would have provided checks and balances between a company's board and its management. Shareholders deserve better." Mr. Zuckerberg has the majority of voting shares at Facebook, and no shareholder resolutions could pass with him opposing them, Mr. Wooden noted. He owns or controls an estimated 88% of Facebook's Class B shares, which each have 10 votes at the annual meeting. "Right now, Mr. Zuckerberg is both board chair and CEO, serving as his own boss, and clearly it's not working," Mr. Frerichs said in a statement. "The board needs to be led by a strong, independent voice tasked to provide real oversight over management, address governance failings, help restore trust in the company, and better protect shareholders' interests." Facebook has faced mounting criticism in recent years over privacy concerns and the role the platform plays in spreading falsehoods. "Mark Zuckerberg's outsized role at Facebook must end," Mr. Stringer said in a statement. "The company is depending entirely on one person, who is accountable to no one, to run the day-to-day and conduct oversight of the company's ever-expanding operation, which demonstrates a lack of basic business sense and keeps the company in a constant state of turmoil." Brian Croce, *Pensions & Investments*, June 7, 2019.

5. SWEEPING 403(B) CHANGES IN PORTMAN-CARDIN LEGISLATION LEAVES UNANSWERED QUESTIONS:

The Portman-Cardin Bill, the [Retirement Security and Savings Act – 2019](#) introduces sweeping changes to 403(b) plans by expanding their investment universe. These changes, however, also required modification to the Securities Laws otherwise applicable to 403(b) plans in order for them to work. A few critical issues have gone unanswered in the legislation, and there are a number of transition issues which we will have to be addressed. Technically, the Act expands 403(b) custodial account investments, permitting them to hold interests in 81-100 group trusts as well as mutual funds. (An 81-100 trust is a reference to Rev Ruling 81-100 which, as later expanded, permits the common investment of 403(b) funds and 401(a) funds in the same investment trust vehicle. It can include collective trusts). This change only works, as a practical matter, if the 81-100 trust is subject to the same securities law rules as 401(a) plans. Securities laws have always exempted 81-100 group trust interests issued in connection with 401(a) plans from registration. But that exemption has never applied to trust interest issued in connection to 403(b) plans. This has meant that any collective trust (such as those providing stable value funds or ETFs) would have to go through the expensive and burdensome process of registering (and maintaining itself) as an investment company subject to the Investment Company Act of 1940, the Securities Act of 1933 and the Securities Exchange Act of 1934. The method the Portman Cardin drafters chose to make this work is to introduce fundamental changes to the securities laws as they apply to 403(b) plan-across the board-effectively making all of the security law exemptions which have been available in the past

to 401(a) plans also available to 403(b) plans. The practical effect? Should the legislation pass, 403(b) plans which (i) are governed by ERISA; (ii) if not an ERISA plan, the employer sponsoring the plan agrees to serve as a fiduciary with respect to the investments made available to plan participants; (iii) or is a governmental plan will be treated like 401(a) plans for Securities Law purposes. On a simple level, this means that the following investments would now be made available under 403(b) plans, where they have not been available in the past:

- non-insurance stable value funds (these are largely funded by 81-100 collective trusts);
- ETFs, which are also largely funded by 81-100 collective trusts;
- non-registered separate accounts under group annuity contracts-of the sort typically purchased by 401(k) plans; and
- because the 81-100 trusts are not required to own mutual funds, equity-based CITs will now be available as investments.

It also solves the “cash” problem 403(b) plans have always had. There has never been a simple way to handle stray cash in a 403(b) plan before this. Simple seeming measures which are narrowly focused (here, it’s clear that collective trust interests have been the focus), often have unintended consequences when you take a broader view. A few things are conspicuously absent from the statute:

Who is the shareholder? Exemption from registration is one thing. However, these newly authorized non-registered investments are still securities, still subject to a number of securities laws (for example, certain anti-fraud provisions). It has been a long-standing position of the SEC that the 403(b) individual participant is the shareholder who is protected by securities laws, even under group custodial accounts and group annuities. This is unlike 401(a) plans, where the SEC has traditionally viewed the plan fiduciary as the shareholder. This has forced prospectus, evergreen and proxy delivery to the individual 403(b) participant itself. Failure to comply with this rule is expensive: participants not receiving these disclosures are entitled to a 12-month put on their investments. Portman Cardin needs to address this. If not, even under the new rules which do not require registration, the collective trustee (or the insurer of the non-registered annuity) may still owe substantial legal duties to the individual participants under securities laws. Besides not addressing a long-standing securities law issue for 403(b) plans, this could conceivably cause a reluctance to engage in this new 81-100 business if this issue is not addressed.

Unitization under 403(b). The IRS has never answered the question as to whether or not

you can pool permitted investments within the 403(b) plan and unitize that pool. For example, if you were to create an asset allocation model within the plan using the plan's mutual funds and collective trusts, and created a daily value on that model, the new law pretty much makes it clear that that the pool will not have to be registered as an investment company (under current law, it has to be registered unless you meet Rule 3a-4-and this another story). But it is nowhere clear that this unitization would pass muster under 403(b), as the unit of the pool would not be an 81-100 pool, it would not be a mutual fund and it would not be an interest in an insurance company separate account. Portman Cardin can simply address this.

Distributed annuities. The variety of law changes under RESA, SECURE and Portman Cardin put into play a number of rules would promote the distribution of annuities to provide lifetime income-including, for example, the authorization of the variable annuity QLAC. This used to be simple under 403(b)s, as they would all be registered. But what happens when you purchase a non-registered variable annuity within the plan, and then distribute it? Does it have to be registered? It does get complicated for the plan. Portman Cardin forces the issue, as we will have to address this same problem in the 401(a) space. Finally, there are a whole host of transition issues (well beyond the simple matter of collective trust registration) which really need to be vetted-and which typically are vetted through the regulation process. This will include answering intriguing questions related to how this would operate in state university and K-12 403(b) plans, which may have no fiduciary; won't be subject to ERISA; but are governmental plans exempt from both ERISA and securities law registration. What investment information will participants now be required to be given? Something which directs the SEC, IRS and DOL to draft regulations which address these issues would be helpful, as there certainly will be a number of significant ones which arise- and the SEC seems to have been much more reluctant to issue regulatory guidance than the DOL and Treasury have in the past. Robert Toth, Toth Law & Toth Consulting, LLC, June 5, 2019.

6. WHY A DECADE OF BULL MARKETS HASN'T FIXED PENSION FUNDING:

Public pension funds are in worse shape now than they were in 2008. In 2008, the average U.S. pension fund had 83 percent of what it needed to make good on retirement benefit promises. As of the end of 2018, pensions had only 72 percent, according to Conning's "State of the States" report released. "During the past decade, state pensions have had three main roadblocks to improving their funded status: restructuring, underperformance, and reduced contributions," wrote the authors, who are members of asset manager Conning's municipal research team. Part of the problem for pensions' funded status--the gap between assets and liabilities--has been restructuring. States have pushed out their amortization schedules--essentially calculating their liabilities over a

longer period of time--and lowered the rates of return that they expect. Using [more realistic expectations](#) of what the market will contribute to their funds' financial health is a positive move in the long term, but the changes have immediately increased those states' pension liabilities. As an example, Conning cited the [Texas Employees Retirement System](#). Decreasing the plan's assumed rate of return from 5.36 percent to 4.36 percent--a single percentage point--would inflate liabilities by a whopping 30.3 percent. In contrast, a one percentage point increase in expected returns would cut liabilities by 26.9 percent. Pensions have set unrealistically high return expectations for decades. On average, state pension plans have assumed a 7.6 percent return. The effects of underperforming that bogey are stunning. According to Conning, for instance, from 2015 to 2016, the average "unfunded actuarial accrued liability" grew by 12.7 percent. Though they needed to do the opposite, states with the worst-funded retirement systems [consistently under-contributed](#) to their plans over the last nine years. Connecticut was the only exception, according to the report. And states with financially healthy plans met or often exceeded their required annual contribution rate. Kentucky's employee retirement system, "which has the lowest funded ratio of 16.3 percent, has only recently begun to make 100 percent of its required contributions," Conning said. "Before 2015, contributions rarely accounted for more than 60 percent." In contrast, a Washington state police and fire pension plan contributed more than it needed every year between fiscal year 2008 and 2017. The plan's funded ratio is 109 percent--the best ratio of any state. There is positive news from Conning. Forty-four states reported pension liabilities in 2018. Of those, 29 had [reduced their unfunded balances](#) since 2017. Julie Segal, *Institutional Investor*, June 5, 2019.

7. ORO VALLEY TO DECIDE FUNDING PLAN FOR PUBLIC SAFETY PENSIONS:

Thanks to a new state law, the Oro Valley Town Council has until the end of June to approve a plan to pay \$22.8 million in pension liabilities for police over the next 18 years. The Public Safety Personnel Retirement System unfunded liability is the amount of money needed to cover the pensions of local law enforcement officers and firefighters that exceeds a city or town's current assets. It's a debt spread out over a set number of years, similar to a home mortgage. Arizona's PSPRS was founded in 1968. It's a state entity responsible for collecting contributions and managing the retirement accounts of each individual, as well as the overall investments and distribution of the funds. Public pension systems receive funding from three sources: employee contributions, employer contributions and returns on investments. There are three different tiers in the pension system. Tier 1 covers the public safety officials that have been around the longest. They contribute about 7.65 percent of their salaries to the system, while the city or town covers the rest of the actuarial amount. Tier 2 has officials that pay 11.65 percent of their salaries, and Tier 3 consists of new officers who pay 50 percent. Advocates for the pension system say that training new recruits on a regular basis reduces overall productivity, so it is not in

the best interest of these departments to see a high turnover rate. According to the National Public Pension Coalition, pensions are designed to “promote long-term commitment to the profession,” with benefits increasing the longer an employee stays in the system. But years of neglecting future costs have put governments across the country in bind. Last year, Gov. Doug Ducey signed a law requiring Arizona jurisdictions to come up with a plan to stabilize Arizona’s public-safety pensions. “The faster you pay it off, the less money you’re going to end up spending in the long run,” said Christian Palmer, communications director for PSPRS. “We have a lot of municipalities taking a close look at what options they have on an individual basis.” Certain municipalities, such as Prescott, have established temporary sales tax increases, which take “tremendous bites” out of their unfunded liabilities, according to Palmer. He said local governments are making tough decisions during this budget season, deciding which revenue streams can be utilized to pay their unfunded liabilities. Oro Valley’s unfunded liability is about 61 percent funded, which means the town has saved \$6 out of every \$10 needed for all police officers to retire. Going forward, the town council has a few different options to address this ongoing cost. The town currently pays about \$3 million for its minimum annually required contribution, which is based on a 38 percent contribution rate set by a PSPRS actuarial analysis. Palmer said this rate is slightly above the average. Stacey Lemos, Oro Valley’s chief financial officer, said the town has the ability to contribute more on a voluntary basis. Lump sum payments toward the unfunded liability are one such possibility, which has been addressed in Town Manager Mary Jacob’s recommended budget. Jacobs recommends using \$500,000 of sales tax revenue from the Oro Valley Marketplace. At the May 15 council meeting, councilmember Bill Rodman expressed disagreement with using the money for that purpose. The previous town council established a policy that allocated any year-end excess dollars in the general fund that accumulated over the 25 percent contingency reserve requirement toward capital funding and paying down the PSPRS unfunded liability. At the May 22 study session, council member Josh Nicholson suggested paying off the unfunded liability in full using bonds. Lemos said this is a route that other jurisdictions have taken, using “pension obligation bonds” to acquire a fixed interest rate over 20 years. This would be a much different route than paying directly into the PSPRS, which has seen significant increases in unfunded liabilities across the state over the last two decades. However, Lemos said she hasn’t done enough research into the pros and cons of it to make a recommendation to the council.

A moving target

The volatility of PSPRS has prompted critics to point fingers at those who manage the system, claiming mismanagement of public dollars. In 2013, Oro Valley’s contribution rate was 18.7 percent of the police department’s payroll, compared to today’s 38 percent. Representatives from PSPRS attribute the increases to a handful of events. Palmer said

the primary reason behind the increase was the 2008 financial market crash, which had an “incredible impact” in reducing the value of the PSPRS assets. “This was a global financial disaster,” he said. Secondly, up until 2016, PSPRS had a pension benefit increase formula dictated by state law that was unsustainable financially. “If we earned more than 9 percent, they took some of that investment, and they gave it out as permanent benefit increases to the retirees,” said Phil Coleman, an employer relationship manager with PSPRS. “So they took one-time money and turned that into compounding benefits for our retirees ... So what happened is when we had really good years, we lost money.” Arizona voters passed a 2016 proposition that changed the formula to make it more sustainable for long-term viability. Around the same time, PSPRS lost two lawsuits that were filed in response to pension reform in previous years, with judges ruling that the state can’t change a person’s retirement benefits after they have been hired. Palmer said that caused a significant burden, since PSPRS was required to refund about a quarter of a billion dollars, which negatively affected cities and towns’ unfunded liabilities. In addition, the assumed earnings rate calculated by PSPRS has seen a decrease over the last few years as they update their actuarial tables. Palmer said a decrease from 7.85 to 7.3 percent makes a big difference, because they are dealing with long-term expenses. “The statistics we’ve seen has shown that the assumed interest rate on earnings has not been met for a long time,” Budget and Finance Commissioner James Beasley said. “So we’re dealing with a moving target here.” Lemos said the actuarial analyses have also shown a change in mortality assumptions. With people now living longer into retirement, pension liabilities have increased over time. According to the most recent US Census survey on public pensions, more than 25 million people in the U.S. were affiliated with a public pension in 2016 as either a member or a beneficiary. Total contributions have been increasing nationwide. The deadline to address funding for the PSPRS unfunded liability comes just after the town council called for the addition of eight new police officers over two years. Town staff is currently working to identify options for funding their salaries and related equipment costs. Lemos said that overall, adding the new officers have a neutral impact on the unfunded liability because the actuarial analysis accounts for a growth in payroll. “It depends on if these new officers are brand new to the system, they go into the Tier 3 benefit level and for that level they are required to work longer before they receive a pension and the town’s contribution is less than lateral transfers from other agencies in the system,” she said. The town will hold a public meeting on the upcoming PSPRS funding policy June 19. Kathleen B. Kunz, Tucson Local Media, Jun 5, 2019.

8. OHIO TEACHERS PENSION SUED OVER ELIMINATED COLAS:

The \$80 billion Ohio State Teacher’s Retirement System (OSTRS) is being sued in federal court by two retired teachers who accuse the trustees of the retirement system of unlawfully ending their cost-of-living allowances (COLAs). The retired teachers, Dean

Dennis and Robert Buerkle, both worked in the Cincinnati Public School System for at least 35 years, and upon retirement, both were approved for a retirement allowance and became vested under Ohio law. According to court documents, the plaintiffs allege that the indefinite elimination of the 2% annual COLAs, which it says are mandated by Ohio law, violates the US Constitution, the Ohio Constitution, and state laws. They are seeking damages and declaratory and injunctive relief for themselves and all other retired teachers in the form of reinstatement of their COLAs, and restitution of foregone COLAs. “By circumventing and disregarding the mandatory statutory process for adjusting cost-of-living allowances, the board acted unlawfully and deprived plaintiffs and the class of their substantial vested property interest in their retirement benefits,” says the complaint. Because the teachers are asking the court to certify their case as a class action, it could open it up to nearly 150,000 retired teachers. In 2017, the OSTRS board voted to indefinitely eliminate COLAs for retirees receiving monthly pension allowances beginning on July 1 of that year. The teachers say that prior to the decision, the retirement system’s actuary never presented an actuarial valuation that showed that the indefinite elimination of COLAs was necessary to preserve the fiscal integrity of the system. “The State Teachers Retirement Board broke faith with Ohio’s retired teachers in 2017, when it abruptly and indefinitely eliminated their cost-of-living increases without due consideration, and without a valid legal basis for its action,” said Finney Law Firm, which is representing the teachers, in a statement. “Our clients worked for decades, for very modest compensation ... over the course of those decades of work, our clients had been repeatedly promised that, in their retirement years, they would receive annual cost-of-living adjustments that would at least allow them to keep pace with inflation.” According to the complaint, in November 2016, the OSTRS board’s actuary reported in its actuarial valuation that the plan had experienced net gains during the year and maintained a steady funding percentage. And in March 2017, the actuary submitted an actuarial experience review that recommended changes to several actuarial assumptions, such as reducing the rate of inflation assumption to 2.5% from 2.75%, and a reduction in the assumed rate of return to 7.00% from 7.75%. “The actuarial experience review projected that the effect of the proposed assumption changes would be to reduce the plan’s funding percentage,” said the complaint. “However, there is no mention in the actuarial experience review that a reduction or elimination of cost-of-living allowances was recommended or necessary.” The plaintiffs’ lawyers argue that the financial issues that the board cited as the justification for eliminating the COLAs “could have been addressed in a variety of ways that would not have dealt such a devastating blow to our retired teachers.” Michael Katz, *Chief Investment Officer*, June 5, 2019.

9. DID YOU KNOW BENJAMIN FRANKLIN SAID THIS?:

Genius without education is like silver in the mine.

10. PONDERISMS:

Can you cry under water?

11. INSPIRATIONAL QUOTES:

Obstacles don't have to stop you. If you run into a wall, don't turn around and give up. Figure out how to climb it, go through it, or work around it. - Michael Jordan

12. TODAY IN HISTORY:

On this day in 1990, Jose Canseco signs record \$4,700,000 per year Oak A's contract.

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

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