



CYPEN & CYPEN NEWSLETTER for August 8, 2019

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

1. REMEMBER THE DATE! OCTOBER 2019 PENSION CONFERENCE:

TO: Board of Trustee Members and Other Interested Parties

FROM: Florida Division of Retirement
Municipal Police Officers' and Firefighters' Pension Office

SUBJECT: 49th Annual Police Officers' & Firefighters' Pension Conference
October 29-31, 2019 - Orlando, Florida

Our 49th Annual Police Officers' & Firefighters' Pension Conference is scheduled for October 29-31, 2019, sponsored by the Department of Management Services, Division of

Retirement. This program is uniquely designed for pension plans established under Chapters 175 & 185, Florida Statutes.

There is no registration fee to attend! The program will be held at the Renaissance Orlando Airport Hotel in Orlando, Florida. The Hotel is located at 5445 Forbes Place, Orlando, Florida 32812. You can make your reservation [here](#). It is important to use this link, or state that you are attending the Police Officers' and Firefighters' Pension Conference when booking. This rate includes the use of the facility and supports continued operation of the program.

Tuesday's program, on October 29th, is designed specifically for new trustees, for those interested in becoming trustees, or for those who want a basic understanding of the operation of the pension plan. The program will offer a no-nonsense explanation of how the pension plan works, and will include lectures from a plan attorney, actuary and the Division of Retirement on the trustees' responsibilities. Participants will be encouraged to ask questions and participate in group discussions focusing on the fundamentals of pension fund management. If you are a new trustee, we encourage you to participate in this special program.

Wednesday's and Thursday's programs, on October 30th and 31st, are designed for both the new and seasoned trustee, and will feature presentations on legal, actuarial, investment, administrative, and government in the sunshine issues, as well as an update on any legislative changes. There will be an opportunity for questions and answers after each speaker to provide you with a chance to address concerns specific to your plan.

Conference materials will be available for free download on our website on October 25. If a participant prefers to have a hard copy of the materials, we are trying to make arrangements for conference books to be available for purchase directly from a printer. Contact information for the printer and the cost for book purchase will be posted to our website and emailed soon. We will transport pre-purchased books to the hotel. Conference materials will not be available to purchase on-site.

All police officer and firefighter plan participants, board of trustee members, plan sponsors, administrators, accountants, actuaries, investment advisors, legal counselors, other advisors, and anyone interested in the administration and operation of the Chapters 175 and 185 Pension Plans should take advantage of this unique, insightful and informative program. This conference may possibly be used towards continuing education hours as well.

Please remember, we are only able to continue providing these low cost / no cost conferences for our plans based on satisfactory attendance. We know that plan participants and board members fulfill a vital role in our communities, and although you may not be able to attend every program, Florida Statutes require that the plan investment policy provide for continuing education of board members. This program will help to satisfy that requirement and educate conference attendees on how the plans can be administered to ensure their continued health. Please consider our program when making your training plans so that we can continue to offer them to you.

I look forward to meeting with you in October!

Sincerely,

Stephen Bardin
Bureau of Local Retirement Systems
Municipal Police Officers' and Firefighters' Pension Office

2. THE CASE FOR NEW PENSION ACCOUNTING STANDARDS:

That there is a crisis in public employee pension systems around the country is common knowledge. Whether it is actually true is a different thing. What is not widely known is the extent to which the crisis, such as it is, has been exacerbated by the accounting rules pension systems use. These rules provide a sometimes misleading picture of the health of a pension system and a poor guide to decisions by policy makers. They also create a degree of moral hazard for stakeholders, whereby the consequences of important decisions are not felt for years, possibly decades, after the decisions are made. It is possible to develop different rules that will address some of these shortcomings. This report presents a critique of the existing accounting rules for public pension funds as formulated in the various statements of the Governmental Accounting Standards Board (GASB), and some suggestions about different directions that might help policy makers make better decisions about the pension plans they manage. Section 2 of this report presents the basics of the critique, including the following:

- The GASB treatment of a pension liability as equivalent to a debt is questioned. A debt, for example, is owed to someone, but there is no one who can book the unfunded liability of a pension plan as an asset. It is not plan members, since they are owed the money regardless of the funding status, but if not them, who?
- Several ways the current accounting rules mask risk and provide unjustified precision, allowing plan managers to be comforted when no such comfort is warranted--or alarmed when they should relax, a risk that appears of equal

significance to those who closely follow the issue. For example, under common conditions, a system that is making its investment targets risks losing money nonetheless, something that is not at all apparent from the calculations prescribed by the GASB rules. This is particularly relevant in the case of a closed plan.

- The GASB rules are philosophically at odds with the nature of a pension system as a mutual aid compact among plan members. It is not easy to disentangle the contribution of individuals from such an arrangement, and attempting to be rigorous about it threatens to undermine the system.
- The economic impact of pension fund accounting rules has likely been much more significant than widely assumed. There are over \$4 trillion in state and local pension assets, the vast bulk of which were accumulated between 1980 and 2010. At the end of that period, federal GDP was about \$19 trillion, but it took 400 years to grow so large. In other words, there have likely been years in the recent past when the bulk of the nation's economic growth was poured into purchasing sterile financial assets rather than into investments that would create economic growth.

Section 3 develops a few alternatives for how one might begin to think about changes to the pension accounting framework to address these critiques. Potential reforms of the accounting rules are presented:

- Reform of costing to include a standard cost along with the normal cost
- Use of depletion date calculations instead of a funding ratio for planning purposes
- Risk weighting of pension fund assets to indicate the level of risk in a portfolio and
- Creation of standards for valuation of the local economy, since ultimately that is what secures a public pension system.

Elements of the various alternatives are synthesized in Section 4 to make a recommendation for how the accounting rules might be changed along with some other policy suggestions for both pension plan managers and for consideration by GASB. See full report [here](#). Tom Sgouros, National Conference on Public Employee Retirement Systems, May 2019.

3. PUBLIC SAFETY OFFICER'S BENEFITS PROGRAM:

The Public Safety Officers' Benefits program pays benefits to public safety officers or their families if the officers are permanently disabled or die in the line of duty. A second program may also pay benefits if the injury or death is related to the 9/11 terrorist attacks. When benefits are payable from both programs, the Bureau of Justice Assistance generally adjusts the payments accordingly. Information on these payments is available to the public in the Bureau's reports. However, the reports sometimes have errors introduced

when staff compile the data. We [recommended](#) better quality checks to ensure the accuracy of this information.

What GAO Found

Based on GAO's review, the Department of Justice's Bureau of Justice Assistance (BJA) was generally in compliance with the requirement to apply offsets for claimants dually eligible for benefits from both the Public Safety Officers' Benefits (PSOB) program and the September 11th Victim Compensation Fund (VCF) from 2013-2018. However, GAO's analysis of 91 dually eligible claims revealed errors in two of them. One claimant was overpaid, and PSOB officials said the error occurred because this claim was processed after the effective date of the law that required offsets, but before VCF and PSOB had an agreement in place regarding how they would coordinate processing offsets. One claimant was underpaid, and PSOB officials acknowledged this and said they intend to work with VCF officials to ensure the claimant receives the compensation they were eligible for. GAO's analysis also found some errors in the information BJA publicly reported in its 180-day reports. For example, two claims were missing from the total number of final determinations on PSOB claims related to 9/11. BJA also misreported VCF final compensation amounts for 5 claimants. The compensation amounts were listed alongside incorrect claim identification numbers in the 180-day reports. The 180-day reports are reviewed by multiple people to help ensure their accuracy, according to BJA officials; however, these reports are prepared by manually transcribing data from electronic sources, which increases the risk of errors. BJA has no imminent plans to automate production of these reports. As long as these reports are produced manually without more effective quality checks, errors like those described above may continue to occur. In addition, without adequate quality control measures to verify the accuracy of claims data, BJA's 180-day reports may fail to provide policymakers the assurance that PSOB claimants with 9/11-related claims are receiving the correct, offset benefit amounts.

Why GAO Did This Study

Public safety officers--law enforcement officers, firefighters, and emergency medical technicians, among others--who die or become totally and permanently disabled due to a line-of-duty injury are eligible for benefits from the PSOB program. Since 2013, BJA, which administers the PSOB program, has approved more than 1,700 death and disability claims and provided more than \$300 million to eligible officers and their families. Public safety officers who were physically injured or died as a result of the terrorist attacks on September 11, 2001 (9/11), or the debris removal afterward may also be eligible for VCF compensation. Federal law requires benefits under these programs to be offset--reducing one benefit by the amount of the other--when claimants are eligible for both programs. In addition, the Public Safety Officers' Benefits Improvement Act of 2017 requires DOJ to

issue public reports every 180 days on PSOB claims. The Act also includes a provision for GAO to conduct a study on BJA's compliance with the requirement to offset PSOB benefits by the amount of VCF compensation paid, and to review BJA's reporting on PSOB claims related to 9/11. This report examines the extent to which BJA is 1) in compliance with requirements to offset benefits for claims that are eligible for both the PSOB program and the VCF program, and 2) accurately reporting information on PSOB claims related to 9/11 in its public reports.

What GAO Recommends

The Attorney General should direct the Bureau of Justice Assistance to enhance quality checks to ensure the accuracy of information in its 180-day reports about Public Safety Officers' Benefits claims related to public safety officers affected by 9/11. DOJ concurred with the recommendation. See full report [here](#). GAO-19-521R, Jul 25, 2019.

4. BIG ERISA DECISIONS ON THE HORIZON--S.C.O.T.U.S. TO REVIEW THIRD ERISA CASE THIS TERM:

The US Supreme Court recently agreed to review the Eighth Circuit's decision in *Thole v. US Bank*, in which the Eighth Circuit held that participants in a defined benefit pension plan lack standing to sue for fiduciary breaches under ERISA where the plan is overfunded. The ruling could lead to an increase in participant litigation against fiduciaries of defined benefit pension plans if the US Supreme Court determines that participants have standing to bring such suits even when they suffer no actual economic harm (because the plans have sufficient funding to pay the participants' pension benefits).

Background

The plaintiffs in *Thole* sued US Bank, US Bancorp and multiple US Bancorp directors for allegedly violating their fiduciary obligations with respect to the US Bank Pension Plan. More specifically, the plaintiffs alleged that the defendants violated their fiduciary duties under ERISA by failing to diversify plan investments and investing in mutual funds managed by a US Bancorp subsidiary. According to the plaintiffs, the failure to diversify plan investments caused the once-overfunded plan to drop to only 84% funded and lose more than \$1.1 billion. After the plaintiffs filed suit, however, the defendants contributed more \$300 million dollars to the plan, restoring it to overfunded status. As a result, the district court dismissed the action, noting that once the plan became overfunded "the plaintiffs no longer [had] a concrete interest in the monetary and equitable relief sought to remedy the alleged injury." In other words, according to the district court, there was no longer a controversy to address. The Eighth Circuit affirmed the district court's decision, but on different grounds, holding that because the plan was overfunded, the plaintiffs lacked standing to sue under ERISA. The Supreme Court agreed to hear the case and

address these issues.

Impact of Pension Plan Overfunding on Standing to Sue

The question of whether a participant in a fully funded defined benefit pension plan has standing to bring a fiduciary breach claim under ERISA is a significant issue, and one that has resulted in a split of opinion in various circuits. Several circuits have ruled that a violation of employees' ERISA rights is sufficient to bring a claim under ERISA. In contrast, the Eighth Circuit's decision suggests that plan participants cannot sue plan fiduciaries if they have not experienced actual financial harm, as is arguably the case where a defined benefit pension plan is overfunded. Benefits under defined benefit pension plans, unlike 401(k) plan benefits, are not calculated based on the amount of assets held by the plan or the return on plan investments. Instead, defined benefit pension plans provide employees with guaranteed income during retirement, using a formula set forth in the plan document. As a result, in most cases, participants will get the benefits promised by the plan, regardless of plan investment performance. This means that, where a defined benefit pension plan is overfunded, participants typically suffer no actual economic harm. Many believe that allowing uninjured plaintiffs to sue could significantly harm both plan sponsors and plan participants by encouraging a proliferation of litigation against plans where there is no actual impact on participants' benefits. However, others, like the plaintiffs in *Thole*, believe that denying participants standing to sue where a plan is overfunded undermines their ability to hold fiduciaries accountable for their conduct.

Potential Implications of the Case

Sponsors and fiduciaries of defined benefit pension plans should monitor the outcome of this case. Plan sponsors may see an increase in participant litigation against fiduciaries of defined benefit pension plans if the Supreme Court determines that participants have standing to bring such suits even when they suffer no actual economic harm. Of note, such cases could result in plan fiduciaries being liable for participants' legal fees for such suits even if the plan sponsor has already made the plan whole with subsequent funding contributions. J. Christian Nemeth, Richard J. Pearl, Brian J. Tiemann, Brigid McCarthy McDermott Will & Emery (MWE), July 22, 2019.

5. TO KEEP PUBLIC WORKERS, STATES OFFER NEW SALARIES AND BENEFITS:

Lawmakers increased wages and benefits for teachers, first responders and other public employees in nearly 20 states this legislative season. Faced with intense private-sector competition and rising turnover, 2019 legislative sessions raised wages and sweetened a selection of benefits for a slew of teachers and first responders. State workers also saw across-the-board salary increases. Legislators were aided in their funding decisions by healthy revenue growth. In a majority of states, revenues [came in above expectations](#),

according to the National Association of State Budget Officers. To address disappointing teacher recruitment and retention and head off the possibility of [more teacher walkouts](#), governors signed legislation in about a third of the states that raises teacher pay. Most of the raises hovered around 2 percent, but some states with low average teacher salaries provided higher raises. In New Mexico, for example, new Gov. Michelle Lujan Grisham signed off on 6 percent raises for all school staff, including teachers, principals and cafeteria workers. Public employees in New Mexico are receiving a 4 percent pay raise as well, while those whose salaries are below \$25,000 are getting a 5 percent bump. Among other states with across-the-board salary increases are Alabama, Colorado, Delaware, Maryland, Oklahoma, North Dakota and South Carolina. In Missouri, the fiscal 2020 budget added a 3 percent cost-of-living increase, following a 2 percent raise for 2019 for most state employees. In addition, the new budget also provides funding for market-based salary adjustments of up to 15 percent for about 4,500 employees following a [new study](#) that compared the state's salaries to the private sector. Roughly 62 percent of Missouri's market-based adjustments will impact supervisors and staff in Information technology, maintenance and in health care and other positions that provide direct care to individuals. Many Missouri Department of Corrections employees also will receive an additional raise on top of the cost-of-living increases. Corrections workers will each get a 1 percent increase for every two years they have worked for the state. In other words, a worker who has been on the job for, say, 20 years will see a 13 percent increase in salary. Officials hope these compensation increases will help stem a sky-high turnover rate, which reached nearly 37 percent for entry-level corrections officers in 2018. Missouri's investment in the corrections workforce was achieved with cost savings garnered from the transfer of staff and inmates from one prison facility in the northwest part of the state to a neighboring prison in the same district. The move is estimated to save the state \$21 million and is expected to increase staff-inmate ratios, improve safety and cut back on overtime, according to Drew Erdmann, the state's chief operating officer. "Over the decades the state workforce has been very neglected, says Sarah Steelman, commissioner of administration in Missouri." This is an extreme makeover.

Benefits for First Responders

In several states, legislators also broadened worker's compensation and other benefits for first responders. In Connecticut, where 20 children and 6 adults were killed in the 2012 Sandy Hook Elementary School mass shooting, worker's compensation benefits were extended to cover post-traumatic stress disorder experienced by police officers, parole officers and firefighters in the wake of a tragic event. Emergency workers and paramedics are lobbying the legislature to be included under the benefit. Idaho and New Mexico also passed similar laws this year. Illinois doubled death benefits for fallen police officers and firefighters; Iowa created a Public Safety Survivor Benefits Fund to provide accident and

health-care insurance assistance for family members of first responders killed on the job. In several states firefighters also received benefit adjustments based on a growing body of evidence that [links firefighting to an increase in cancer](#). Legislatures in Florida, Montana, New Jersey, Tennessee and Utah have all changed their laws to recognize a presumption that a cancer diagnosis is related to firefighting, thereby providing worker's compensation without the need to prove that the disease is related to work. Several other states, including Arkansas and Mississippi, provided funding or adjusted sick leave benefits for firefighters faced with cancer. While the vast majority of pension legislation in recent years has raised the age at which full retirement is allowed, Maine Gov. Janet Mills took the opposite approach, signing a bill that allows state fire investigators to retire with a full pension after 20 years on the job at any age. Previously, full retirement was only allowed after 25 years and only for individuals who were at least 55 years of age. Fire investigators spend far more time around fire scenes than do firefighters, as their job entails looking into the cause of fires and therefore exposes them to more toxic materials for a longer period of time. "It's really important that we recognize that there are certain public-sector jobs like fire investigators who put themselves at significant personal risk," says state Sen. Shenna Bellows, chair of the labor and housing committee in Maine. "It's really important to take care of the people who give up so much to serve in the public sector." Katherine Barrett & Richard Greene, *Governing*, July 22, 2019.

6. LIFTING UP THE VOICES OF SOCIAL SECURITY BENEFICIARIES:

Elder Abuse is something most people don't like to talk about. Yet, research shows that as many as two million elders are abused in the United States every year. With the help of our partners at Social Security, the National Center on Elder Abuse believes we can all find a solution to physical, emotional, sexual, financial and neglectful abuse against the elderly. The [National Center on Elder Abuse](#) provides the latest information, research, training, best practices and resources on elder abuse, neglect, and exploitation. Our agency was first established by the U.S. Administration on Aging in 1988 as a national elder abuse resource center. At the heart of elder abuse is a leading factor of abuse-- social isolation. Isolation, in this context, means a scarce amount of close relationships and social contact with family or friends. Research shows that older adults who have poor social networks are consistently more at risk. Although social isolation can show up in many ways, [building strong community support](#) is essential to deterring abuse. Social Security is a pinnacle of reliability and steadfastness for older adults. When Social Security speaks, people listen. We applaud the agency's efforts to communicate with and provide resources for the elderly. The other day a frightened 84-year-old gentleman contacted our offices. He received a call from "Social Security" stating that his Social Security number and Medicare information had been compromised. They needed him to verify his information over the phone. At first, the call seemed legitimate but then he

thought it was odd that Social Security would call him to verify his personal information. He hung up, fearful that someone was trying to steal his identity. We assured him he did the right thing and instructed him to report that information to the Office of Inspector General [online](#) or by calling 800.269.0271. We also urged him to report these scams to the Federal Trade Commission through [a new site related to Social Security scams](#). He was grateful for these resources and relieved to know where to file his report. This infrastructure of support empowers individuals. You can help us in our endeavor to Lift Up the Voices against elderly abuse by downloading our [Support and Tools for Elder Abuse Prevention, STEAP](#). Together, we can build a society that, as we age, embraces the power, wisdom, and beauty of years of learning and growing. Julie Schoen, Deputy Director of the National Center on Elder Abuse (NCEA), July 18, 2019.

7. EXTENSION FILERS: DON'T PANIC, JUST GO TO IRS.GOV FOR HELP:

The deadline for taxpayers who requested an extension to file is going to be here before they know it. The deadline for these filers to submit their 2018 tax returns is Tuesday, October 15, 2019. Taxpayers who have not yet filed can find many helpful resources on [IRS.gov](#).

Here are a few of them:

[IRS Free File](#)

Taxpayers with yearly income of \$66,000 or less can file using free brand-name tax software. Those who earned more can use Free File Fillable Forms, the electronic version of IRS paper forms. Either way, everyone has a free e-file option. Filing electronically is the easiest, safest and most accurate way to file taxes.

[Interactive Tax Assistant](#) and [IRS Tax Map](#)

These tools can answer many common tax questions.

[Directory of Tax Return Preparers](#)

For taxpayers who don't want to do their own taxes, this tool can help find a tax professional in their area.

[Where's My Refund?](#)

Taxpayers can check the status of their refund within 24 hours after the IRS has received their e-filed return. Those who file a paper return can check the refund status four weeks after mailing it. Once the IRS approves a refund, this tool will give the taxpayer a date by which to expect it. The IRS updates refund statuses once a day.

Taxpayers can also find helpful information on their smart phones through the [IRS2Go](#)

[app](#). Taxpayers can file earlier but should file by October 15 to avoid a potential late filing penalty. [Penalties and Interest](#) might apply if taxpayers owe taxes and do not pay in a timely manner. The IRS offers a [variety of ways](#) for taxpayers to pay their taxes, including [IRS Direct Pay](#). Issue Number: Tax Tip 2019-95, IRS Tax Tips, July 18, 2019.

8. DID YOU KNOW BENJAMIN FRANKLIN SAID THIS?:

It is a grand mistake to think of being great without goodness, and I pronounce it as certain that there was never a truly great man that was not at the same time truly virtuous.

9. PONDERISMS:

Why is it called a HAMBURGER, when it's made out of BEEF?

10. TODAY IN HISTORY:

On this day in 1974, U.S. President Richard Nixon announces he will resign at Noon the next day.

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