



Federal Retirement Policy Report for CalPERS Board April 2017

I. DEVELOPMENTS IN PROTECTING PUBLIC SECTOR DEFINED BENEFIT PLANS

CalPERS' 2017 Federal Retirement Security Priorities advocate for the preservation of defined benefit retirement plans and against federal incentives or options to replace defined benefit pension plans and federal intervention in state and local pension plans.

1. New Developments Since Last Report:

The Laura and John Arnold Foundation has developed a new website, PensionSecurity.org. The website features five general areas: The Problem, Root Causes, Consequences, Solutions, and Resources and Tools. The site is also linked to numerous materials produced by sources funded by the Arnold Foundation. The Foundation has committed more than \$30 million to grantees and consultants between January 1, 2011 and June 30, 2016.

2. CalPERS Implications and Next Steps:

We will closely monitor and advocate against any pension related legislation that proposes PEPTA, the annuity accumulation plan, and/or could serve as a vehicle for similar anti-DB pension plan provisions.

3. CalPERS/Federal Representative Actions:

The ad hoc Public Pension Network, which is a group of national public pension organizations, labor unions, employer groups and other stakeholders, such as AARP, met to discuss the key federal issues that could impact state and local pension plans. Your federal representative Tom Lussier (The Lussier Group) attended the meeting.

4. Recommendations for Next Steps:

The CalPERS' retirement policy consultants are currently planning meetings for CalPERS staff with Washington staff for California members of the House Ways & Means Committee, Senator Harris' office, and with key tax and Social Security policy staff members. The meetings will provide an opportunity for CalPERS to express support for defined benefit pension plans and to express concerns about recent threats to plans such as CalPERS.

II. DEVELOPMENTS IN ADVANCING RETIREMENT SAVINGS AND RETIREMENT SECURITY FOR ALL EMPLOYEES

A. The Equal Treatment of Public Servants Act (H.R. 711 – 114th Congress) (Brady-Neal)

1. The Equal Treatment of Public Servants Act would repeal the current Windfall Elimination Provision (WEP) of the Social Security Act and replace it with a new formula that will fairly account for covered and uncovered employment throughout an individual's career. The legislation will provide relief to current retirees whose Social Security benefits have been arbitrarily reduced by the existing WEP formula and, in general, will result in lower reductions for future retirees through the application of a new formula based on each worker's actual work history.

2. Specific changes/developments since last report:

There have been no specific developments since the last report. *[NOTE – Based on conversations with staff for Mr. Brady and Mr. Neal, it's likely there won't be any developments on this legislation until later in 2017.]*

3. Implications for CalPERS:

The passage of the Equal Treatment of Public Servants Act would offer relief to the thousands of CalPERS members who have been – or will be in the future – impacted by the WEP. Current retirees will see their WEP reduction reduced by approximately 15 percent for the first 10 years and up to 50 percent thereafter; on average, future retirees will see a reduction approximately 35 percent less than current law. These benefits have been updated based on a revised SSA actuarial analysis.

4. CalPERS/Federal Representative Actions:

Your federal representatives continue to communicate with majority and minority staff for the House Ways & Means Committee Social Security Subcommittee regarding the re-introduction of the Equal Treatment of Public Servants Act and strategy for moving forward later this year.

5. Recommendations for Next Steps:

Arrangements are being made for CalPERS staff to meet with the Staff Director for the Ways & Means Social Security Subcommittee during a visit to Washington in May. Support for WEP reform will also be included in discussions with California members of the Ways & Means Committee.

B. Fiduciary Rule –

1. The Obama Administration's Department of Labor (DOL) issued a rule that imposes a fiduciary standard on financial firms and advisers providing retirement advice. The rule was set to become applicable on April 10, 2017.

2. Specific changes/developments since last report:

- The Trump Administration's DOL has issued a pre-publication version of the fiduciary regulation delay final rule. It extends the April 10, 2017 applicability date to June 9, 2017.
- The delay gives DOL additional time to decide how to move forward with the rule in the wake of the presidential memorandum requiring its review. The comment period on the presidential memorandum closed on April 17, 2017, so it is highly likely that DOL will finalize the 60-day delay and then propose a second delay beyond the June 9th date.
- Following the comment period and delays, the Trump Administration has several choices for how to proceed with the rule: leave it in place; leave it in place with minimal changes; revise it; or rescind it.
- On April 27, 2017, Alexander Acosta was confirmed to serve as the Secretary of Labor in the Trump Administration.

3. Implications for CalPERS:

CalPERS has been supportive of the fiduciary rule. As a national and state leader in the retirement security arena, CalPERS has an interest in the implementation of the rule – especially as it might impact retirement security in California.

4. CalPERS/Federal Representative Actions:

CalPERS retirement policy consultants will continue to monitor any activity regarding the rule and will communicate with CalPERS staff to determine whether additional engagement is appropriate.

5. Recommendations for Next Steps:

There are no specific next steps at this point.

C. State-Based Retirement Programs –

1. The Obama Administration’s DOL finalized a rule to facilitate the creation of state and political subdivision-based retirement plans such as California’s Secure Choice plan. The rules are intended to enable states to initiate innovative ideas that will boost overall retirement savings.

2. New Development Since Last Report:

- On April 13, 2017, President Trump signed H.J. Res. 67, legislation nullifying the DOL’s rule establishing safe harbors from ERISA for political subdivision-run retirement programs for private sector workers. New York, Philadelphia and Seattle have taken steps to set up such programs, but it is unclear what effect the legislation will have on those efforts.
- The House has already approved H.J. Res 66, which would eliminate a DOL rule for state-run retirement plans for private sector workers. The Senate has not yet scheduled a vote on the resolution. If the resolution isn’t adopted by approximately May 10th, the opportunity for Congressional review will have expired.
- On March 31, 2017, the Vermont Senate passed a bill that directs the creation of a state-run retirement plan for employees of small businesses. The bill would establish a program called the Green Mountain Secure Retirement Plan, which would initially be open to employers with fewer than 50 employees who do not currently offer a retirement plan. Employees would have the ability to opt out. In a later phase, self-employed individuals would be eligible for enrollment. The bill now heads to the House Commerce and Economic Development Committee. In taking this step, Vermont hopes to join California, Connecticut, and Oregon in moving to ensure retirement security for private sector workers.

3. Implications for CalPERS:

As a leader in the retirement security arena, CalPERS has an interest in the implementation of the DOL rule that will boost overall retirement savings; especially those that would impact retirement security in California. CalPERS retirement policy consultants will continue to monitor any activity regarding the rule and will communicate with CalPERS staff to determine whether additional engagement is appropriate.

In addition, given CalPERS believes that all employees should have effective means to pursue retirement security, we will evaluate other opportunities for CalPERS to engage in this important national discussion.

4. CalPERS/Federal Representative Actions:

CalPERS retirement policy consultant Tom Lussier (The Lussier Group) and CalPERS staff have considered possible engagement strategies regarding H. J. Res. 66. They will continue to monitor consideration of the resolution and any activity regarding the rule to determine whether additional engagement is appropriate.

5. Recommendations for Next Steps:

There are no specific next steps at this point.

D. Other Retirement-Related Legislation –

- On April 6, 2017, the Lifetime Income Disclosure Act (H.R. 2055/S. 868) was introduced. It would require ERISA-regulated, employer-sponsored retirement plans to provide estimates of how much lifetime income can be generated from a plan participant’s retirement savings account. The bill is designed to give employees more information about their retirement readiness and how long those savings will last once they begin drawing down funds.
- On April 27, 2017, Rep. Diane Black (R- TN), who is the Chairman of the House Budget Committee and a member of the Ways and Means Committee, introduced H.R. 2187, which would permit the use of the pick up in situations where existing plan participants are given an election between plans or plan tiers with different employee contribution rates. The bill would restore flexibility for plans that existed prior to the issuance of Revenue Ruling 2006-43. H.R. 2187 is identical to legislation that was introduced in the 113th and 112th Congresses by then-Rep. Loretta Sanchez (D-CA). Orange County had requested the legislation at that time.

III. OTHER UPDATES AND INFORMATION

- **New Retirement Coalition** – A new coalition, called the Save Our Savings (SOS) Coalition, has been formed to work on federal retirement policy issues. The organization is seeking broad-based membership representing the retirement industry. The coalition’s advocacy efforts will be focused on “protecting Americans’ retirement savings as Congress plans a comprehensive tax overhaul.” SOS states that its priority activities will include analyzing policy to ensure Congress is fully aware of the implications of proposals; constructive engagement, including extensive lobbying and political intelligence-gathering; building an active network of allies and partners across sectors; developing advocacy materials and identifying research in support of the retirement system; and employing media and grass-tops campaigns. The national associations representing public pension plans are currently considering whether to join the coalition.
- **San Francisco’s Pensions** – The city’s net pension liability more than doubled to \$5.5 billion due to lower investment returns and changes to key assumptions, including longer lifespans for retirees. The city also lost a court case and must now pay some cost-of-living adjustments to retirees it was trying to limit. Contributions to the San Francisco Employees’ Retirement System will increase 36 percent by 2022.
- **New Jersey’s Pensions** – On March 23, 2017, the New Jersey General Assembly voted 61-4 to allow the Police and Firemen’s Retirement System (PFRS) to increase the size of the board of trustees and give it more power to administer the fund and make investments. Under the bill, trustees would also be permitted to change benefit payments, modify members’ contributions, create compensation formulas, and reinstate cost-of-living adjustments. The Senate has already approved the legislation. It will now go to Governor Chris Christie for his signature. The Governor has not commented on the measure. PFRS is the second largest of the seven pension systems within the New Jersey Pension Fund and has approximately \$22.8 billion in assets.
- **Senate Banking Retirement Hearing** – On April 5, 2017, the Senate Banking Committee held a hearing entitled the Current State of Retirement Security in the United States. Topics covered included: societal shifts and transitions in retirement savings; defined benefit plans; retirement security recommendations; low-cost guaranteed annuities; Social Security; the DOL’s fiduciary rule; payroll tax; and retiring overseas.

- **Multiemployer Pension Reform Act** – The Treasury Department has received four application filings from financially troubled multiemployer pension plans seeking permission to cut benefits. Some think the recent flurry of filings demonstrate a sense of optimism among plan trustees that the Treasury’s process under the Multiemployer Pension Reform Act is a realistic path for avoiding plan insolvency. In December 2016, the Iron Workers Local 17 Pension Fund became the first plan to receive Treasury’s approval to proceed with putting a proposal to cut benefits to a vote of plan participants. Participants approved the cuts in January.
- **Puerto Rico Lawsuit** – A Puerto Rico labor union, Servidores Publicos Unidos (SPU), has sued Governor Ricardo Rossello and the federally-appointed, financial oversight board saying pension cuts being proposed are unconstitutional and seeking an injunction blocking implementation. The complaint says the plan would cause current and future retirees to suffer “grievous harm” and is a violation of the Puerto Rico Oversight Management and Economic Stability Act (PROMESA) because it does not provide “adequate pension funding,” which is required by the law. SPU represents more than 10,000 workers and 2,000 retirees. Under the plan approved by the oversight board, Governor Rossello is ordered to cut pension spending by 10 percent by 2020. The Governor has pledged that cuts will be structured to protect the island’s poorest pensioners.
- **San Diego Pension Cuts** – On April 12, 2017, a California appeals court held a 2012 ballot initiative was properly adopted. The 2012 initiative forced newly-hired city employees into 401(k)-style retirement accounts instead of the city’s pension plan. It was challenged by local labor unions who claimed that former Mayor Jerry Sanders improperly placed the initiative on the ballot without first bargaining with affected unions per California law. The court held the disputed item was a “citizen-sponsored initiative” that did not require union input despite the mayor’s public support. The ruling is a major financial victory for the city as it previously estimated the now-approved pension changes would save nearly \$1 billion. The San Diego Municipal Employees Association is considering appealing the decision to the California Supreme Court.