

# TEXPERS OUTLOOK

## ISSUES IMPACTING PUBLIC PENSION FUNDS

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## CalPERS Analysis Finds Pension Promises are a 'Vested Right' under State and U.S. Constitutions

Pension promises made to current and retired members of the California Public Employees' Retirement System (CalPERS) are a "vested right" and are protected under state and federal laws, according to a legal analysis performed by the public pension fund.

CalPERS' analysis, "Vested Rights of CalPERS Members," looked at more than a dozen California appellate cases over the last 70 years, as well as some federal cases, and extracted several rules that have emerged from the court decisions.

The analysis articulates provisions found in the "contract clauses" of state and federal laws, concluding that the laws establish that public employee retirement benefits are a form of deferred compensation and therefore are part of the employment contract.

"The law is very clear – a promise of a

pension made by a public employer to its employees is a promise the employer must keep," said Anne Stausboll, CEO of CalPERS. "We prepared this analysis for two reasons. First, to reaffirm the provisions of the law regarding the nature of our members' pension rights; and second, to outline CalPERS roles as fiduciaries and stewards of the pension fund. We need to ensure that our members' vested rights are honored."

If the state legislature were to enact a pension reform proposal for current employees, it would have to "pass muster" under the contract clause of the California Constitution, the analysis said. If a proposed reform eliminated the State Constitution's contract clause, the contract clause found in the U.S. Constitution would still give rise to the same protection of vested rights as the State Constitution, the analysis concluded.

"The assumption by authors of pension


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### *In this Issue:*

- CalPERS Analysis Finds Pension Promises are a 'Vested Right' Under State and U.S. Constitutions ... **Front-2**
- Firms Provide Guidance on GASB's Proposed Changes to Reporting on Financial Statements ... **pg. 2**
- Texas Approves Doubling of Teachers' Pension Hedge Fund Allocation ... **pg. 2-3**
- Finance Professionals: S&P's Downgrade of U.S. Credit Rating to Hurt Capital Investment ... **pg. 3**
- Advocacy Groups Begin Lobbying 'Super Committee' Not to Cut Entitlement Programs ... **pg. 3-4**
- CBO Releases Long-Term Forecast of Social Security Finances ... **pg. 4**
- State and Local Government Employees More Confident in Secure Retirement than Other U.S. Workers ... **pg. 4-5**
- Federal Statistics Compare Retirement Benefits among Public and Private Sector Employers ... **pg. 5**
- Pension Funds' Global Alternative Assets Up 16 Percent in 2010 ... **pg. 6**
- Global Pension Reforms Pressure Companies to Improve Management of Their Plans ... **pg. 6-7**

*CalPERS continued from previous page*

reform proposals that amending the State Constitution will avoid a constitutional challenge to altering vested retirement benefits is misplaced,” said Peter Mixon, CalPERS General Counsel. “Without consideration of state and federal rules, well-intentioned proposals may only lead to increased litigation and administrative costs that will further increase the costs of providing benefits.”

The full analysis can be found at <http://www.calpers.ca.gov/eip-docs/about/press/news/vested-rights.pdf>. 

## **Firms Provide Guidance on GASB’s Proposed Changes to Reporting on Financial Statements**

Several investment, actuarial and consulting firms have released guidance on the Governmental Accounting Standards Board’s (GASB) two Exposure Drafts covering changes to the way state and local governments conduct financial reporting of pensions.

“The proposed changes in pension reporting are sweeping in scope and will serve to increase the administrative burden for pension-related financial reporting by state and local governments,” Milliman, Inc. said in its July Periscope Alert.

The Segal Group, Inc. pointed out “two common misconceptions” about GASB’s proposed changes.

The first deals with the “blended” discount rate, which Segal says is “not based on the plan’s current funded status, but rather on a projection of plan benefits and assets.”

That projection includes all future employer contributions that are intended to fund the benefits for current members, including payments toward any current unfunded liability.

“This means that even underfunded plans may get to use the long-term earnings rate to discount their liabilities, as long as they have a practice of making contributions to adequately fund their accrued liabilities,” Segal said in its August Bulletin.

The second misconception is that GASB is requiring faster funding of any unfunded liabilities, the actuarial and consulting firm said.


GASB’s new, shorter amortization rules apply “only to pension expense, and not to funding,” Segal said. “Employers will have to disclose whether they are funding their actuarially determined contribution amounts, but those contributions can still be determined using current actuarial funding policies.”

GASB’s Exposure Draft covers proposed amendments to Statement No. 27, Accounting and Financial Reporting for Pensions, and Statement No. 25, Financial Reporting for Pension Plans.

Under the changes, governments would be required to report in their statement of financial position a net pension liability, which is the difference between the total pension liability and net assets (primarily investments reported at fair value) set aside in a qualified trust to pay benefits to current employees, retirees, and their beneficiaries.

If adopted, there would be significant changes to how a government would calculate its total pension liability and pension expense.

“The net pension liability will be included in the employer’s balance sheet,” Gabriel Roeder Smith & Company said in its July GRS Insight. “Given current economic conditions, this measure of the unfunded liability will likely be quite large. Moreover, since it will be based on the fair (market) value of plan assets (and potentially on tax-exempt municipal bond yields) it will likely be very volatile.”

To view the guidance, visit: <http://publications.milliman.com/periodicals/peri/pdfs/PERi-07-01-11.pdf>, <http://www.segalco.com/publications-and-resources/public-sector-publications/bulletins/?id=1696&curr=true>, <http://www.buckconsultants.com/buckconsultants/portals/0/documents/PUBLICATIONS/Newsletters/FYI/2011/FYI-080211a-GASB-Issues-Exposure-Drafts-of-Amended-Standards-for-Public-Retirement-Systems.pdf>, and [http://www.gabrielroeder.com/news/pdf\\_insight/Insight2011\\_07.pdf](http://www.gabrielroeder.com/news/pdf_insight/Insight2011_07.pdf). 

## **Texas Approves Doubling Of Teachers’ Pension Hedge Fund Allocation**

In June, Texas Gov. Rick Perry signed a bill into law that allows Teachers Retirement System of Texas (TRS), to double its allocation to hedge funds, to 10 percent of the total.

The \$109 billion pension fund had lobbied for the change, saying that the added flexibility could have helped it avoid large losses during the financial crisis.

TRS executive director Ronnie Jung earlier told the House Pensions, Investments and Financial Services Committee that hedge funds were an important tool in diversifying the pension fund’s portfolio, and TRS used them to offset volatility in the stock market. He noted that

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when the stock market was dropping, TRS's use of hedge fund investments saved the system nearly \$1 billion.

Prior to the new legislation, TRS was authorized to invest no more than 5 percent of its assets in hedge funds.

TRS could take quick advantage of its new mandate. TRS's chief investment officer, Britt Harris, is a former executive at Bridgewater, the largest U.S. hedge fund. He told *The Economist*: "I'd rather have people who are important in my investment network closer to me." 🇺🇸

## Finance Professionals: S&P's Downgrade of U.S. Credit Rating to Hurt Capital Investment

One-quarter of financial professionals say that Standard & Poor's downgrade of the U.S. credit rating makes the United States a less desirable place for capital investment, according to a survey by the Association for Financial Professionals (AFP).

That said, most companies aren't planning to change their short-term investment strategies following the downgrade, according to the survey, conducted on Aug. 9-10.

Forty percent of survey respondents anticipate that access to capital, in terms of the cost of capital, will be detrimentally impacted by S&P's decision.

But investors still see Treasury securities as an important investment vehicle in portfolios that are designed primarily to protect principal.

"What we are hearing this week is far different from what finance pros were telling us in June," said Jim Kaitz, AFP's president and CEO. "While the U.S. may still be the best place to park idle cash, some companies think the U.S. isn't the best place to deploy strategic cash. That means they may look elsewhere when expanding their business or hiring staff."

The survey contained five questions focused solely on possible impacts to corporate investment strategies and access to capital – not on the validity of S&P's analysis. It generated 508 responses.

On the Web at: [www.afponline.org/liquidity](http://www.afponline.org/liquidity). 🇺🇸

## Advocacy Groups Begin Lobbying 'Super Committee' Not to Cut Entitlement Programs

Interest groups have begun to lobby the congressional "Super Committee" not to make cuts to Social Security, Medicare and Medicaid benefits.

The 12-person committee, comprised of an even number of lawmakers from both parties, is charged with coming up with at least \$1.2 trillion in spending cuts by Nov. 23.

The committee, officially known as the Joint Select Committee on Deficit Reduction, has no restrictions as to how it comes up with the savings, either via increased tax revenues or cuts to defense or entitlement programs, or some combination of all three.

But Republicans have been opposed to tax hikes and Democrats have resisted cuts to entitlement programs.

Max Richtman, president and CEO of the National Committee to Preserve Social Security and Medicare, a nonprofit, nonpartisan organization, said, "Our nation's vital safety net programs still remain the primary targets in this debt debate."

"Half of these committee members have pledged to keep revenues out of the solution, and even more than half are on the record with statements about the need to consider cuts to Social Security, Medicare and Medicaid," he added. "We can only hope the political deck is not stacked in this process in which decisions impacting virtually every American family will be debated by just 12 people, could be passed by just seven and then fast-tracked through Congress without amendment."

Some Democrats on the committee, including Sen. John F. Kerry (D-Mass.), have appeared open to cuts in entitlement programs. In an appearance on *Meet the Press* on Aug. 7, Kerry called for "a mix of reductions and reforms in Social Security, Medicare, and Medicaid."

"Even though Social Security has not contributed to our current deficit crisis, too many on this 'Super Committee' are willing to trade away its benefits while vigorously protecting the tax cuts for the wealthy and corporate loopholes which contribute so much to our deficit," Richtman said.

Three left-leaning activist groups, MoveOn, Campaign for America's Future, and Progressives United, are asking the committee's Democrats to hold firm against cuts to Social Security, Medicare and Medicaid.

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The three groups said Republicans on the committee have already supported a budget plan that would cut entitlement programs without changing the contributions made by wealthy individuals or corporations to finance the government.

The groups delivered petitions with more than 100,000 signatures to Senate Majority Leader Reid (D-Nev.) and House Leader Nancy Pelosi (D-Calif.), calling on them to ensure that America's social safety net is protected and that the wealthy and corporations pay their fair share of taxes.

Roger Hickey, co-director of Campaign for America's Future, said, "All of our groups want to make sure that none of the lawmakers nominated by Reid or Pelosi subscribes to the idea of a 'grand bargain' that imposes pain on the elderly, the poor and the middle class, while actually cutting taxes for the rich and the corporations."

AARP CEO A. Barry Rand added: "Americans want Medicare, Social Security and Medicaid to be strengthened as part of a broader conversation around health and economic security, not one focused solely on deficit reduction."

On the Web at: [http://www.ncpssm.org/news/archive/supercommittee\\_selection\\_release/](http://www.ncpssm.org/news/archive/supercommittee_selection_release/), <http://www.aarp.org/about-aarp/press-center/info-08-2011/aarp-to-supercommittee-protect-health-and-retirement-security-for-all-americans.html> and <http://www.ourfuture.org/news-release/2011083210/progressive-groups-warn-democrats-super-committee-must-strongly-defend-social-security>.

## **CBO Releases Long-Term Forecast of Social Security Finances**

The number of Social Security beneficiaries will grow from 56 million in 2011 to 91 million in 2035, the non-partisan Congressional Budget Office (CBO) said in its latest long-term projection.

By 2035, the growing number of beneficiaries due to the aging of the baby-boom generation will cause scheduled spending to climb to 6.1 percent of gross domestic product (GDP), compared to 4.9 percent of GDP in 2010.

CBO added that an immediate and permanent 1.6 percent increase in payroll tax contributions to the Social Security Trust Fund will be needed to assure the program's solvency for the next 75 years.

However, CBO acknowledged that there is "uncertainty inherent" in its projections. In 10 percent of the simulations it conducted for the forecast, outlays were below 5.3 percent of GDP and in another 10 percent they exceeded 7.4 percent of GDP.

"In most simulations, outlays in 2035 are projected to account for a much larger share of GDP than the share in 2010," the report says.

There were 2.8 workers for each Social Security beneficiary in 2010, compared to 4.9 workers for each beneficiary in 1960, CBO said. That compares to a projected 1.9 workers for each beneficiary in 2035.

On the Web at: <http://www.cbo.gov/doc.cfm?index=12376&type=1>.

## **State and Local Government Employees More Confident in Secure Retirement than Other U.S. Workers**

State and local government employees are more confident than U.S. workers in general that they will have enough money to live comfortably in retirement, according to a new report by the TIAA-CREF Institute.

This is mostly likely due to their higher participation rates in employment-based retirement plans, especially defined benefit (DB) plans, according to "Retirement Confidence among State and Local Government Employees" by Paul J. Yakoboski, principal research fellow at the TIAA-CREF Institute.

But the confidence gap would likely be larger if it weren't for concerns over the fiscal pressures facing state and local governments and the funding of DB plans.

The report notes that 17 percent of state and local employees were very confident in their retirement income prospects and 50 percent were somewhat confident, compared with 13 percent and 36 percent, respectively, for U.S. workers.

In addition, 86 percent of state and local workers were currently saving for retirement, compared with 59 percent of U.S. workers in general.

Affording health care in retirement is a particular area of concern for both state and local government employees and other U.S. workers.

Debt is an obvious hindrance to financial preparations for retirement – 77 percent of state and local workers with a major debt problem considered themselves behind in their planning and saving for retirement.

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One-half of the state and local government workforce had received retirement planning advice from a professional financial advisor within the past three years, the report showed. Advice regarding asset allocation was the advice most typically received. It was followed by advice on how much to save (70 percent) and the timing of retirement (59 percent).

Fifty-seven percent of state and local government workers were very confident that the advice they received was in their best interest.

On the Web at: [http://www.tiaa-crefinstitute.org/pdf/research/trends\\_issues/ti\\_rcstatalocal0811.pdf](http://www.tiaa-crefinstitute.org/pdf/research/trends_issues/ti_rcstatalocal0811.pdf).

## Federal Statistics Compare Retirement Benefits among Public and Private Sector Employers

New data from the Bureau of Labor Statistics (BLS) finds wide disparities among the retirement benefits available to employees in the public and private sectors.

Factors that affect the differing level of benefits include whether the employees worked in public or private sector jobs, whether they worked full-time or part-time and how large the workforce was at their place of employment.

The report, based on BLS's National Compensation Survey (NCS), which measures incidence and provision of employee benefit plans, was based on March data and released in July.

For the first time, the NCS collected data on employer-provided benefits available to unmarried domestic partners.

"For unmarried domestic partner benefits, about half the workers in state and local government have access to survivor benefits, as compared to 7 percent of the workers in private industry, reflecting in part the difference in the availability of defined benefit plans between these groups," the report said.

"Thirty-three percent of state and local government workers and 29 percent of private sector workers have access to health care benefits for unmarried domestic partners of the same sex. Access to benefits varies by employer and employee characteristics and by whether the unmarried domestic partner is of the same or opposite sex."

Employers overall paid 81 percent of the cost of premiums for single coverage, and 70 percent of the cost for family coverage for workers participating in employer-sponsored health care plans, the report noted.

The employer share for single coverage was greater in state and local government (88 percent) than in private industry (80 percent). For family coverage, the employer share of premiums was similar for private industry and state and local government, 69 percent and 71 percent, respectively.

Sixty-four percent of all private industry employees had access to retirement benefits, compared with 90 percent of state and local government employees. Eighty-five percent of state and local government employees actually participated in a retirement plan, compared with 49 percent of private industry workers.

Medical care benefits were available to 69 percent of private industry workers, compared with 87 percent of state and local government workers. About half of the private industry workers participated in a medical plan, compared with about three-quarters of state and local government workers.

Full-time workers in state and local government had a high rate of access to employer-provided benefits. Retirement and medical benefits were offered to 99 percent and paid sick leave to 98 percent of full-time workers. By comparison, only 73 percent of full-time employees in private industry had access to retirement benefits, 85 percent to medical care, and 75 percent to paid sick leave.

Paid sick leave was available to approximately two-thirds of workers overall. Nearly nine out of 10 state and local government workers had access, compared with approximately six out of 10 private industry workers.

The report found that employer-provided retirement benefits were available to 78 percent of full-time workers, but only 38 percent of part-time workers had access to a retirement plan.

The report also found a large disparity in access to health care benefits based on establishment size. The NCS found that, among private industry workers, 56 percent in establishments with fewer than 100 workers were offered a health care plan, compared with 89 percent in establishments with more than 500 workers.

On the Web at: <http://www.bls.gov/news.release/pdf/ebs2.pdf>.

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## Pension Funds' Global Alternative Assets Up 16 Percent in 2010

Alternative assets managed on behalf of pension funds by the world's largest managers grew 16 percent in 2010 to \$952 billion, up from \$817 billion in 2009, according to research by investment consulting firm Towers Watson in conjunction with The Financial Times newspaper.

At the same time, total assets under management for these managers increased by 12 percent to \$1.9 trillion, half of which was pension fund assets, according to the Global Alternatives Survey. Commodities managers almost doubled their pension assets under management in the last year, as suitable vehicles were developed as diversifiers and hedges against inflation, the research found.

North America continued to account for the largest amount of pension fund assets in alternatives, followed by Europe and Asia Pacific. Thirteen percent of the assets were invested in Asia-Pacific, up from 8 percent the year before, largely due to increases in real estate and infrastructure assets. In contrast, assets invested in North America shrank from 53 percent to 47 percent during 2010.

The research covered five alternatives asset classes: real estate; private equity fund of funds; fund of hedge funds; infrastructure; and commodities, and included rankings of the top managers in each area.

"Institutional investors continue to diversify into the full range of alternative assets, as the benefits of diversification become apparent and certain asset classes become more accessible," said Craig Baker, global head of research at Towers Watson Investment. "The trend away from equity-focused portfolios to more diversified structures is now well established as investors acknowledge the risks associated with an undiversified approach, particularly in light of ongoing economic uncertainty. Indeed, according to our research, allocations to alternative assets have continued to rise and now account for 19 percent of all pension fund assets globally, up from 5 percent fifteen years ago."

The research included an analysis of the top 100 alternatives managers showing that real estate managers dominated, accounting for around 55 percent of all assets (up from 52 percent in 2009), followed by private equity fund of funds (18 percent, down from 21 percent in 2009), funds of hedge funds (12 percent, down from 13 percent in 2009), infrastructure (12 percent in both 2009 and 2010) and commodities (3 percent, up from 2 percent in 2009).

Real estate assets invested by pension funds in the Asia-Pacific region doubled in 2010 and now account for 14 percent

of the total, while real estate assets invested in North America decreased from 55 percent in 2009 to 46 percent in 2010, the research found.

Macquarie Group was once again the largest infrastructure manager of pension fund assets with \$60.3 billion (\$51.6 billion in 2009) and also topped the overall rankings, while HarbourVest Partners once again led the private equity fund of funds sector with \$21.7 billion (\$21 billion in 2009).

Blackstone Alternative Asset Management managed the largest proportion of funds of hedge funds assets on behalf of pension funds, with a total of \$15.9 billion (\$14.3 billion in 2009). Prudential Financial Inc. topped the real estate sector with \$42 billion (\$20.9 billion in 2009) while PIMCO retained the leading pension fund commodities manager position with \$11.1 billion (\$8.5 billion in 2009).

On the Web at: <http://www.towerswatson.com/research/4844>. 

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## Global Pension Reforms Pressure Companies to Improve Management of Their Plans

As many countries reform their state pension and health and welfare systems, multinational companies face significant challenges in managing the cost, risk and competitiveness of their employee benefit programs, according to Mercer's annual Benefit Plans around the World Report.

These reforms, which have been prompted by aging populations across the globe and the increasing cost of providing adequate retirement income and health services, have been gaining traction in many countries, including Korea, Australia, France, the United Kingdom, Canada and the United States.

Companies have been tailoring their benefits to respond to worldwide cuts in public finances to trim costs and give themselves an advantage in attracting and retaining employees.

According to the report, many companies still grapple with how to deal with the financial volatility inherent in legacy defined benefit (DB) plans.

"This is exacerbated in many countries where changes in funding levels and regulatory requirements will have a financial impact," according to Mercer. This has led to a measure of "centralization."

"Companies are reevaluating their financial management policies and are looking to keep tighter control over plans in order to quickly and appropriately react to

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market conditions and ensure risk tolerance levels are met,” Mercer said.

As more countries retreat from public retirement provision, more employees are expressing a greater appreciation of the value and security of their benefits after two years of economic uncertainty and pay restraint, the research found.

The research also found common threads in the manner in which companies are looking for cost efficiencies and value for money. Some companies are reducing benefits for new hires or introducing cost sharing while others are consolidating with third party vendors or pooling insurance risk to achieve economies of scale.

A number of firms are taking a different approach, introducing programs to help control costs in the longer term, such as implementing wellness programs and flexible benefits programs.

Companies are also relying more heavily on frameworks, such as written policies on design, funding and investment, clear delegation of authority, assignment of responsibility related to benefit programs, and a defined approach to monitoring and mitigating risks.

On the Web at: <http://www.mercer.com/articles/1277030> and <http://www.mercer.com/press-releases/1422850>. 

## UPCOMING TEXPERS CONFERENCES

### TWENTY-THIRD ANNUAL CONFERENCE

Omni Corpus Christi  
Corpus Christi, Texas  
March 25-28, 2012

### SUMMER EDUCATIONAL FORUM

Grand Hyatt  
San Antonio, Texas  
August 19-21, 2012

### TWENTY-FOURTH ANNUAL CONFERENCE

Sheraton Austin  
Austin, Texas  
March 3-6, 2013

### SUMMER EDUCATIONAL FORUM

Grand Hyatt  
San Antonio, Texas  
August 4-6, 2013

### TWENTY-FIFTH ANNUAL CONFERENCE

Renaissance Worthington  
Fort Worth, Texas  
March 23-26, 2014

### SUMMER EDUCATIONAL FORUM

Omni Houston Hotel  
Houston, Texas  
August 8-12, 2014

### TWENTY-FIFTH ANNUAL CONFERENCE

Sheraton Austin Hotel  
Austin, Texas  
March 29-April 1, 2015

### *Important Dates to put on your calendar ...*

- *September 5: Labor Day (office closed)*
- *October:*
  - *TEXPERS Asset Allocation Study*
  - *10: Columbus Day (office closed)*
- *November:*
  - *11: Veteran's Day (office closed)*
  - *Annual Membership Renewal begins*
  - *24-25: Happy Thanksgiving! (office closed)*
- *December:*
  - *1: TEXPERS Board of Directors Meeting*
  - *24-Jan. 1: Merry Christmas & Happy New Year! (office closed)*
  - *Registration opens for 23<sup>rd</sup> Annual Conference in Corpus Christi!*