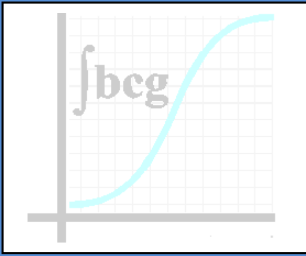

BCG Retirement News Roundup

August 2018 Volume 7, Issue 8

Boomershine Consulting Group, 3300 North Ridge Road, Suite 300, Ellicott City, Maryland 21043

www.boomershineconsulting.com 410-418-5525

Boomershine Consulting Group (BCG) provides this monthly news roundup of highlighted significant articles from the retirement industry – for clients and friends. Retirement plan news has become increasingly pertinent for many audiences these days, including:

- Retirement Plan Sponsors – addressing both private and public sector issues
- Employers – dealing with complicated decision making for their plans
- Employees – educating the Boomer generation that is nearing retirement
- Industry Practitioners - helping to understand and resolve today's significant challenges

We review numerous industry news services daily and will include a collection of timely and significant articles each month concerning compliance, actuarial plan costs (including assumption debates), plan design change issues and benefit trends, as well as other related topics. If you would like to discuss any of these issues, please contact us.

Inside This Issue

Public Sector/Government Plans

- Public pension plans top quarterly, annual returns in Wilshire TUCS, InvestorForce universes
- Never Retire: Why People Are Still Working in Their 70s and 80s
- Report: Shortfalls in employee benefits strain district finances
- States Flex Their Muscles on Coverage
- 10 states with the worst retirement funding

Private Sector

- UPS Retirees Sue Feds Over Law That OKs Pension Cuts
- PBGC Staff Suggests Plan Spinoffs Made to Reduce Premiums ‘Should Be Disregarded’
- Retirees Struggle To Locate Billions In Lost Pensions As Government Looks For Solutions
- Almost a Third of Defined Benefit Plans Have 95% Funding, Making Buyouts, Risk Transfers ‘Feasible,’ Study Finds
- Cash Balance Plans Top $1 Trillion

Public Sector/Government Plans

Public pension plans top quarterly, annual returns in Wilshire TUCS, InvestorForce universes

The overall median return of the Wilshire Trust Universe Comparison Service and MSCI's InvestorForce Plan Universe was 0.88% and 0.61%, respectively.

Wilshire TUCS plans improved on a median -0.47% return in the first quarter.

Public defined benefit plans posted the highest median quarterly return in Wilshire's universe at 1.34%; followed by Taft-Hartley health and welfare funds, 1.23%; foundations and endowments, 1.06%; Taft-Hartley DB plans, 0.72%; and corporate DB plans, 0.42%.

"Exposure to U.S. equities clearly helped fuel plan performance second quarter," said Jason Schwarz, president of Wilshire Analytics and Wilshire Funds Management, in a news release on the results. "The recent mix of positive economic indicators and generally strong earnings results has helped drive equity returns higher."

For the year ended June 30, the TUCS universe returned a median 7.5%. Public DB plans also posted the highest median return for the 12-month period at 8.55%, followed by Taft-Hartley DB plans, 7.96%; foundations and endowments, 7.71%; Taft-Hartley health and welfare funds, 5.98%; and corporate DB plans, 5.52%.

By asset class, the Wilshire 5000 Total Market index posted quarterly and one-year returns of 3.83% and 14.66%, respectively. The MSCI World ACWI ex-U.S., meanwhile, returned -2.61% and 7.28% over those periods, respectively, and the Wilshire Bond index, -0.25% and -0.59%.

All master trusts had a median allocation of 44.72% to U.S. equities and 26.49% to U.S. bonds. Public plans had a median 47.08% allocated to U.S. equities and 21.2% to U.S. bonds as of June 30, while foundations and endowments, 47.04% to U.S. equities and 23.46% to U.S. bonds; Taft-Hartley DB plans, 46.84% to U.S. equities and 24.43% to U.S. bonds; and corporate DB plans, 35.54% to U.S. equities and 36.6% to U.S. bonds.

Longer term, for the three, five and 10 years ended June 30, the TUCS universe returned a median annualized 6.44%, 7.6% and 6.69%, respectively. The median corporate pension plan lagged all of the long-term returns, while the mean public DB plan return exceeded

in all time periods.

Meanwhile, the combined median plan return for MSCI's InvestorForce Plan Universes was 0.61%, net of fees, for the second quarter, and 6.9% for the one-year period ended June 30. Taft-Hartley plans led the defined benefit sub-universes over both the second quarter and one-year periods, with median returns of 1.13% and 7.71%, respectively. Public defined benefit plans outperformed corporate DB plans, with a median second-quarter return of 0.82%, and 7.6% for the year. Corporate DB plans recorded a median return of 0.08% over the second quarter and 5.8% over the past 12 months.

Endowments and foundations had a median return of 0.57% in the second quarter and 7.48% for the year.

The median equity allocation across the universe was 48.4%, while the median fixed-income allocation was 18.4%. Public defined benefit plans had a higher median equity allocation than their corporate counterparts, at 53.2% vs. 43.6%.

MSCI's InvestorForce Plan Universes include more than 2,300 plans representing more than $3 trillion in assets.

Wilshire TUCS includes more than 1,300 plans with more than $3.6 trillion in assets combined.

© 2018 Crain Communications Inc.

Never Retire: Why People Are Still Working in Their 70s and 80s

For some, retirement is a dirty word. Others opt to "un-retire" when they realize they've made a mistake.

Gary Wordlaw failed at retirement. His attempted retirement didn't even last a year.

"It probably lasted about six or seven months," says Wordlaw, 66, whose career as a TV reporter, news director and station manager took him to cities across the country before his short retirement. "It didn't take me that long to realize I'd made a big mistake."

Today, Wordlaw is a news director at WVLA-TV and content editor for Nexstar Media Group in Baton Rouge, Louisiana, and he has no plans to retire again.

It's not uncommon these days for baby boomers to continue to work well into their 60s,

70s or even 80s. Some decide to continue working because they need the money. Others love what they do and can't imagine not doing it anymore. Or, they just need to stay busy. With continued improvements in health care and life expectancy in the U.S. steadily increasing, people can spend as long in retirement as they spent working.

That's not to say there aren't millions of baby boomers who can't wait to retire, especially those with physically or emotionally stressful professions. But increasingly, older Americans are choosing to stay in their jobs or find new challenges that will keep them engaged.

According to the U.S. Bureau of Labor Statistics, between 1977 and 2007, the employment of workers age 65 and older rose by 101 percent. The number of employed men 65 and older increased 75 percent, but employment of women 65 and older climbed by nearly twice as much, increasing to 147 percent. Though the number of employed people age 76 and older is relatively small, this group increased by 172 percent.

Sandra McPeak, managing director of investments at Wells Fargo Advisors, says 50 percent of retirees follow a nontraditional retirement, and 26 percent "un-retire," according to 2010 research from Harvard University. Of her clients, a third are still working and two-thirds are not working, compared to 20 years ago when only 5 to 10 percent were not retired.

Clint Camua, vice president of EP Wealth Advisors in West Los Angeles, says one of his clients worked into her early 80s – and worked two jobs, though she didn't need the money. "She worked as an assistant to a judge from 7 a.m. to 3 or 4 p.m.; then, she would go to the race track and be a security guard, carrying a weapon."

The financial benefit was huge, even though she didn't need to work. "Her money was growing and not being depleted because she was not even tapping her savings," he says. She stopped working when she got sick and moved to an assisted living facility. But, at 91, she is still active socially, he says.

McPeak, meanwhile, says the most interesting older workers are those who decide to un-retire. "A lot of times, people, when they retire, think they will have all this time. They think they can catch up. But after a while, they are drumming their fingers. They feel out of it. They don't feel engaged. They feel like they aren't contributing."

Here are top reasons why people decide to stay active and not to retire in their older years.

You can socialize and find fulfillment in your organization's work. Wordlaw, after more than 40 years in the TV industry, decided to retire when his job as general manager of a TV station in Tallahassee, Florida, ended with new management. "I figured this was the appropriate time to stop doing anything," he says.

He and his wife moved back to Louisiana. "Every morning, I would get up and go to the community coffee shop, have my coffee and I would watch people who had real jobs come and go. I said, 'Look at these people. They don't know how great it is to sit here and have coffee.'"

That feeling didn't last. "Minutes turned into hours, and hours turned into days," he says. "I had all this pent-up energy of wanting to contribute to the industry I had been in all those years. I said, 'Man, this isn't what it was supposed to be. I'm not satisfied.'" His first thought was to write a book, but then he started watching the news. "People weren't doing it the way I thought it should be done. At this stage in my life, I wanted to be a teacher in the industry."

He reached out to friends and ended up with his current job in Baton Rouge. "I got the best of all worlds," he says. "I get to hire young people, work with seasoned people and put a stamp on things. Going to work, for me, is like being on an extended vacation."

As for his wife, Marjorie, she's been happy since he un-retired, he says: "I wasn't underfoot."

The California Public Employees Retirement System covers 90% of cities in California, but the program is underfunded. A handful of California cities are “trying to work with Section 115 Retirement Trust so they can set aside funds to cushion for a rainy day for funding pensions,” says Yadavalli. “This has been helpful for some cities that are able to have good forethought about what their pension payments will look like.”

A Section 115 Retirement Trust is a way for cities to put money aside right now to help offset additional costs in the future.

“Largely, the things I kept seeing in the State of Cities report was intergovernmental relations and how cities are trying to cope within the confines of the state retirement system,” she says. “Some of the cities are able to provide a solution within that scope, some cities in California are trying to save for the future through a Section 115 Retirement Trust Fund and Binghamton, N.Y. created a savings fund where it can offset increases in health and pension costs.”

You can continue to pursue your life's passion and support worthy causes. Howard Wooley, 61, is also un-retired. He retired in 2013 after 33 years in the communications industry, first with the National Association of Broadcasters and later with Verizon.

He and his wife, Gail, traveled and settled down at North Carolina's Outer Banks. Gail, who suffered from sickle cell anemia, was writing a book about her life and her battle with the disease. Wooley was spending his days at Starbucks and taking long walks. "Gail said in the first six months after I was home, she felt like I was pacing around the house."

"Toward the end of 2014, Gail could see that I was getting restless," he says. So, she did not object when an offer from Microsoft brought him out of retirement to do public policy consulting. But she laid down the ground rules. "She said, 'Howard, this cannot be a repeat of your corporate work where you are on your smartphone 24/7.'" Being a consultant gave him the family time he needed.

Gail died in March 2015, at 58, from the disease she had battled her entire life. (A pediatrician had told her mother that she wouldn't live past 35.) Wooley took her book to an agent and eventually a publisher. "Soar: A Memoir," was published in 2017. Wooley also continues her mission and passion: sickle cell research and advocacy. He has also taken on a second client and serves on several boards of directors.

You can stay engaged and mentally sharp without giving up on a profession you love. George Fraser, a noted public speaker, author and networking expert, says he racks up about 350,000 airline miles per year. Fraser has never tried to retire and has no intention of doing so. "I never even thought about it," he says.

"I can't imagine doing anything other than this work," Fraser says. "I'm 73 and I'll either die sitting at a podium or at my desk dotting an 'i' or crossing a 't.'"

He says he can't even imagine retirement. "I enjoy my work more than vacation. I'm not a sit at the beach and chill kind of guy." He also says he has no friends who are retired.

"If your health allows you, don't ever retire," Fraser says. "If your work enthralls you and excites you, you should keep doing it till your last breath. It will keep you interesting and engaged with life. It'll keep you curious."

Copyright 2018 © U.S. News & World Report

Report: Shortfalls in employee benefits strain district finances

Dive Brief:

- A new report from Bellwether Education Partners, "Benefits Take Larger Bite out of District K-12 Budgets," crunches the numbers on U.S. Department of Education data on district finances from 2005 to 2014 for a better picture of district-level education and instructional spending alongside educator benefits spending.
- According to the findings, district benefits spending has risen 22%, compared to a 1.6% growth rate in overall K-12 spending between 2005 and 2014, with the percentage of national ed funding spent on benefits increasing from 16% to 19% and resulting in more than $11 billion less in the money making it to classrooms.
- According to the research, 23 states sent less money to the classroom in 2014 than in 2005, with as much as 30% and as little as 8% of state-level ed funding dedicated to benefits.

Dive Insight:
In the broader picture, teacher benefits are one facet of a $1 trillion public sector pensions and benefits shortfall. Teacher pay and benefits in particular, however, have gained significant attention in recent months with a number of walkouts and protests focused around them in states ranging from West Virginia to Arizona.

Leaving teachers with sub-par security in retirement isn't just questionable policy — it contributes to hiring difficulties in districts nationwide. Pay has largely failed to keep up with rising costs of living, with San Francisco among the most notable examples of scenarios where teachers can no longer afford to even live in the cities in which they teach. In most states, it has even fallen. On top of that, teachers spend an average of $530 of their own money annually on supplies for their classrooms. Coupled with the lack of respect they often feel from the public and policymakers — former education secretary John King felt the need to apologize to them for this as one of his first acts in the role — it's easy to see why there might be caution when it comes to pursuing a career in the field.

Solving this equation will, in part, require an overall rethinking of public sector pensions and benefits. But it will also necessitate states to rethink education funding overall. As recently as November, data showed 29 states providing per-pupil funding that was still below pre-recession levels, and a 2016 report from the U.S. Department of Education also found that state and local spending on jails and prisons far outpaced spending on public education over the last 30 years.

© 2018 Industry Dive.

States Flex Their Muscles on Coverage

On a host of issues, the map of the U.S. is a crazy quilt, with states creating a kaleidoscope of responses to problems and circumstances — one of which is the retirement readiness of employees in the private sector. Following is an update highlighting some of the most significant developments in states that have taken steps to create state-run programs for these employees.

Oregon

When it comes to implementation and operation of a state-sponsored plan, Oregon stands at the head of the line.

On June 25, 2015, Oregon Gov. Kate Brown (D) signed into law a bill creating the Oregon Retirement Savings Board (ORSB), a body that operates under that state Treasury whose job was to establish and oversee the state-sponsored savings plan — an auto-IRA program for private-sector workers known as OregonSaves. A little less than two years later, in April 2017, the ORSB approved the final rules for the program.

Starting Nov. 15, 2017, Oregon employers with 100 or more employees had to begin registering with OregonSaves, either certifying that they already offer their workers access to a qualified retirement plan or automatically enrolling them into it. Employers must register for the program if they either have a quarterly payroll of $1,000 or more, or employ one or more individuals 18 years or older for 18 separate weeks during the year.

Not all employers are swept into the OregonSaves net, however. An employer may file a certificate of exemption (which must be renewed every three years) from the program if it already offers a qualified plan — defined as a tax-qualified retirement plan such as a 401(k), 403(b), 457(b), or SEP or SIMPLE IRA — to its employees.

The pilot for OregonSaves was launched on July 1, 2017. The ORSB reported in July 2018 that in the program's first year:

- 990 employers registered for it.
- More than 58,000 employees are participating in it — 73% of those eligible to do so.
- Participants saved an average of $46.42 per pay check, or $100.21 per month; the average savings rate is currently 5.14% of gross pay.
- OregonSaves' assets totaled just under $4.56 million.
-

Implementation has come in waves. It is being phased in based upon employer size, over two and a half years. The ORSB says that it will launch the third wave on Dec. 15, 2018, targeting

employers with 20-49 employees. By May 15, 2020, all employers must register with the program.

The state Treasury reported on Aug. 1 that it has begun a new round of rulemaking for the program, which will include discussions of expanding OregonSaves by:

- allowing individuals, such as the self-employed, to sign up and participate in the program; and
- adding a traditional IRA as an investment option, in addition to the Roth IRAs currently available.

Illinois

The Land of Lincoln beat Oregon to the punch legislatively; its legislature enacted a bill creating the Illinois Secure Choice Savings Program three days after 2015 began, almost six months earlier. The program is now being tested; Illinois State Treasurer Michael Frericho (D) announced April 18 that employers which volunteered to participate in a pilot program are doing so.

The original measure was mandatory, requiring employers with more than 25 employees to either provide a retirement plan or participate in the state's Secure Choice plan. The program was to begin functioning on June 1, 2017; however, a measure was later enacted that delayed enrollment of employees and specifies that full implementation is to take place by Dec. 31, 2020. It's up to the Illinois Secure Choice Savings Board to set a precise timeline.

However, on Aug. 14, 2018, Gov. Bruce Rauner (R) issued an amendatory veto, which made technical changes to the Secure Choice program to change the meaning of the legislation. He changed wording that said employers "shall" offer Secure Choice to "may." In the process, Rauner provided employers the option to not offer the program — a change that may make the program voluntary.

In his veto message, Rauner noted that "valid concerns" have been raised about the program, which he said could result in:

- fewer small retirement plans;
- the terminations of existing small plans; and
- concerns about the program's "viability under federal law."

But Rauner's action isn't necessarily the end of things; legislators could:

- approve the change;
- let die the technical changes bill to which Mr. Rauner's action applies; or
- override the amendatory veto.

Maryland

On May 11, 2016, Gov. Larry Hogan (R) signed into law legislation creating a retirement program for private-sector workers who do not have access to an employer-sponsored retirement plan. It went into effect on July 1, 2016; however, there is no specific implementation timetable.

The Maryland Small Business Retirement Savings Program and Trust creates mandated payroll deduction individual retirement accounts for employees of small businesses and an 11-member board to implement and administer the program. The program requires employers with 10 or more employees which use an automated payroll system or service and do not offer their own plan to either participate in the state program or pay an annual filing fee. It also creates a state-run auto-IRA program that businesses can offer and thereby fulfill the law's requirements.

Employers which either participate in the program or offer a retirement savings arrangement to their employees will be exempt from the state's $300 annual filing fee for corporations and business entities after the program becomes operational.

California

On Sept. 29, 2016, Gov. Jerry Brown (D) signed into law SB-1234, a measure that will implement the California Secure Choice Retirement Savings Trust Act, which created the California Secure Choice Retirement Savings Program (though it has since been renamed CalSavers), a state-run auto-IRA plan. The law went into effect on Jan. 1, 2017, but as in Oregon, Illinois and Maryland, that doesn't mean that the program came into fruition immediately; it calls for a gradual phase-in over three years to give affected private-sector employers time to prepare.

The law provides that all private-sector employers with five or more employees must either offer their own retirement savings program or automatically enroll their workers in the state-based payroll deduction IRA program at 3% of pay. There is automatic escalation, but it is not to be more than 1% of salary per year. Employees may opt out of automatic escalation, as well as the program itself; they also may set the amount of pay they contribute to their accounts and the amount of automatic escalation.

The California Secure Choice Retirement Savings Investment Board administers the plan, including determining which entities are responsible for handling the administrative, recordkeeping, custodial and investment functions. The Board is to invest the program's funds in U.S. Treasuries or similar investments for up to three years after implementation. The Board adopted final regulations for the program earlier this year, an important step toward implementation. On Aug. 16, the board chose Ascensus to serve as administrator of CalSavers and State Street Global Advisors to provide investment management services.

As of June 30, 2017, CalSavers had just over $1.7 million in cash and investments in the state Treasury. CalSavers is expected to start a pilot program later this year and open the program officially for statewide enrollment in 2019. It will be rolled out gradually, and will be mandatory on a phased-in basis from 2020 to 2022 for different groups of employers, based on their size: 100 or more employees in January 2020, 50-99 employees in January 2021, and 5-49 employees in January 2022.

Small Business Marketplaces

Another option some states have pursued is to set up retirement plan marketplaces for private-sector small businesses.

New Jersey. In January 2016, then-New Jersey Gov. Chris Christie (R) signed into law the New Jersey Small Business Retirement Marketplace Act, which is intended to create a retirement savings program that connects eligible employers and their employees with approved plans to increase retirement savings. It establishes the New Jersey Small Business Retirement Marketplace, which is to offer at least two types of plans for eligible employer participation, including a SIMPLE IRA and a payroll deduction IRA-type plan or workplace-based IRA open to all workers in which the employer does not contribute to employees' accounts.

The law requires that that there be at least two financial services firms offering approved plans in the marketplace. Firms doing so must offer a minimum of two product options: a balanced fund and a target date or other similar fund.

Washington. Legislation creating a virtual retirement marketplace in Washington State was enacted on May 15, 2015; however, the marketplace wasn't launched until March 19 of this year. The marketplace is intended to serve as "an informational hub, bringing together financial services firms, employers and employees" that will simplify retirement savings options, facilitate informed decisions about retirement and enable individuals to start building savings.

In the marketplace, financial services firms will offer low-cost retirement savings plans to

businesses with fewer than 100 employees, including sole proprietors and the self-employed. At launch, the site offered five types of 401(k) plans, as well as Roth and traditional IRAs; the state's Department of Commerce has said that more plans will be added in the future. Participation is voluntary for both employers and employees. The Department of Commerce administers the marketplace, but private retirement plan providers handle enrollment. The marketplace is also open to self-employed, part-time and temporary "gig" workers.

Copyright 2018 by ASPPA

10 states with the worst retirement funding

Some states' retirement plans are in trouble. Well, quite a few of them, actually. And for some of the least well off, the situation isn't getting any better, by a long shot.

In 2015, state governments spent nearly $39 billion—approximately $120 per capita—on retirement funding. And the decades-long arguments over how to fund and distribute pension funds for state government employees has become even more of a flashpoint than in the past, before the Great Recession took its toll on funds already set aside and both state governments and fund managers sought more urgently to bring in higher returns, lest the plans run out of money.

As 24/7 Wall St. says, "State pension liabilities can strain overall state finances, especially when the economy is already struggling, and even put funding of other programs at risk."

Of course, it's not just a question of how much a state contributed, or how well the plan's assets did in the market. A report from the Center for Retirement Research at Boston College analyzed those assets and concluded that differences in asset allocation, as well as differences in asset class, contributed quite a bit to the sort of returns a given pension plan has.

In addition, according to Fitch Ratings, states just aren't doing enough to cut pension liabilities. And the situation doesn't appear to be improving, with FY 2016 seeing an increase in state pension funding gaps — so says the Pew Charitable Trusts.

To evaluate just how bad—or good—the situation is in all 50 states, 24/7 Wall St. took a close look at reams of data and ranked each state accordingly. From the U.S. Census Bureau's 2015 State and Local Finance data, it reviewed details on state government spending toward retirement, along with state revenue and cash/security holdings.

Then it examined state pension deficit data from the Pew Charitable Trust's "The State Pension Funding Gap: 2016"; reviewed May 2018 data from the Bureau of Labor Statistics on state government employment as a share of total nonfarm employment; and considered data on state tax collections from the Tax Foundation's Facts and Figures report, released in 2018 and including collections for fiscal year 2015.
All that data gave it the means to identify what each state spends on retirement. There's substantial variation in both funding levels and per capita spending when it comes to state retirement plans, and states with high pension expenditures, it explains, tend to have higher tax collections per capita. In addition, the size of the state government workforce is apparently not a major factor in annual state pension payments.

Once its analysis was complete, it ranked all the states in order from the lowest per-capita state retirement fund expenditure to the highest. Below are the 10 states with the worst retirement funding:

10. Iowa
Total 2015 retirement spending: $73.5 per capita ($231 million)
State government employment: 68,000 (4.3 percent of total employment)
Percent of pension currently funded: 81.6 percent (10th highest)
2015 tax collections per capita: $2,942 (19th highest)

9. Idaho
Total 2015 retirement spending: $73.0 per capita ($123 million)
State government employment: 30,400 (4.1 percent of total employment)
Percent of pension currently funded: 87.7 percent (7th highest)
2015 tax collections per capita: $2,402 (15th lowest)

8. Kentucky
Total 2015 retirement spending: $62.8 per capita ($279 million)
State government employment: 95,100 (4.9 percent of total employment)
Percent of pension currently funded: 31.4 percent (2nd lowest)
2015 tax collections per capita: $2,621 (21st lowest)

7. Kansas
Total 2015 retirement spending: $59.4 per capita ($173 million)
State government employment: 51,900 (3.7 percent of total employment)
Percent of pension currently funded: 65.1 percent (21st lowest)
2015 tax collections per capita: $2,708 (25th highest)

6. Mississippi
Total 2015 retirement spending: $52.9 per capita ($158 million)
State government employment: 59,300 (5.1 percent of total employment)
Percent of pension currently funded: 57.5 percent (11th lowest)
2015 tax collections per capita: $2,641 (24th lowest)

5. Hawaii
Total 2015 retirement spending: $51.5 per capita ($74 million)
State government employment: 73,000 (11.0 percent of total employment)
Percent of pension currently funded: 51.3 percent (6th lowest)
2015 tax collections per capita: $4,530 (3rd highest)

4. Nevada
Total 2015 retirement spending: $46.7 per capita ($137 million)
State government employment: 42,900 (3.1 percent of total employment)
Percent of pension currently funded: 72.3 percent (21st highest)
2015 tax collections per capita: $2,606 (20th lowest)

3. Arkansas
Total 2015 retirement spending: $41.9 per capita ($125 million)
State government employment: 77,900 (6.3 percent of total employment)
Percent of pension currently funded: 76.9 percent (15th highest)
2015 tax collections per capita: $3,086 (14th highest)

2. Tennessee
Total 2015 retirement spending: $30.1 per capita ($200 million)
State government employment: 98,700 (3.2 percent of total employment)
Percent of pension currently funded: 94.1 percent (3rd highest)
2015 tax collections per capita: $1,924 (4th lowest)

1. Georgia
Total 2015 retirement spending: $26.4 per capita ($273 million)
State government employment: 172,000 (3.8 percent of total employment)
Percent of pension currently funded: 75.8 percent (17th highest)
2015 tax collections per capita: $1,931 (5th lowest)

Copyright © 2018 ALM Media Properties, LLC.

Private Sector

UPS Retirees Sue Feds Over Law That OKs Pension Cuts

Three retired United Parcel Service Inc. workers sued the federal government July 31 challenging the Treasury Department's decision to allow their pension benefits to be reduced. The lawsuit is the first to challenge the Multiemployer Pension Reform Act, also known as the Kline-Miller Act. The 2014 law allows a multiemployer plan to request Treasury's approval to cut benefits if the plan shows that doing so would avoid insolvency.

The retirees seek to hold the U.S. government liable for engaging in an "uncompensated taking of their property" by authorizing—through the Treasury—those pension cuts. The retirees, who participate in the New York State Teamsters Conference Pension and Retirement Fund, seek to represent 21,250 similarly situated workers.

Multiemployer plans are collectively bargained between unions and employers in the same industry. More than 100 of these plans have indicated that they're heading toward insolvency within the next 20 years. At least five pension funds, including the New York State Teamsters, have received Treasury approval to cut benefits.

The lawsuit challenges the "nascent practice" of having the government authorize plans to cut vested pension benefits. These cuts, the retirees allege, benefit the government by reducing or eliminating the coverage risk of the government's insurer, the Pension Benefit Guaranty Corporation.

Multiemployer plans pay insurance premiums to PBGC. The agency takes over after plans are unable to pay benefits to its participants. PBGC's multiemployer program has been struggling in recent years, and it will likely run out of money before the end of fiscal year 2025.

MPRA reflected Congress's concern that PBGC would face harm unless vested pension benefits were cut, the retirees said. MPRA was allegedly designed to lower the government's insurance costs and to "prop up" PBGC, the retirees said. If the PBGC became insolvent, it would have paid hundreds of millions of dollars in claims, and the government would face "crushing political pressure" to cover any losses beyond the amount that the PBGC could cover, the retirees said.

The lawsuit comes amid Congress's efforts to address the pension funding crisis that wasn't fixed by the enactment of the MPRA. In the past few months, Congress has been holding

meetings—through the House-Senate Joint Select Committee on Solvency of Multiemployer Pension Plans—to come up with a solution for the insolvency issue. The committee has until November to come up with a proposal.

The U.S. Department of Justice didn't immediately respond to Bloomberg Law's request for comments.

Messing & Spector LLP represents the retirees.
The case is King v. U.S., Fed. Cl., No. docket number unavailable, complaint filed 7/31/18.
Copyright © 2018 The Bureau of National Affairs, Inc.

PBGC Staff Suggests Plan Spinoffs Made to Reduce Premiums 'Should Be Disregarded'

"Reverse spinoff" transactions being considered by some retirement plans to avoid Pension Benefit Guaranty Corp. (PBGC) premiums "should be disregarded" by the agency, staff suggested in a recent web posting.

The interpretation was posted on a new web page offering staff responses to practitioners' questions about requirements such as Employee Retirement Income Savings Act (ERISA) Title IV, which outlines the plan termination insurance program covering defined benefit (DB) pension plans. The interpretations posted on the new PBGC page reflect the views of agency staff but are not rules, regulations, or statements of the agency, the page states (see related story).

The 2-step spinoffs the agency said are being considered by some DB plans move most participants late in the year to a new plan that is virtually identical to the old one, but with a new name, employer identification number (EIN), and plan number. A small group of retirees is left in the original plan, which is then terminated and annuities are purchased for them.

Allowed Under Current Regulations

Special premium reduction rules in ERISA Section 4006 say a DB plan is exempt from PBGC variable rate premiums in its final year, and that total PBGC premiums are prorated in the first year of new plans.

"ERISA section 4006 does not provide for reducing the premium obligation in either of the situations noted above (i.e., when a plan is exiting the DB system or when the plan year is less

than 12 months).”

PBGC said it adopted the special premium reduction rules because “it seemed overly burdensome to charge the entire statutory premium in a year when either of these one-time events took place.” PBGC staff explained the special premium reduction rules in its response listed under the “Premiums” tab of the web page.

Applying the special rules results in much lower premiums, PBGC staff noted. However, with the spinoff strategy noted above, the benefits of the vast majority of the participants who were in the plan at the beginning of the year have not been fully funded or paid in full, and PBGC coverage is still in effect for these participants.

As a result, PBGC said, federal common law under ERISA and cases that look to the substance and not the form of a transaction suggest that this 2-step transaction, and similar ones, “should be disregarded and premiums assessed as if such transaction had not occurred.”

“We are especially skeptical of this strategy because it seems plausible that some plans could engage in this sort of two-step transaction year after year,” PBGC said in its interpretation.

Barrier to Strategy

One employment benefits law firm sounded a warning on the PBGC statement about 2-step spinoffs. “Even though it is not formal guidance from the PBGC, this interpretation will undoubtedly hamper those types of strategies going forward,” wrote Groom Law Group in a July 26 client bulletin.

“It is not yet clear whether PBGC will undertake an enforcement initiative in this area or propose a change in its regulations. In the meantime, plan sponsors actively engaged (or previously engaged) in this or similar transactions should understand the risks and evaluate their next steps,” the law firm said.

The questions, responses, and examples on the PBGC web page also cover issues such as bankruptcy claims, liens arising from large missed contributions, guaranteed benefits, distress terminations, and reportable events, among other topics.

© 2018 BLR®—Business and Legal Resources

Retirees Struggle To Locate Billions In Lost Pensions As Government Looks For Solutions

Deborah Imondi knows pensions. The 66-year-old retiree from Johnston, Rhode Island, managed a large corporate pension fund for 25 years. But when it came time for her to claim her own pension benefits from a bank she worked for five decades ago, Imondi found herself helpless.

The bank, Rhode Island Hospital Trust, went through a series of complicated buyouts and mergers after Imondi left in 1984. The local business was eventually taken over by Bank of America Corporation, which initially told Imondi she did not have a pension with them. Many phone calls later, she said the company admitted the pension may have been turned over to Fidelity Investments — but Fidelity initially denied any record of it.

“I had just about figured this is a lost cause,” said Imondi. “If Fidelity can’t find me, nobody can.”

Imondi was one of many retirees attempting to follow the elusive paper trail to find their “lost” pensions, routinely meeting rejection and leaving behind billions of dollars in unrecovered benefits.

An estimated $156 billion in private “defined benefit” pensions — employer-funded plans popular when today’s seniors made up the workforce — are unclaimed, according to the Pension Action Center, a nonprofit based out of the University of Massachusetts Boston that helps seniors recover lost benefits.

A private-sector pension can become “lost” for a slew of reasons. Pension plans are transferred during corporate buyouts and restructuring. Employees change addresses and last names, becoming unreachable. In some cases, workers are never notified of their pension to begin with or forget they are entitled to benefits.

Part of the problem is that it is not clear what employers are obligated to do to find “missing participants,” pensioners like Imondi who are owed benefits but whose contact information is outdated or missing in plan records.

The U.S. Department of Labor, recognizing the depth of the problem, recently announced it will draft new guidelines for employers to locate people who are owed pension payouts.

Preston Rutledge, newly appointed head of the Department of Labor's Employee Benefits Security Administration, said at a July conference that the issue "has the potential to undermine the very basis of the whole [pension] system."

In the same address, Rutledge announced that his agency will issue clear search guidelines for employers administering pension plans. The move came after a June report by the Internal Revenue Service that found that there are "no standard practices in the industry for the frequency or method of conducting searches." Industry groups have also publicly requested guidance from the government.

Federal regulations require employers to perform a "diligent search" before declaring a participant "missing," but the rules do not outline specific steps for completing this search.

Employers typically use some combination of mailers sent to addresses on file, electronic search tools, and commercial locator services to find participants. Imondi says she received no such communication about her pension.

While many plans follow comprehensive search procedures, others do the bare minimum. The Employee Benefits Security Administration recently uncovered several large pension plans with serious record-keeping issues and others that were not following their own established procedures to find missing pensioners. In fiscal year 2017, the agency recovered $682.3 million in benefits by locating plans' missing participants for them.

Mark Machiz, former regional director for the Employee Benefits Security Administration in Philadelphia, said his office was able to find a large number of participants without extraordinary effort — prompting officials to conclude companies weren't trying very hard.

"No matter what anyone said, real efforts were not being made," Machiz said.

While regulators move to clarify and enforce employer responsibility, legislators are working to make it easier for retirees to find their lost benefits. Sen. Elizabeth Warren, a Democrat from Massachusetts, and Sen. Steve Daines, a Republican from Montana, reintroduced a bill this year that would create an online registry of all retirement plans. This central pension registry would act as a one-stop-shop for retirees trying to find plan data now scattered across several federal agencies.

But pension rights advocates have raised concerns about language added to the bill earlier this year thanks to lobbying by employer advocacy groups like the Washington, D.C.-based American Benefits Council, whose members are mainly Fortune 500 companies. The so-called "Safe Harbor" provision would bypass any guidance issued by regulatory agencies, mandating

just two or three required steps employers must take to find missing participants.

Critics see the amendment as an attempt by the industry to reduce its responsibilities to locate missing participants. Machiz said the duties outlined in the amendment are much less stringent than anything the Department of Labor might issue.

“They want to know what's the least they can do” to find missing participants, he said.

Industry advocates disagree, saying employers only want to make the search process more efficient.

“There are some people that want to make this very adversarial and it’s not,” said Lynn Dudley, senior vice president with the American Benefits Council. “It’s an opportunity for government to partner with those that are regulated to do the right thing.”

But pension rights advocates claim employers have an incentive not to find missing participants like Imondi.

When employers decide they have exhausted their search options for a participant in a defined benefit plan, the money that would have been distributed often remains in the plan, boosting its financial stability.

“The more money that hasn’t been paid out, the less money the plan sponsor has to pay into the pension fund,” said Jeanne Medeiros, former director of the Pension Action Center. “They don’t have any incentive to seek out those who are entitled to those benefits.”

Dudley insists that there is no incentive for employers to neglect their search duties.

Employers are not the only ones grappling with how to manage pension plans. Some insurance companies that have taken over pension funds have neglected missing participants as well. For example, MetLife Inc. admitted in February that over the past 25 years it had made “ineffective” efforts to contact about 13,500 pensioners, whose unclaimed benefits amount to over $500 million.

In June, the office of the Massachusetts Secretary of the Commonwealth charged MetLife with fraud for failing to make these payments.

In addition, a lawsuit filed by one of those pensioners, Edward Roycroft, claims that MetLife not only failed to pay retirees but took ownership of the $500 million from the plan when participants did not come forward, converting it to money on its own bankroll.

Greg Porter, a veteran employee benefits lawyer at Bailey & Glasser in Washington, D.C. and the chief litigator for the lawsuit, explained that after MetLife sent two letters to missing participants and received no response, “as a matter of policy it would say, well those people don’t really want their money, so we’re going to take it.”

A representative for MetLife said the company was taking “aggressive steps” to locate and pay out missing participants after voluntarily conducting its internal audit earlier this year, but did not comment on the Roycroft lawsuit’s allegations.

A lost pension may only be worth a few hundred dollars a month to a retiree, but that can be a crucial financial lifeline for someone on a fixed income. A 2016 Study by the Gerontology Lab at the University of Massachusetts Boston found that 61 percent of seniors living alone in the state are struggling to meet basic living expenses. The threat of unexpected healthcare emergencies and the rising cost of housing hits seniors especially hard.

Barbara Burns, 76, of Hampton Falls, New Hampshire, says her recently recovered pension has made an unexpected difference in her life. Burns had no idea she even had a pension until speaking to a counselor at the New England Pension Assistance Project, one of six federally funded centers around the country housing the handful of lawyers that assist pensioners free of charge.

After mentioning that she had worked for 19 years at John Hancock Financial in Boston, the counselor said Burns should have been entitled to benefits and offered to take up her case.

At first, Hancock said it would not retroactively payout the benefits Burns should have begun receiving at age 70. But in June, the pension project’s lawyers were able to secure a $24,000 lump sum payment, in addition to future monthly benefits of a little under $150. Since setting up shop in 1994, the Pension Assistance Project has recovered about $60 million in pension benefits for more than 9,000 local clients.

A representative for John Hancock declined to comment on Burns’ case, saying they can’t address individual cases.

Burns said the money was instrumental. “It will help us stay in our home as long as we can before we have to downsize.”

In the end, Imondi also received help from the project. At her counselor’s insistence, Bank of America located Imondi’s benefits, and the former pension fund manager began to receive monthly checks of $291 in September of last year. Although they initially denied any knowledge of Imondi's pension, a representative of Fidelity, contacted for this story, said,

"Once Fidelity was supplied with additional information, we worked with the plan sponsor to identify the benefit for the participant."

Still, Imondi worries about other retirees who don't have her experience dealing with pension plans.

"I can just imagine how much of a horror show it is for regular people who aren't in the business," said Imondi, reflecting on the difficulty of her years-long search process. "It's got to be daunting."

© 2018 WGBH

Almost a Third of Defined Benefit Plans Have 95% Funding, Making Buyouts, Risk Transfers 'Feasible,' Study Finds

Approximately 30% of U.S. defined benefit (DB) pension plans currently have a funded status of 95% or higher, making a full buyout or significant risk transfer transaction a "feasible option" for a growing number of plans since the start of the year, according to a recent analysis by RiskFirst, a financial technology company that works with pensions and professional investors.

Such a high funding ratio for assets over liabilities puts a pension plan within realistic reach of selling a large portion of its projected benefit obligation (PBO) to an insurer or eventually terminating the plan. This opportunity exists for pensions when the premium over current annuity pricing is less than the increasing costs to sponsors of managing the plan themselves.

RiskFirst analyzed data on 500 plans with total assets of more than $100 billion, according to an August 2 company press release. In the first half of 2018, 50% more plans than at the end of 2017 were situated in a band of funding status hovering around 100%, which likely makes selling pension assets beneficial.

Types of Plans in Study

The pension plans studied by RiskFirst ranged in size from smaller plans to those with $8 billion in assets and were relatively typical of U.S. plans as a whole, the firm stated.

"[Thirty%] is certainly a sizable number, and while risk transfer will, of course, only be the right option for some of those plans within striking distance, it wouldn't take much of a change in sentiment to impact the appetite for bulk annuities in the current climate," said Michael Carse,

DB pensions product manager for RiskFirst.

Furthermore, if these plans could increase their long-term yields by 50 basis points (bps), or 0.5%, 40% of the DB plans examined would be within this well-funded group. If their yields increased by 75 bps, 46% of pensions would be in this funding-level band, the study found.

A group annuity risk transfer allows an employer to transfer all or a portion of its pension liability to an insurer. In doing so, an employer can remove an often-threateningly large liability from its balance sheet and reduce the volatility of the pension's funded status.

Single-premium group, or terminal funding, annuity contracts are purchased by an employer that has decided to terminate its DB pension plan and is required by regulation to transfer participants' accrued benefit liabilities into a life insurer's irrevocable group annuity contract.

Reasons for Risk Transfers

Several years of low interest rates and volatile financial markets have made it difficult for many sponsors to keep DB plans fully funded. In addition, significant increases in premiums charged by the U.S. Pension Benefit Guaranty Corp. (PBGC), and adjustments in mortality tables recognizing rising longevity among pensioners have made pension risk transfers more attractive.

With market factors now presenting favorable conditions for "derisking"—including accounting reforms, a strong equities market combined with reductions in liabilities, escalating PBGC premiums, and the incentive for additional prefunding in 2018 ahead of corporate tax-rate changes—RiskFirst said there is the potential for risk transfer rates to rise "considerably."

© 2018 BLR

Cash Balance Plans Top $1 Trillion

California and New York have the most cash balance plans overall, but that's not where the fastest growth is occurring.

Employer contributions to cash balance plans soared 30% in 2016, lifting assets of those programs to $1.03 trillion, according to the 2018 National Cash Balance Research Report, from Kravitz, Inc., an Ascensus company, which also found a 15% net increase in the number of new cash balance plans.

California and New York account for 25% of all new cash balance plans followed closely by

Texas, Ohio, and Florida. However, the fastest growth has been in Georgia and Michigan; Georgia had close to 29% year-over-year growth in new plans, according to the report.

The report noted 20,452 cash balance plans active in 2016, the most recent year for which complete IRS reporting data is available. The report's authors note that growth was expected to be slightly slower in 2016 due to election year uncertainty and possible changes to tax rates, but these factors did not ultimately impact the market.

Other key findings:

92% of cash balance plans are in place at firms with fewer than 100 employees; 57% have 10 or fewer employees.

The average employer contribution to staff retirement accounts is 6.9% of pay in companies with both cash balance and 401(k) plans, versus 4.7% of pay in firms with a 401(k) plan alone.

Medical/dental groups and law firms still make up 48% of the market.

The median asset size of a cash balance plan is $486,390; the average is $50.3 million.

30% of cash balance plans have assets over $1 million.

The number of large plans using Actual Rate of Return is now 39%, up from just 10% five years ago.

According to a press release, the "Actual Rate of Return" option and other new investment choices approved in the 2010 and 2014 cash balance regulations made these plans more flexible for employers and removed certain funding issues. According to the report, before the IRS cash balance regulations were published in 2010, an estimated 95% of cash balance plans used the yield on the 30-year Treasury bond.

The report notes that there are now approximately 11.8 million participants in cash balance plans nationwide.

© 2012-2018.NAPA.net