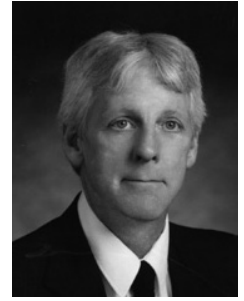


PENSION REFORM IS COMING



ARE YOU READY?

By Richard Hansen



During the 2011-12 state budget debates, pension reform became a bargaining chip Governor Brown held in his back pocket to use, if necessary, in exchange for Republican support of his plan to call a special election for a tax extension ballot measure. While pension reform in the hands of the governor raised concerns, more alarming was the possibility that a special election could open the door to a zealous attack on public pensions through the initiative process.

Former Assemblymember Roger Niello (R - Fair Oaks) filed such an initiative, but a special election deal never materialized. No one ever collected any signatures, and his proposal fizzled.

Still, the question remains whether there will be renewed efforts to launch public pension reform initiatives in 2012. Indications are that interest in pension reform persists, but there may not be sufficient support to sustain a serious campaign.

In May 2011, the California Foundation for Fiscal Responsibility (CFFR) published the first two chapters of a study of state and local public pensions. The first chapter reviewed pension systems, and the second compared total compensation of public and private sector employees. The third and final chapter appeared in late July claiming that reforms advanced by CFFR could save the state about \$2 billion per year and local governments even more.

The organization's founder, former Assemblymember Keith Richman (R-Granada Hills), now deceased, was a long-time critic of government pensions. During his tenure in the Legislature, he authored several bills seeking to

curb pension costs and formed CFFR to carry his efforts to the public, potentially in the form of ballot initiatives. While CFFR has threatened to launch a ballot campaign, to date, it has not taken any further action. CFFR's recent publication cites a February 2011 report, "Public Pensions for Retirement Security," from the Little Hoover Commission, the state agency mandated to analyze government entities in search of efficiencies:

With these reform-minded organizations continuing their critiques, both CalSTRS and CalPERS have responded. CalSTRS found that:

[t]he CFFR has put forth two proposals that would implement statewide reform. The CFFR Alternative A proposal embodies many of the Little Hoover Commission's recommendations. Alternative B takes a more permissive approach, merely setting caps on the



normal costs that public employers can incur for retirement income benefits. the CFFR proposal would reduce benefits paid at retirement to more typical CalSTRS members, either at a greater cost to fund the retirement plan or a greater risk to the member's retirement security. ... CFFR made its broad recommendations despite the fact that the study's author [former state Finance Director Mike Genest] and Marcia Fritz, CFFR's president, recognize that CalSTRS pays modest retirement benefits and is uniquely and responsibly designed [...]

CalSTRS voiced similar concerns in response to the Little Hoover Commission report and has aggressively challenged its recommendations on reducing benefits for current employees, writing that such an action:

would require a complete reversal of decades of judicial rulings. Making such a broad recommendation without consideration of the detailed legal framework surrounding public employee pensions is naïve at best, and renders the recommendation superficial and meaningless. In fact, the recommendation is merely an invitation to litigation that will prove protracted, costly and likely ultimately fruitless for the state.

While rejecting reforms aimed at changing the nature of their defined benefit programs, CalSTRS and CalPERS have been quietly pursuing reform from within. Both have adopted more modest earnings assumptions at 7.75% and have, nevertheless, seen substantial earnings of 23% and 21%, respectively, for fiscal year 2010-11. Stock market fluctuations since August, however, appear to support actuarial findings that both systems will not be able to “grow” their way out of the 20% loss of fund value in 2008-09, the event that continues to fuel the radical reform movement.

For its part, CalSTRS is considering an increase in both employer and employee contributions to address this persistent unfunded liability. These changes could be implemented for new hires, but if enacted for current employees, state law requires CalSTRS to supply an offsetting benefit enhancement. This is sure to be an important issue in upcoming Teachers' Retirement Board (TRB) meetings. Whatever the board decides, it must



win legislative approval, giving FACCC and other faculty advocates ample opportunity to influence the ultimate result.

Outside reformers, however, are circulating petitions on several ballot initiatives, but none of these efforts have the financial support required to obtain the 500,000 to 800,000 signatures needed to qualify for the ballot. Conservative UC Santa Barbara economics lecturer Lanny Ebenstein's California Center for Public Policy is sponsoring two narrowly focused measures, one imposing heavy taxes on pensions over \$100,000 per year and the other setting a minimum retirement age at 65.

A more comprehensive “Pension Solvency Act” from People's Advocate, Inc., the organization formed by Proposition 13 co-author Paul Gann, hit the pavement on September 15. In addition to the cost cutting aimed at public pensions, its authors, Ted Costa and Robert J. Matteoli, also call for a separate private employee retirement system modeled on a “reformed” CalPERS system. Of course, CFFR continues to suggest that its own ballot measure may be filed in September, but the lack of both funding and leadership have kept such suggestions from becoming reality.

A similar lack of leadership also doomed like-minded legislative reform efforts. By turning their backs on the governor's overtures during the 2011-12 budget negotiations, Republican legislators probably forfeited their chance to influence pension reform. In June, Senator Anthony Cannella (R - Modesto) along with several Republican co-authors, introduced a sweeping

constitutional amendment, SCA 13. The measure aimed at limiting participation and decreasing benefits while increasing employee contributions.

Ultimately, SCA 13 was not assigned a committee hearing and did not move forward before the end of session. Senator Mimi Walters (R-Laguna Hills) also introduced a number of like-minded reform bills, all of which she declined to present in committee. It is a testament to the strong advocacy of public employees that such draconian measures fail to make progress in the Legislature; however, the fact remains that Democrats, while more supportive of public sector pensions, will also pursue reforms.

A significant example was SB 27 (Simitian), the resurrection of an earlier measure vetoed by former Governor Schwarzenegger for not going far enough. SB 27 sought reforms aimed primarily at controlling spiking of earnings and post-retirement employment that increase retiree compensation. While it looked like SB 27 would pass at the end of the session, both Senate and Assembly Democrats decided to pull back, perhaps in deference to Governor Brown's interest in "a more comprehensive pension reform." Senate President pro Tem Darrell Steinberg (D-Sacramento) and Assembly Speaker John Pérez (D-Los Angeles) plan to form an interim conference committee to hold hearings in conjunction with the governor on pension reform between now and the beginning of the next legislative year in January. In a joint statement, Steinberg and Pérez said:

Pension issues have been discussed in various legislative venues throughout the year. The governor has also been working on comprehensive pension proposals throughout the summer. Those efforts provide an important focal point to drive discussions forward to completion.

In anticipation of Governor Brown's interests, it is instructive to recall the pension reform proposals he made during the 2011-12 budget negotiations. These include eliminating employees' ability to purchase service credit in the form of "airtime," prohibiting any suspension of either employee or employer

contributions, stopping employers from covering both their own and employee pension contributions, prohibiting retroactive benefit improvements, preventing pension spiking, and cutting off pension payments to those who commit a felony related to their employment.

There were also a few proposals Brown said were "under construction," such as a pension benefit cap, limits to post-retirement employment, and a hybrid option, combining defined benefit and defined contribution plans, as well as reforms to address pensions' unfunded liabilities and governance structures.

Pension reform, in some fashion, is coming. Reform is, to some extent, inevitable to ensure the future stability of public pensions. All faculty members must be prepared to act lest those who use "reform" as a euphemism for "eliminate" dictate the nature of that reform.

FACCC will be vigilant and active in defense of both the quality and sustainability of faculty retirement benefits; however, we must all stand ready to protect these hard-earned benefits. Join one of the newly formed FACCC Rapid Response Teams (see page 6 for details) and gear up with other faculty to actively protect your benefits and your future. ☒

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