Protect Ohio Pensions 3rd Quarter 2018

Retirees & Current Employees Working Together to Preserve Ohio's Public Pensions

Insight From the Administrator

By William I Winegarner

Preserving Your Pension

Who or what endangers the continued existence of our defined-benefit pension plans? Part 2

In Part 1 of "Preserving Your Pension" I explained that pensions were investment-returns, not salaries; pension-systems were investment managers, not employers; and legislators were evaluators, not experts. I also discussed the strengths and weaknesses of a public pension system and how important it was for retirees, members, boards and legislators to work together to keep our pension funds perpetually strong.

In Part 2, I will explain and illustrate the importance of utilizing these concepts to eliminate, neutralize and overcome the weaknesses in the arguments of the outside forces who want to do away with our Ohio defined-benefit pension plans.

As I said in Part 1, the process of protecting Ohio's defined-benefit pension plans begins with a complete and honest study of all those who participate in (including their representatives), operate (functional and legal) and govern (establish the rules under which they operate) these plans. Once our study is complete, we can move onto the motivating factors behind each group who influences each decision-making process.

In June, a new bill was introduced in congress (H.R 6290) entitled the Public Employee Pension Transparency Act (PEPTA). The sponsor's stated purpose was to provide more transparency when it came to public pensions. In reality, the true impact was to make public pensions appear to be in worse financial shape than they actually are thus making it more politically acceptable to eliminate them.

Continued on page 2

The Legislative Report

By Steve Buehrer, Esq.

Always Time for Advocacy

As the dog days of summer move into the early stages of fall, the hallways at the Statehouse are nearly empty. Even though Ohio has a legislative body that has more active session days than most states, this time of year is usually reserved for legislative members to be back in their districts doing traditional "meet and greet" events with their constituents. This type of visibility in local communities is even more frequent in an election year as individuals running for office or reelection strive to be seen in the local community.

Festivals, fairs, parades and a host of other local gatherings are a great place to see and interact with today and tomorrow's elected officials. As you run into these individuals, I would encourage you to reflect on the things that are important to you. Legislators honestly want to hear what is on people's minds and often will recall a conversation from the past when they are deciding future issues at the Capitol.

Rather than greet a legislator with simple small talk and a conversation about the weather, think about POP-5 and why you joined the organization. Stated more simply, tell the legislator you are meeting that you are a retiree or member of a public retirement system. Remind them that you contributed your own money (in addition to the public employer portion) to fund your defined benefit retirement plan.

Continued on page 2

Insight – continued from page 1

The following letter to the bills' sponsor addresses the motive and processes being utilized to influence the decision-making process of state legislators.

On behalf of the members and retirees of Protect Ohio Pensions, I am writing to express our opposition to the proposed Public Employee Pension Transparency Act (PEPTA).

Please allow me the privilege of explaining why we oppose your proposal.

Since the mid-nineties there has been an all-out attack on traditional public pensions. There are factions in the financial, investment, corporate, and political hierarchies that are determined to eliminate defined-benefit (DB) pensions. They proffer their position under the guise of protecting the public's liability (in reality, there is no legal liability, at least in Ohio) for underfunded pension plans, while ignoring the historical evidence of financial devastation to retirees and their public employers in states where conversion has occurred.

In a May 8, 2011 Columbus [Ohio] Dispatch article, Matt A Mayer, president of the Buckeye Institute extolled the virtues of converting Ohio's public pensions into a defined contribution model by insinuating that Ohio pension systems were broke and in an economic crisis. Mr. Mayer's article fell in line with the nationwide effort to eliminate all defined-benefit pension plans, an effort that was first publicly acknowledged in the May 14, 2001 issue of The Nation newsletter. In that article the contributing editor, Robert Dreyfuss, wrote the following after listening to a speech by Grover Norquist, founder and president of Americans for Tax Reform: "Well," he says, "there's the matter of all those state and local pension plans..."

Continued on page 4

Definitions:

Defined-benefit (DB) pension plan: In a defined-benefit pension plan, also referred to as a traditional pension plan, all members pool their retirement contributions, which are in-turn invested by experts hired by a pension system with the aid of actuaries and multiple industry experts. Because DB plans are lifetime investors and the risk and rewards are shared by all members, pension amounts can reasonably be guaranteed and the probability of side benefits such as health care and cost of living allowances are often available.

Defined-Contribution (DC) pension plan: In a defined-contribution pension plan, members put their contributions in a personal retirement account and become their own investment expert with the aid of a financial advisor. Pension amounts are determined on the skill of the advisor and how well the individual's personal fund is doing at the time of their retirement. In addition, there are no side benefits like health care and cost of living allowances.

Legislative cont'd from page 1

Further remind them that you rely on that income stream and you pay taxes on it as well as make purchases from it that helps the economy right here in Ohio. Finally, encourage them to support policies and legislation that protect the defined benefit retirement systems and allow the boards of directors of those systems the discretion they need to operate without outside interference. My further advice is to be friendly and polite. (I have long ascribed to the old adage that honey draws more flies than vinegar.) However, it is never wrong to tell legislators directly what you are thinking and what matters to you. For retirees (and future retirees), a stable pension is critical to the quality of financial life you will enjoy after your working years. To encourage the members of the General Assembly to support something you hold dear also gives you a reason to support them as they seek to serve in the Statehouse.

This type of advocacy for defined benefit pension plans is the reason you joined POP-5. I am pleased that our firm works with you and your organization to make this case every day. However, advocacy and supporting the tenets of our organization is everyone's responsibility. Your personal effort in building relationships with your local legislators is a big help when actual. . . .

Continued on page 5

National News

By Maryfrances Kamyar

[Editor's Note: We are presenting this information so you will have a better idea on what is occurring in other states. With a greater knowledge of national pension issues comes a clearer vision on how to help Ohio pensions be the best they can be.]

There is a firestorm of news reports concerning the condition of Public Pension systems in America. Some strong and stable and others in crisis with 1.3 trillion in unfunded liabilities. The unfunded liabilities affect the future payments to retirees 20 to 30 years down the road. Some States, communities and municipalities are looking for the answers to decreasing their liabilities thus continuing their recovery from the 2008 recession. There are two states who recently acted to shore up their pension funding.

These two, Minnesota and Kentucky, took very different paths towards their goals. Minnesota's bipartisan pension bill passed with a 100% vote. Kentucky's pension bill passed legislation and was signed a week later by Gov. Bevin. But the question is, what path did each state take to get the job done and will the new pension laws bring the desired results?

Minnesota has been working on answers to its pension problems for about two years. With billions of dollars in unfunded liabilities, Gov. Mark Dayton was looking for answers. He wanted to leave office with his fiscal responsibilities in order. Having vetoed previous pension legislation that did not meet the future needs of the systems, he appointed a bipartisan group of citizens with the knowledge of pension funds to recommend a solution. Gov. Dayton wanted the bill to have "shared participation" knowing retirees, employees, and state and local governments would all need to make concessions.

Minnesota bill (SF 2620) was supported by a coalition of public employee unions. The bill increases employer and employee contributions, reduces the cost of living over the next five years, lowers the assumed rate of return and removes early retirement subsidies.

When Gov. Dayton signed the legislation, he stated: "Hard working Minnesotans who have dedicated their lives and careers to serving our state deserve the security of retirement benefits they have rightly earned. This bipartisan legislation stabilizes pension benefits for 511,000 workers, retirees, and their families."

Kentucky has also been looking into answers to its 40 billion in unfunded liabilities. More than a year ago Gov. Mark Bevin said he would convene a special session for Kentucky's pension and tax crisis. Instead, Gov. Bevin dropped the tax part and continued to say he would have special sessions for the pension problems. Time went by and that did not occur. By then Kentucky's 2018 regular legislative session began.

The Republicans introduced Senate Bill 1, a pension bill, that was due to receive a Senate vote, but because of wide spread opposition over future COLA cuts, it was referred back to the Education Committee. Close on the heels of SB1 came Senate Bill 151; it was a Sewage bill. As a substitute to SB 151, SB 1 was amended, the COLA reduction was taken out and it was presented to the House State Government Committee. The House Committee accepted the newly amended SB 151 and sent it to the full House. The bill was debated for more than 3 hours, and it was approved 49-43. It was sent immediately to the Senate where debates began and was approved the same day, 22-15. The bill was then sent back to Gov. Bevin.

Meanwhile, protesting teachers and the public were kept from communicating with their representatives. No one was allowed to read the new bill, and it was not, as required by law, read 3 times on 3 different days in both Chambers. Additionally, it had no actuarial analysis. Rep. Jim Wayne D-Louisville objected, saying the bill was illegal, but the statute was ignored.

The Kentucky bill was similar to the Minnesota bill: Contribution rates of both employer and employee would increase as would the retirement age. Kentucky has a cash-balance plan [defined-contribution] in place already for some employees, starting January 1, 2019. All new teacher hires would be placed in the cash balance plan.

Continued on page 6

Legislative Email Alert

If you would like to receive information on current legislative activities that pertains to all five of Ohio's public pensions, please send an email to: Popoffice@POP5.org from your email address.

In the subject box, type the words "Legislative Alert".

In the body of the email, give us your Member Number or name and address.

Insight—continued from page 2

State by state, he's planning to launch a campaign to dismantle and privatize state pension plans and their trillions of dollars of public funds held as investments for retirees. "...Just 115 people control $1 trillion in these funds. We want to take that power and destroy it."

In a nutshell, there is the battle. These folks want to destroy all DB pension plan including those in Ohio which have proven to be economical for the taxpayers, beneficial to our local economies and rewarding to our retirees.

Why would anyone want to do that? Could it be that some want to profit from the investment fees generated from administering hundreds of thousands of individual plans, and others want to eliminate the responsibility of answering to large investment holders (pension systems)?

One recent building block for those intent on eliminating defined-benefit pensions was to talk members of the Government Accounting Standards Board (GASB) into changing the way pension systems have historically reported their financial standings and replace it with a set of standards that would cast the unfunded liability in a negative light. In addition, the new standards require public employers, who have no liability in Ohio once their contributions have been made to the pension system, to show these same unfunded liabilities as negative balances on their books.

If enacted, The Public Employee Pension Transparency Act (PEPTA) would be a second DB negative proposal. PEPTA's stated purpose is to "protect the public" by providing citizens and government officials with a questionably calculated estimate of how indebted taxpayers maybe to state pensions. The proposal states that this bill will accomplish its goal through transparency by requiring state pension plans to use U.S. Treasury rates to determine liability, to disclose the results on a State Treasurer's website and to declare that the Federal Government has no liability for bailing out state pensions.

What PEPTA would really accomplish is to portray DB plans in the most negative light possible. Coupled with the newly implemented GASB standards the resulting information would give the proponents of the "eliminate defined-benefit pensions movement" strong, though improperly calculated or stated, financial data to push their agenda through a state legislature.

In Ohio our pension funds are operated in a fully transparent environment. We have member elected and statutorily- appointed trustees bound by fiduciary standards whose decisions are made in open public meetings. The Ohio Retirement Study Council, a General Assembly oversight body, also monitors the financial condition and auditory assumptions of the Ohio Retirement Systems and reviews their pension-related legislation. A final step in transparency occurs with the publication of Comprehensive Annual Financial Reports (varies slightly by system). These reports contain the obligations and funding status and are publicly distributed. As you can see, Ohio's pensions are already funded, operated and monitored in a fully transparent manner.

Ask yourself, "Who prompted the introduction of this legislation? Did they really feel that the Federal government needed to be concerned about state pension transparency, or did they have some other agenda?"

Let's consider the old adage, "If it looks like a duck, swims like a duck, and quacks like a duck, then it probably is a duck." The Public Employee Pension Transparency Act has no apparent federal standing (they have no legal liability for state pensions), it is based on a questionable premise (website transparency), it forces the lowest (contrary to historical results) future financial evaluation, and it promotes a stronger picture for the elimination of public defined-benefit pension plans. So, you tell me why it is being introduced. Who are the benefactors? Corporate interest, individual stock brokers and their fees, or retired public employees and taxpayers?

When we put this piece of the puzzle together with newspaper articles with faulty conclusions based on well-funded public pensions being coupled with poorly-funded pensions in other states, Mr. Norquist and company's pledge to destroy DB plans, and the sudden changes to the GASB reporting requirement leads us to the conclusion that greed and power are making inroads in establishing an environment in which they can convince legislators to eliminate the defined-benefit pensions of Ohio's public employees.

On behalf of the 1.6 million Ohio public workers and retirees who have chosen the defined-benefit pension, and the men and women of Protect Ohio Pensions, I am asking you to withdraw your proposed PEPTA legislation.

This letter points out the adversaries (corporations & stock brokerages), explains their motive (stockholders without power and enhanced investment fees) and tactics (make pension look weak and convince legislators to change type of plans).

These points only become clear when we acknowledge that members and retirees are only a part of the equation.

Continued on page 5

Insight—continued from page 4

Employers, system managers, investment personnel, The Auditor, The Treasurer, The General Assembly, the Ohio Revised Code, the non-government employed taxpayers and a slew of accountants and actuaries are also contributing factors. If we lose sight of all the participants and the part they play, we will have a chink in our armor of protecting Ohio's pensions.

We have great (not flawless) public pension systems in Ohio. Even so, pension systems deal with money, people and politics. These factors cause emotions and conflicts. As long as we can look past, or at least suppress, the emotional side we will have the best possible insight on how to preserve our pension plans for the betterment of all of Ohio's past, present and future government employees.

Legislative Cont'd from page 2

legislative issues arise in Columbus.

The conversation you may have had with a legislator standing in the pig barn at the county fair in August may be what tips the balance in persuading a member to support an issue that POP-5 cares about months later at the Statehouse. I appreciate your help as we continue the fight to protect the pension system so many people rely on every day.

Government Relations - Federal

[Editor's note: the following is from the 8/15/2018 OPERS Executive Director's report to their Board.]

The **Joint Committee on Multiemployer Pensions (MEPS)** recently held a hearing in Columbus, Ohio, followed by a hearing in Washington, D.C.

Chairman Orin Hatch (R-Utah) opened the hearing with the following statistics: Collectively, MEPs ended 2015 underfunded by $638B; 75% of participants are in systems that are less than 50% funded; 95% are in plans that are less than 60% funded; plans "proclaimed discount rates" have them at 80% funded with a mere $120B unfunded liability.

Chairman Hatch said in his opening comments that "everyone knows that these plans are in dire straits…" He expressed his concerns about the use of unrealistic assumptions and warned that such usage hides the extent of the problem "until it is too late."

While the focus of these hearings is on private sector multi-employer pension plans, staff worked with other systems and membership organizations to make sure that the subcommittee remained focused and did not bring public systems into the discussion.

In the past, Sen. Hatch has proposed legislation, the Secured Annuities for Employees Act (SAFE) that OPERS has opposed. Sen. Hatch's SAFE act purported to create stable, secure retirement accounts for public employees and financial relief for plan sponsors. However, like so many other legislative initiatives before it, <u>we believe that the real purpose of the SAFE Act was to move public employees out of their traditional defined benefit plans, regardless of the cost to plan sponsors or the loss in retirement security.</u>

Through four hearings, public pensions have succeeded in remaining out of the discussion. However, one witness who has been particularly critical of public pensions, Joshua Rauh, Ph.D, took the opportunity to once again mention how poorly funded and regulated public pensions are. Dr. Rauh is the Director of Research and Senior Fellow at the Hoover Institution, Stanford University. He has consistently advocated for the use of U.S. Treasury rates as the only "true" measurement of pension funded status.

Both Ohio Senators are members of the subcommittee, with Sen. Brown as Co-Chairman. And, both have been supportive in maintaining focus on the private plans.

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National News—Continued from page 3

Attorney General Andy Beshear, the Kentucky Education Association and the Kentucky Fraternal Order of Police immediately sued to stop the legislation due to the "undemocratic process" by which it was passed. Franklin Circuit Judge Phillip Shepherd struck down the new public pension law as illegal stating that it did not have the required 3 readings on 3 separate days in each chamber. Judge Shepherd also stated that because the bill appropriates money, it needed a constitutional majority and it was shy by 2 votes.

The Governor of Minnesota involved the public employees in the forming of the legislation that passed. Representatives from the unions understood what needed to be done for the future and supported the changes. Minnesota is moving forward with solutions to its financial needs. In contrast, the Governor of Kentucky did not involve the unions or the public. Legislation was hidden behind closed doors and rushed through due process. Kentucky's legislation is now locked in legal battles and will not be implemented in January 2019 putting it one more year behind in moving toward financial strength.

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