

2011 SOUTHERN CONFERENCE ON TEACHER RETIREMENT

**Where Have We Been...Where Are We Headed?
The Federal Perspective**

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WHERE HAVE WE BEEN?

Ancient History

First public plans created without Federal input;

Developed without Federal interference;

Unique features to fit unique demographics, needs.

WHERE HAVE WE BEEN?

1974: The “Big Bang”

ERISA becomes law; public plans were essentially not covered, but the legislation did mandate a study.

1978 Pension Task Force Report on Public Employee Retirement Systems found that “In the vast majority of public employee pension systems, plan participants, plan sponsors, and the general public are kept in the dark with regard to a realistic assessment of true pension costs.”

1979 President’s Commission on Pension Policy conducted 2-year study of the Nation’s pension systems. Report, released in early 1981, recommended that “because State and local government employees deserve the same protection as employees in the private sector, a Public Employee Retirement Income Security Act (PERISA) should be enacted covering the same areas of concern as covered by ERISA.”

WHERE HAVE WE BEEN?

he 1980's – The Good, the Bad, and the Ugly

The Good: GASB established in 1984; issued Statement No. 5, “Disclosure of Pension Information by Public Employee Retirement Systems and State and Local Governmental Employers,” in 1986.

The Bad: PERISA introduced in 1980 in the House; the Public Employee Pension Plan Reporting and Accountability Act (PEPPRA) introduced in the House in three successive Congresses (in 1981, 1984 and 1985).

The Ugly: Tax Reform Act of 1986 (TRA '86) and IRS regulations that failed to reflect the differences between public and private sector employers and their sponsored pension plans.

WHERE HAVE WE BEEN?

The 1990's – The Good Old Days

GASB issues Statements 25 and 27;

Center for Retirement Research at Boston College : “The Miracle Of Funding By State And Local Pension Plans.” Their 2008 IB says: “The conclusion that emerges is that, despite the absence of a federal mandate, state and local plans have generally made great strides towards funding and are out as well funded as plans in the private sector. This conclusion holds even though public plans pay higher benefits and use a more stringent funding yardstick.”

Small Business Job Protection Act of 1996 (SBJPA '96) ; Taxpayer Relief Act of 1997 (TRA '97); and the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) of 2001 (EGTRRA).

WHERE HAVE WE BEEN?

Small Business Job Protection Act of 1996

457 plan assets and income to be held in a trust, custodial account, or an annuity;

Sec. 415 amended to permit public-sector plans to establish excess benefit arrangements that provide benefits in excess of the Sec. 415 limits;

The 100 percent of average compensation limit for public-sector pension plans under Sec. 415(b) eliminated.

WHERE HAVE WE BEEN?

Employer Relief Act of 1997

Enhanced treatment of purchase of permissive service credit and the treatment of contributions for service purchase under Sec. 415 limits for public-sector plans;

Granted a permanent moratorium on the application of IRC nondiscrimination rules to governmental plans;

Permitted in-service distributions of \$5,000 or less (up from \$3,500) payable from a Sec. 457(b) plan under certain conditions.

WHERE HAVE WE BEEN?

conomic Growth and Tax Relief Reconciliation Act (EGTRRA)

Portability : allowed use of Sec. 403(b) and Sec. 457 plan assets to purchase service credits in public-sector DB plans through direct trustee-to-trustee exchanges, and enhanced rollover distributions among qualified retirement plans, Sec. 403(b) annuities, IRAs, and Sec. 457 plans, including the rollover of after-tax amounts.

increased and indexed annual elective deferral dollar limits for 401(k) plans, 403(b) annuities, and 457 plans ; increased the Sec. 415(b) DB dollar limits from \$140,000 to \$160,000 at age 62, with late-retirement adjustments for benefits starting after age 65, and indexed in \$5,000 increments thereafter.

WHERE HAVE WE BEEN?

Economic Growth and Tax Relief Reconciliation Act (EGTRRA) – Cont'd.

Increased Sec. 401(a)(17) compensation limit, applicable to both DB and DC plans, to \$200,000 from \$120,000 and indexed the limit thereafter in \$5,000 increments.

Allowed catch-up contributions to 401(k), 403(b), and governmental 457 plans for participants who are age 50 or older, up to \$5,000 in 2006, and indexed thereafter .

Repealed the coordination of Sec. 415 and Sec. 457 limits.

WHERE HAVE WE BEEN?

Welcome to the 21st Century !!

Pension Protection Act of 2006 (PPA)

VL and the discount rate controversy

ASB revisits Statements 25, 27

Edge Funds/Commodities

Investment

Normal Retirement Age

US Governmental Plans Roundtable; Survey Questionnaire

SEC: Pay-to-Play; New Enforcement Unit on Public Pensions

San Diego; New Jersey settlements

WHERE HAVE WE BEEN?

2000 – 2010: A Few Bright Spots

Credited interest fix in PPA technicals

Creation of NIRS

Keith Brainard hired as NASRA
Research Director

WHERE ARE WE NOW?

011: OMG!!!

Nunes/Burr Legislation (HR 567; S 347); 5 congressional hearings so far.

Alternatives” to Nunes/Burr: mandatory ARC?

EC looking at “public pension accounting and disclosure violations;” investigations into bond offerings, reportedly in Rhode Island, Illinois and California, relating to pension fund disclosures.

EC proposal that appointed public pension trustees be treated as municipal advisors -- requiring them to register as such with the SEC and be subject to new Federal fiduciary duties.

RS looking at use of pick-ups for new tiers, purchase of service credits.

ASB: Exposure Draft expected in June; SEC seeking control.

WHERE ARE WE HEADED?

Lines/Burr: the next two years are critical

DO report does not “endorse” MVL, but is being used as if it did.

House strategy in House: attach to debt ceiling bill or larger tax bill?

Senate strategy in Senate: Finance Cmte. Hearing? New PEPPRA?

Impact of GASB ED on debate.

Media strategy: new NCTR/NASRA External Relations manager.

What if failure? All bets are off.

WHERE ARE WE HEADED?

ASB

new Exposure Draft impact on plan liabilities, risk assessment.

EC wants Congress to provide an independent and more reliable funding mechanism for GASB as well as SEC oversight.

EC Commissioner Elisse Walter: “the first step of independent funding is crucial. It should help to ensure GASB’s independence as standard setter that is able to develop high-quality governmental accounting standards without undue pressure.”

WHERE ARE WE HEADED?

S/Treasury

ew regulations/guidance on normal retirement age, definition of governmental plan, pick-ups could have major impact on plan design, and couldn't come at a more dangerous moment in time.

mplications of Administration focus on DC plans (auto enrollment; annuitization, fee disclosures) .

he 2012 election and Obama's perceived "move to the middle:" does he have to make some gesture regarding transparency, design?

WHERE ARE WE HEADED?

ax Reform

REFORM or reform?

ax expenditures – “Everything’s on the table”

What about DBs? Will only DC’s be impacted?

link to public employees

Timing

Vehicle for PEPTA?

WHERE ARE WE HEADED?

ax REFORM or Tax Reform

lots of smoke, but no fire? Martin Sullivan, contributing editor at Tax Analysts: “The fiscal hawks foresee tax increases, the pro-competitive right foresees tax cuts, and the academics and economists had to look at it as a revenue-neutral redo of 1986.”

Perhaps corporate tax reform before the 2012 election? If so, Obama says must be revenue neutral.

How is it paid for? Consumption tax, or a European-style Value-added tax? What about tax expenditures? Tom Reeder: “Everything’s on the table.”

Timing – 2012 or post-election?

WHERE ARE WE HEADED?

tax REFORM

President's Deficit Commission report recommended "comprehensive tax reform"

Should rely on "zero-base budgeting" by eliminating all existing income tax expenditures, and then using the revenue to lower rates and reduce deficits

Small number of "simpler, more targeted provisions that promote work, home ownership, health care, charity, and savings" would replace the current tax structures

WHERE ARE WE HEADED?

Tax Expenditures

Losses to the Treasury from granting certain deductions, exemptions, deferrals or credits in order to encourage, promote certain policy objectives; Tax Policy Center says total budget impact of income tax expenditures in 2011 is most \$1.2 trillion.

JCT: largest FY 2009 tax expenditures were exclusion of health benefits (\$94.4 billion); home mortgage deduction (\$86.4 billion), and net exclusion of pension contributions . earnings (\$73 billion).

For defined benefit plans alone, the five year total (FY 2009 through FY 2013) estimated to be \$275.7 billion.

WHERE ARE WE HEADED?

Pension Tax Expenditures

Deficit Commission: “consolidate retirement accounts; cap tax-preferred contributions to lower of \$20,000 or 20% of income.”

Domenici -Rivlin Task Force: restructure itemized deductions, eliminate “almost all” tax expenditures but retain those for DB plans; modify those for 401(k) plans, IRAs and Keogh plans, with same caps as Deficit Commission.

Goal is to ensure that “qualified plans will no longer be a vehicle for wealthy individuals to convert a substantial share of their assets into tax-free retirement assets.

WHERE ARE WE HEADED?

ension Tax Expenditures -- Reality Check

New EBRI 2011 Retirement Confidence Survey : “more than three-quarters of full-time workers with household income of \$15,000 to \$25,000 say that having the ability to deduct their contributions to retirement savings plans is “very important.”

EBRI: 56 % of full-time workers currently saving for retirement would reduce amount they save if no longer able to deduct contributions from taxable income. But only 22 % of full-time workers currently saving for retirement with household incomes of \$100,000 plus say they would save less if tax treatment of retirement savings reduced, eliminated.

DC community already extremely active; if they take a hit, can you imagine that 3 plans would not? How?

WHERE ARE WE HEADED?

THE WALL STREET JOURNAL, Friday, May 5,

Soaring Pension Costs For Public Employees Plague States, Cities

Inadequate Funding in Past
Adds to Current Burden;
Washington Worried Too

WHERE ARE WE HEADED?

Everything Old is New Again!
WALL STREET JOURNAL, Friday, May 5,