THE INTERCOM

Newsletter of the California Retired County Employees Association (CRCEA)
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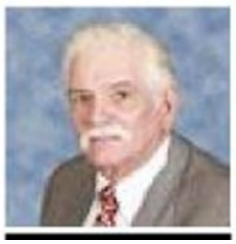

PRESIDENT'S MESSAGE

The summer is gone. The kids (grandkids?) are all headed back to school. Vacations are memories to be filed away until the next one. Wait, did I say the summer is gone? The last couple of weeks have been over 100 degrees here. Records broken for 5 consecutive days of 110 or more. Complaining? Only about the cost of electricity to keep the air conditioning working. But, for some of you, I am sure it was as bad or maybe worse. Boy, sending summer out with a message.

Along with the heat come the wildfires that I know some of you have been watching closely. My short get-away last month inadvertently took me into some of those areas. Oregon was threatened with a few that caused evacuations and in some areas are still burning. I thank my lucky stars that we haven't had "the big one" down here. I worried about the one in Los Angeles County (La Tuna Fire).

As I mentioned, I took a couple of weeks in my RV with my wife and dog and went north for some "mental health time". It started in Visalia where I spent an afternoon having lunch with, and then speaking with, the retirees from Tulare County. They had a good crowd of one hundred or so, even though TCREA President Kevin Miner said it was a little small. The discussion was about CRCEA, and the questions and feedback made me feel like it was definitely a worthwhile trip. Thanks to Kevin and TCREA for the invitation.

Well, the California Legislature is back in business. Notice I didn't say "back to work". As I discussed last time, I am past being surprised what goes on in those halls. While CRCEA constantly is watching what is going on in the pension world, we have to be watching what is going on in the taxing area. It seems every time we turn around there is a new fee or tax being put in place. I guess it will stop when the money from us just runs out.

I think that our upcoming conference in Alameda County will be a time for discussion on many of these issues as we review the Sacramento Scene.

I haven't heard much from the courts lately on the issues we care about – CalPERS LTC; San Diego City Pension/401(k) Issue; California Constitution vest right issue; etc.
As I have repeatedly, we continue to keep our eyes and ears open to what is or is not going on. The earlier we know about something, the sooner we can research it to see its impact and what (if anything) we should be doing.

Speaking of conferences, I hope everyone is signed up for the conference in October hosted by REAC (Retired Employees of Alameda County). You should

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have the registration packets, and if you looked at the agenda, you will see that it is full of good information. I want to also remind you that we are working on the issues relative to making our conferences better. CRCEA Vice-President Mike Sloan has put together proposals to address the frequency, duration, locations, and other factors of making our conferences the most productive for all attendees. You can anticipate some in-depth discussions at our conference in Emeryville. Alameda County is ready the October event.

So, here I go again. Not even so much as a change of wording. CRCEA continues to reach out for Affiliates. Those are businesses that provide services to retirees or otherwise support public employees and retirees that we can approach to be affiliates of CRCEA. All of our affiliates believe that they have something of benefit for your members, and the local associations will be looking at each of them to evaluate at the local level. You can check on the basic information on each at our website under the Affiliate tab. If you have a question on their service/product, do not hesitate to give them a call in order to see if that affiliate can be of benefit to your association. As always, if anyone has any idea, or potential affiliate that would be of benefit to CRCEA and its members, give Mike Sloan or any Executive Committee member the information and we will follow up.

CRCEA is constantly watching the issues that will impact retirees and our member organizations. Only through our numbers do we have strength and only through our strength can we obtain success. Try to make an effort to get those newly retired (and the long time retirees as well) to join your local association. Clearly our dues are much lower than the dues they paid while working, and a simple reminder that your association is looking out for their continued peace of mind in retirement.

I wish each and every member the absolute best. Let us not forget those who have been hit with Mother Nature's fury. The people in the greater Houston, Texas area who just went through Hurricane Harvey; the people in Florida and Georgia who endured Hurricane Irma; and most recently those in Puerto Rico who were devastated by Hurricane Maria. I have friends in the Houston area, and a personal stake in Florida with a granddaughter outside of Orlando, but thankfully they were all outside the area hit the hardest. Let's all say a little prayer for all those in those areas.

Until next time…..

SKIP MURPHY, President

CRCEA Conferences

Fall 2017
Alameda (REAC)

Spring 2017
Santa Barbara (RESBC)

Fall 2018
Marin (MCARE)

Spring 2019
San Diego (RESDC)

Fall 2019
Sonoma/Mendocino
(SCARE/AMCRE)

Spring 2020
Tulare (TCREA)

Fall 2020
Stanislaus/Merced
(RESCO/REMCO)

WE HOPE YOU WILL BE ABLE TO JOIN US FOR GREAT INFORMATION, NETWORKING, AND, OR COURSE, FUN!

Americans Want Retirement Security
Co-authors: RESDC President John McTighe and City of San Diego Retired Employees Association President Jim Baross

A substantial majority of Americans are worried about their chances of achieving a secure retirement, and they also feel the nation's elected leaders cannot relate to the challenges they face in preparing for life after work.

A recent national poll conducted by the National Institute on Retirement Security showed strong bipartisan, grassroots concern about retirement security. It found that 78 percent of Democrats and 76 percent of Republicans responding were concerned about economic conditions affecting their ability to achieve a secure retirement. There's no partisan divide on this one. And when asked if they agreed or disagreed with the statement that America is facing a retirement crisis, 88 percent agreed. Similarly, 85% of those surveyed (88% of Republicans) agreed with the statement that, "Leaders in Washington do not understand how hard it is to prepare for retirement."

Why are people so anxious? There was a time when pensions were a common benefit in private sector employment. They guaranteed a comfortable retirement. Now pensions in the private sector are a rarity. They've been replaced, in part, by 401(k)s, but as the creators of the 401(k) have repeatedly stated, they were designed to supplement pensions not replace them.

These savings vehicles typically come with high costs of up to 2% or more, which sap earnings; and when the recent recession happened, many people raided their own 401(k)s, leaving them with little to nothing for retirement. So there is good reason for those relying on these deferred savings accounts to be concerned.

A few states, including California, are trying to assist a huge segment of private sector workers who currently have no access to a retirement savings plan. The idea is to create a defined contribution retirement system in which employees would be enrolled by default, but could opt out. Under California's Secure Choice plan, 3% will be withheld from paychecks, unless employees decline or wish to contribute a different amount, with no contribution by employers and no liability for taxpayers. The funds will be conservatively invested, with fees to participants capped at 1% of total investments.

Even though these proposals are very modest in terms of providing retirement income, they are better than nothing and allow workers to plan for a more independent and self-sufficient future. Unfortunately, those out of touch federal leaders in Congress have undermined these state-based proposals by revoking a regulation making it easier for states to offer defined contribution benefits to private sector workers. They did so at the behest of business groups and Wall Street interests, who make lots of money off 401(k) fees.

There has been much in the way of negative publicity about pensions, so a response to one of the survey questions might surprise many. Of those polled, 85% agreed with the statement that, "I believe that all workers should have access to a pension plan so they can be independent and self-reliant." And 75% said that state retirement plans aimed at private sector workers are a good idea.

The good news is that California's Secure Choice plan is moving forward, despite the roadblocks put in place by Washington. Its leaders have announced that they

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plan to have the system phase in beginning in 2019. Will they be challenged? Probably.

We believe that all working Americans deserve and should have retirement security. We'd encourage everyone to review California's Secure Choice program and to ask their representatives to support it as well. Employer-based private sector pensions have slowly faded away, with no reliable replacement. Tens of millions of Americans are looking at an uncertain future as a result. It's time to insist upon solutions to make sure that everyone is secure in their retirement.

For more information on Secure Choice, visit: http://www.treasurer.ca.gov/scib/

This article was published in The San Diego Union-Tribune on June 23, 2017. Following is a link to the article:

www.sandiegouniontribune.com/opinion/commentary/sd-utbg-retirement-security-california-20170623-story.html

> *"How old would you be if you didn't know how old you are?"*
>
> *~~Marc Chernoff*

A New Chapter May Be Developing
NCPERS 2017 Public Pension Funding Forum
by Louis Scarpino, REAOC

Protecting public sector employees' hard earned current and future benefits has been a major challenge since the disastrous near-depression level recession of 2008. The excruciating slow nearly imperceptible eight-year recovery provided competing interests a unique opportunity to mount a full court press to gain market share and control of the nation's multi-trillion dollar pension fund market. Networks, funded by vested interests pitching 401k Defined Contribution plans as replacements for public sector favored Defined Benefit plans, have fueled an intense, sometimes vicious national debate.

Finding they could take advantage of the massive loss of individual wealth, themes and various campaigns were developed and pitched to pit public sector employees, with solid DB pensions, against those in the private sector without similar secure retirements. Yet championed 401k plans have left the nations employees and retirees ill prepared for retirement, with far too many without any plan. The irony is that the same interests, that helped create this problem, are running ad campaigns to push more and earlier voluntary contributions to 401k plans, essentially illuminating their structural weakness. In a nutshell, overreliance on 401k plans does not work.

However, frustrating as all this has been, progress in the form of serious research on the pros and cons of DB, DC and various Hybrid systems has moved the policy needle. DB Plan implementation flaws and abuses have come to light, and solutions developed and implemented, though more remains to be done. While those seeking to exploit flaws to gain market share and profit worked to demonize public sector employees, others like the National Coalition of Public Employee Retirement Systems (NCPERS) and member organizations, including CRCEA and REAOC, have worked to develop needed policy. Though only in its 5th year, the NCPERS Public Pensions Funding Forum is proving to be a rapidly evolving important element of the policy development work intrinsic to NCPERS' mission.

Sponsored by REAOC, my attendance at this year's San Francisco event provided an encouraging view of a vastly improved economic and political land-

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scape that may be setting the stage for a new positive direction in the overall pension debate. This is particularly encouraging for policy wonks, like me, that thrive on data and trends that point policy development in a new viable direction.

As an active member serving on Funding Forum's Research Advisory Group that is headed by economist Dr. Michael Kahn, I was excited to hear that NCPERS has decided to expand its Funding Forum's research capacity by funding research through academic institutions. This is sorely needed to counter very well developed and funded opposition networks that are operating in high gear. It will also allow acceleration of activities to gain a more objective longer term economic outlook by modeling impacts of various pension plan scenarios on the long term US economy. This could prove especially valuable if it includes adequate consideration for demographic trend realities, such as the shrinking cadre of active workers - now at 1.3 workers to 1 retiree – down from 2.0 and still shrinking.

Of course, no one research study can be expected to win or lose a debate of this magnitude, especially when advocates and opponents tend to dismiss each other's work as lacking or self-serving. However, this year's Funding Forum provided the first indications that the tide may be turning, in part because of widespread acceptance of valid disciplined research that is correctly mirroring economic realities.

The fact is, many research studies do point the way to economic realities and are debunking the "forgone conclusion" that 401ks are the one size fits all solution to retirement security. Study shows that, for example, the key flaw causing DB underfunding is, not surprisingly, failure of employers to practice the discipline needed and make their annual payments. Data also shows that the trend in the public sector to move away from DB plans to DC plans is reversing. On the retirement plan investment front, research presented demonstrated that the high cost hedge fund trend produced 25 uber-rich billionaires, but neither met fund diversification objectives nor the promise of extraordinary returns. In fact, hedge funds by and large simply mirrored the market. And, research, and the 401k industry itself has clearly demonstrated the failure of their concepts to provide sufficient retirement security.

The list of past research topics put out to support the pension policy debate over the last 8 years is very long. The arguments are becoming repetitive, circular, and have taken on the he said, she said feel. So where do we go from here, especially knowing that DB opposition have momentum?

My own thoughts revolve around the concept that retirement security is derived from multiple sources, and one size does not have to, nor can it ever fit all. It is clear that humans are not all experienced in the financial management skills needed to run their own pension plans. Face it, we really don't want our surgeon or pilot to have to stop what they are doing or preoccupied with researching and making a stock trade choices. With all this in mind, once we have systems fielded, there comes a time when their track record and the data trail they leave really do speak for themselves.

Having long been of the opinion that enough data exists to answer a question I raised at last year's forum for a possible research

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study. Specifically, what is the long range impact on the U.S. economy of moving away from DB plans? The question has been answered in NCPERS' latest study released in May of his year entitled, *Economic Loss: The Hidden Cost of Prevailing Pension Reforms.* This study demonstrated that the trend will result in an estimated $3.4 Trillion (yes Trillion with a T) reduction in the rate of economic growth and size of the economy in 2025. As a policy wonk, this gets my attention even though methodology and assumptions are always subject to further testing and validation. That said, this is a key question and one of the right questions at the right time.

Why? In part it is because the researched response gets to the essence of the pension policy debate and explains, to some extent, recent movement away from 401k based DC plans, as well as the 401k industry's own ad campaign that effectively touts the dismal retirement security readiness track record that overreliance on 401k plans has produced.

Looking beyond just the impacts question, Nobel Laureate Economics Professor Dr. Michael Spence, who works directly with countries around the world, provided his assessment that the world economy is improving with near synchronized gain across major nations. This comes at a time when pension fund funding levels have and continue to improve, the private sector is growing, individual wealth lost in 2008 has largely been recovered, and major industry workplace restructuring, spurred by the lack of resources during the long recession, has occurred throughout the economy. This includes integration of more robotics, automation, information flows, and internet shopping. The issue of the new roles for humans and deployment of financial capital are still evolving, but in a thriving healthy way. In short, the environment is no longer conducive for pension opponents to feed pension envy, demonize public sector workers, or pitch pension products that don't produce.

Moving one step further, this author believes that the current environment and research to date paves the way for further targeted research and an initiative to explore ways to potentially reintroducing DB plans back into the private sector. This could prove a major plus in the battle to protect public sector retirement security.

Many of us also believe the research to date points to DB plans as a critical structural contributor to a continuing healthy US economy and sustainable Gross Domestic Product. Further, contrary to the predominant current corporate culture, focused research is possible that can help bring DB plans back to the private sector. Research can demonstrate clearly that modified DB plans based in modified federal and state policy that include newly designed support structures, can be developed, modeled and tested. Making this a reality, using strategically selected concept development participants, holds great promise to helping convince the corporate world and small business to add or expand current DB offerings that have provided such reliable retirement security in the public sector.

Finally, while helping to bring retirement security to the private sector helps protect public sector workers, doing so has the added benefit that it is consistent with our public service role. And, in the simplest of terms, it is the right thing to do.

LITIGATION UPDATES – CalPERS Long-Term Care Insurance

September 2017 Update
The parties are close to wrapping up fact discovery. Plaintiffs are in the process of obtaining class member data from CalPERS' third party administrator, the Long Term Care Group, which will be used by Plaintiffs' experts to calculate class damages. CalPERS has also decided to take further depositions of the three Class Representatives, Holly Wedding and Eileen and Richard Lodyga. Those depositions will take place in the next two months.

The Court also set a new pre-trial and trial schedule at the Status Conference on Friday, September 22, 2017. Under the new schedule, Plaintiffs will be filing their proposed trial plan on December 17, 2017, which will set forth our plan for trying the class case. CalPERS will be filing a motion to decertify the class on February 5, 2018, which Class Counsel will, of course, oppose. Our opposition brief is to be filed February 26, 2018, and the decertification motion will be heard by the Court on April 19, 2018. Assuming the motion is denied, which is our expectation, expert discovery will be conducted through the summer of 2018 and completed by July 31, 2018. A trial date has been tentatively set for November 19, 2018, however, that date may be pushed out to early 2019.

And finally, the partial settlement with the Towers Watson defendants was also addressed at the September 22nd hearing. In short, the Court has reviewed Plaintiffs' Motion for Preliminary Approval of Partial Settlement and, before ruling, she has requested some additional information regarding the terms of the proposed settlement. Class Counsel will be submitting the requested information to the Court by the end of this week (September 29) and a further hearing on the proposed settlement will likely be scheduled for a date in October. Assuming the Court grants preliminary approval of the partial settlement, a notice with additional details will be sent to Class Members shortly thereafter.

June 2017 Update: Judge Denies CalPERS Attempt to Dismiss Class Action Lawsuit
On June 19, 2017, Los Angeles Superior Court Judge Ann I. Jones, sided with plaintiffs and denied CalPERS' request to dismiss the claims of approximately 123,000 class members who purchased Long Term Care insurance from CalPERS and had their premiums increased by 85%. A copy of the Court's order can be found on the website.

In this case, the plaintiffs asserted five causes of action against CalPERS: breach of fiduciary duty; breach of contract; breach of the implied covenant of good faith and fair dealing; rescission; and declaratory and injunctive relief. The court previously certified the breach of fiduciary duty and breach of contract claims for class treatment. CalPERS filed a motion for summary judgment seeking to eliminate the case in its entirety. CalPERS argued that plaintiff's breach of fiduciary duty claims were barred because it had immunity for any breaches that may have led to the 85% rate increase. On the breach of contract claim, CalPERS argued that the claim should be dismissed because it was permitted to raise rates under the contract of insurance and that the claims were barred by the statute of limitations.

The Judge denied the motion for the second cause of action for breach of contract, the third cause of action for breach of implied

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covenant of good faith and fair dealing, and the fifth cause of action for declaratory and injunctive relief. With respect to the breach of fiduciary duty claim, the Court found that CalPERS had immunity for this claim.

The Court rejected CalPERS' argument that the Class' breach of contract claims were barred by the statute of limitations. The Court found the time period to contest the 85% rate increase did not begin to run until CalPERS actually announced the rate increase in 2013. The Court also found that the rate increase potentially violated certain provisions in the insurance contract that prohibited rate increases that are "a result of" the increasing benefits that were being provide to policyholders who purchased inflation protection. Since CalPERS primarily implemented the rate increase on policyholders that purchased inflation protection, the Court found that a jury could infer that the rate increases were implemented as a result of this benefit.

At this point, CalPERS has indicated that it will attempt to "decertify" the class. If this motion is denied, the case will likely proceed to trial next Spring on a class-wide basis.

April 2017 Update

As reported in our last update, Towers Watson, the actuarial firm responsible for setting CalPERS' premiums for the LTC Program in 1995, filed a Motion for Summary Judgment seeking the dismissal of plaintiffs' claims on the grounds that they were barred by the statute of limitations and that Towers Watson did not owe the plaintiffs a duty. However, before the hearing on that motion could take place, Towers Watson and Plaintiffs reached a preliminary settlement.

Under the terms of the settlement, Towers Watson will be paying $9.75 million to settle the claims against it. Importantly, this partial settlement *only* impacts the claims against Towers Watson and will not impact the claims asserted against CalPERS as the main defendant in this case. The case continues against CalPERS, which is set for trial in October of 2017.

This partial settlement was reached at mediation on February 16, 2016, which was conducted after the briefing was completed on Towers Watson's Summary Judgment Motion but before the March 8, 2017 hearing. This was viewed as a logical time to convene mediation because of the risks associated with the fully dispositive Motion for Summary Judgment. Towers Watson asserted throughout this litigation that it is not responsible for the 85% rate increase, and it made two primary arguments in its Motion for Summary Judgment as to why the case against it should be dismissed.

First, Towers Watson argued that the two-year statute of limitations for the claims asserted against it had expired since the negligent conduct alleged by Plaintiffs (mispricing of premiums) occurred prior to 1995, and Towers Watson had not had been involved in the LTC program since 2004. Second, Towers Watson argued that it owed no duty to the Class since it was hired by CalPERS, and not by the Class Members, to provide the actuarial services that were at issue in the case. If either of these arguments were to be accepted by the Court, all of the claims asserted against Towers Watson would have been dismissed.

In reaching this partial Settlement, Class Counsel has considered the benefits of the partial settlement and balanced these benefits with the risk that the claims against Towers Watson

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would be dismissed. Plaintiffs also took into consideration the value that a partial settlement would bring to the overall litigation and the claims they will continue to assert against CalPERS.

Class Counsel will shortly be filing a Motion for Preliminary Approval of the Partial Settlement with the Court. Assuming the proposed settlement is preliminarily approved by the Court, notice will be sent to the Class with details on the terms of the partial settlement and Class Members will be given the right to object to the settlement. These objections, if any, will be considered by the court at a Final Approval hearing. The deadlines for objections and the date of the Final Approval hearing will be included in the notice sent to the class.

Class Counsel have also been working on an opposition to a Motion for Summary Judgment filed by CalPERS. The opposition papers on behalf of the Class were filed on April 28, 2017, and the Motion was set for hearing on June 2, 2017. The briefing relating to CalPERS Motion for Summary Judgment has been posted on the website.

http://www.calpersclassactionlawsuit.com/litigation-update.html

Membership
Rhonda Biesemeier, Chair

The Membership Committee continues working on a Membership Recruitment and Retention Guide. Any suggestions for this would be appreciated.

Also, the Membership Surveys for the Fall Conference will be coming out soon, and if anyone has additional information you would like to have collected, please contact me at: rhonrob@att.net.

The Tale of Two Wolves
(author unknown)

An old Cherokee chief was teaching his grandson about life. "A fight is going on inside me," he said to the boy. "It is a terrible fight and it is between two wolves."

"One is evil: he is anger, envy, sorrow, regret, greed, arrogance, self-pity, guilt, resentment, inferiority, lies, false pride, superiority, self-doubt, and ego.

"The other is good: he is joy, peace, love, hope, serenity, humility, kindness, benevolence, empathy, generosity, truth, compassion, and faith.

"This same fight is going on inside you — and inside every other person, too."

The grandson thought about it for a while, and then asked his grandfather, "Which wolf will win?"

The old chief answered, "The one you feed".

Pumpkin Dump Cake

1 spice cake mix (or yellow cake mix + 2 tsp cinnamon)
1 package instant vanilla pudding mix
1 (15oz) can pumpkin puree
1½ cups milk
3 eggs
¾ cup butter, melted

Preheat oven to 350°.

In a large bowl mix together pumpkin, milk, and eggs until smooth. Pour into a 13x9 inch pan, sprayed with non-stick spray. Sprinkle cake mix evenly over the top. Repeat with the pudding mix. Drizzle melted butter over the cake/pudding mix. Gently press down any areas not covered in butter.

Bake 45-50 minutes.

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