

April 26, 2007

**Public Employee Post-Employment Benefits Commission Meeting  
Presentation**

Location: Orange County Transportation Authority (OCTA)  
600 S. Main Street  
Room 154  
Orange, California 92868

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My name is Jake Petrosino, Research Director, PERS Retirement Betterment Committee, Inc., a volunteer public employee advocate group founded in 1969, dedicated specifically to public section pension issues in the state of California.

In addition to this brief presentation, we are providing two (2) articles which we request be considered as a part of our testimony that relate to basic pension issues before this Commission.

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Forget that nonsense that public section pensions are "super-rich." The best public sector pension plans in California will provide a long-term career employee with a reasonable pension; that is, one which will allow a retiree to avoid living in poverty.

Even the chief actuary for the California Public Employees Retirement System (CalPERS), has stated more than once that agency contribution rate increases were primarily caused by POOR INVESTMENT RETURNS for the three (3) year period, 2001-2003, not benefit improvements granted the system's membership. That same ill fate was visited on both public and private pension plans, as well as other institutional investors of all shapes and sizes.

Again, pension plans were not the only ones damaged by the investment downturn. Those in IRC 401 and 457 investment plans also suffered losses unless they were in low yielding money market accounts.

The major reasons for any long-term financial problems with specific pension programs include one or more of the following mistakes:

- o Failure to make appropriate and timely agency contributions as determined by an independent pension actuary.
- o Establishing inflated and unrealistic investment earnings and other basic economic assumptions which under estimate actuarially required contribution rates.
- o Failure of trustees to carry out their fiduciary responsibilities as required by law.

We encourage this commission to recommend that stronger enforcement and civil penalties be imposed under both federal and state laws on pension trustees found guilty of violating their fiduciary duties. (Existing personal liability provisions should also be enforced by the courts.)

In an attempt to help solve the growing difficulty of attracting and retaining police and fire personnel, the California Legislature and Governor Gray Davis, made improved pension formulas available to local government agencies.

Even with these higher pension formulas, recruitment for urban and county peace officer positions has become difficult for most agencies and next to impossible for many larger cities and counties. Even with lower standards, vacancies and newly budgeted positions go unfilled. And lower standards bring with it other problems, such as those that were experienced by the Los Angeles Police Department (Rampart Division), a few years ago.

Like an oncoming freight train, demographic projections show that there will be a significant shortage of appropriately educated and skilled workers in the future. Even now, public agencies at all levels of government are finding it difficult to maintain the needed skill levels to recruit for those positions now in place with retirement age "baby boomers."

We believe that improved public pension plans are a necessary prerequisite to maintaining a reasonably skilled and dedicated public sector workforce.

The alternative, "private sector solution" with its attendant problems is most evident with the disastrous results encountered by the contracting out of services in Iraq and Afghanistan.

Hopefully, we will be spared any experiment to dismantle public sector pension programs that are a cornerstone of a vital and necessary public sector workforce in California.

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# Pensions not the problem

*Highly critical news releases reporting rich benefits have created an atmosphere of uncertainty and concern*

**BY JAKE PETROSINO**

*Research Director, PERS Retirement Betterment Committee, Inc.*

Retirement system funding has, during the past few years, become an appropriately newsworthy subject for investigative reporting. Highly critical news releases reporting rich benefits and impending financial collapse of public pension plans have created an atmosphere of uncertainty and concern among taxpayers and participants of all public worker pension systems in California and across the nation.

The news media has created an almost impenetrable "stone wall" atmosphere, effectively ending, or at least markedly reducing, pressure to improve retirement programs. There is no doubt that repeated disclosures of serious under funding of local and state public pension systems, as well as federal Social Security, have effectively cut chances to make needed improvements in deficient retirement-related benefit provisions.

Typically, those severely disabled and dependents left behind at an active worker's death are provided little or no monthly income, forcing many to the welfare rolls with minimal income on which to survive (Approximately 15-20 percent of workers NEVER make it to a service retirement).

The continuing attacks on government and public sector workers have chased normally supportive legislators at all levels of government into hiding. Those public officials who might otherwise favor needed benefit improvements remain silent in order to avoid the voters' wrath.

Others move to reduce benefits while ignoring existing retirement plan deficiencies such as those provisions which actively discourage meaningful vocational rehabilitation and reemployment of injured public sector workers who are occupationally, but not totally disabled. We are aware of only one state, Hawaii, which has a successful program in place to bring those disabled back into the public sector workforce.

Behind the scene is Grover Norquist, president of Americans for Tax Reform, host of weekly meetings of Republicans in Washington, D.C., and according to the Aug. 1, 2005 issue of *New Yorker*, refers to Democrats as "the enemy," describing bipartisanship as "date rape." His stated plan is to reduce the federal government so much

that he could "drown it in the bathtub," the article reports.

His organization is flush with money donated by the National Republican Party, as well as many ultra-conservative business leaders. His organization regularly distributes press releases attacking public employees and public sector pension plans at every level of government. These writings offer many of the nation's newspaper editors print-ready copy without cost.

And there is compelling evidence that those efforts have been most effective in causing a cutback in basic pension formulas. In California, a number of 1937 Act counties have moved to a lower tier of pension benefits for new employees. Gov. Arnold Schwarzenegger has insisted that pension benefits for state workers will be greatly reduced or replaced completely with defined contribution plans (If that effort is successful, these public sector workers can kiss their retirement plans goodbye, to be replaced with the need to "keep working until the end," if they remain in state service).

## **FORGET THAT NONSENSE THAT PUBLIC SECTOR PENSIONS ARE 'SUPER-RICH'**

A few locally administered public pension plans in California provide rich service retirement benefits disproportionate to needed contribution rates, but most of these have been closed to new workers.

The chief actuary for the California Public Employees Retirement System (CalPERS), has stated more than once that agency contribution rate increases were primarily caused by *POOR INVESTMENT RETURNS* for the three-year period, 2001-03, not benefit improvements granted the system's membership. The same ill fate was visited on both public and private pension plans, as well as other institutional investors of all shapes and sizes.

Again, pension plans were not the only ones damaged by the investment downturn. Those in IRC 401 and 457 investment plans also suffered losses unless they were in low yielding money market accounts.

Most recently, in the city of San Diego, pension abuse has effectively driven that city to the brink of bankruptcy. Pressed from all sides, city of San Diego administrators sought to remain competitive in the marketplace and avoid the exodus of career employees

in management and other key positions to public agencies where better pension benefits were already in place.

But city fathers balked when it came to funding those improvements. There simply were no funds to cover costs, and no way taxpayers were going to accept higher taxes to pay for it all. That fact notwithstanding, an unholy "deal" was struck between the administration and the self-administered pension board to provide improved benefits in exchange for "deferred" agency contribution rates to cover the actuarially calculated cost (The bet was on higher than estimated, future investment returns to save the day).

Hopefully, responsible city officials and pension trustees who have a fiduciary responsibility will be appropriately punished for violating their oath of office. We hope that the newly elected mayor and city council will give serious consideration to moving to the San Diego County Employees Retirement Association (37 Act County), or the CalPERS, where benefit improvements are made on a "C.O.D." basis.

It is reported that state or local governments in Illinois, New Jersey, New York, Ohio, West Virginia, and elsewhere have provided improved pension benefits but failed to provide the required funding. Again, benefits are granted today with required payments deferred to some later date when the perpetrators are no longer around.

The lesson seems to be lost over time. Inappropriate deals that provided pension benefit improvements instead of immediate pay increases caused catastrophic fiscal damage to New York City, thanks to Mayor Lindsay and public sector union bosses.

Again, it happened with the City of Los Angeles Fire & Police Pension System when Mayor Sam Yorty was in office. Immediate benefit improvement in exchange for no pay raise in the upcoming budget was the simple plan that avoided tough political solutions. It is for sure that we all will pay the price for those few scoundrels that wounded the taxpayers and remaining younger workers for their own unholy gain.

The *New York Times*, stated that, "The fear of runaway pension costs plainly echoes the Social Security debate, and many suspect that the Bush administration would not much mind if pensions did disappear." The warnings are clear. Preserving our public pension plans is a fight we cannot afford to lose.

# More than a service retirement

BY JAKE PETROSINO

Research Director, PERS Retirement Betterment Committee, Inc.

In an attempt to help solve the growing difficulty of attracting and retaining police and fire personnel, the California Legislature and Gov. Gray Davis, made improved pension formulas available to local government agencies. The 3%@50 and 3%@55 safety member formulas provided to state safety and California Highway Patrol members were extended to local safety personnel on a permissive basis.

From that point on, the push was on by public safety associations and unions to make the new retirement formulas a priority on behalf of their respective memberships. To date, there are more than 320 city, county, and special districts with the 3%@50 safety member formula, and over 111 with a 3%@55 safety member formula, that have PERS coverage. This represents 54 percent of 809 safety member plans in that system. Of the 20 counties covered by the 1937 Counties Act, our records show 6 with 3%@50 and 2 with 3%@55.

As we know, even with these higher pension formulas, recruitment for urban and county peace officer positions has become difficult for most agencies and next to impossible for many larger cities and counties. Even with lower standards, vacancies and newly budgeted positions go unfilled. And lower standards bring with it other problems, such as those that were experienced by the LAPD (Rampart Division) a few years ago.

Missed in the rush to gain a better service retirement formula for its members, many labor organizations have failed to view their retirement plan coverage in a more comprehensive manner.

As a starter, most do not differentiate between "total disability" (unable to perform any meaningful work), and "occupational disability," (unable to perform the current occupation). We believe that a strong case can be made for a higher disability pension benefit for those found to be "totally disabled."

For those California public pension plans without federal Social Security, survivor benefits for the dependents of active members is almost "off the radar screen," when it comes to monthly benefit payments. Some agencies provide no such coverage for members, while others offer amounts that are painfully inadequate, forcing many families to seek welfare in order to survive.

One reason for the current lack of coverage is that some agencies and/or labor organiza-

tions are held captive by insurance brokers that offer these plans which include fees and commissions paid to the insurance company. Of course, that cost is built into the monthly premiums paid by the covered member.

PERS agency plan coverage is available at a cost of \$2 per member per month, but the benefit levels currently lag Social Security amounts by 12 years or more, depending on the level of coverage in force. Improvement in monthly benefits remains one of our committee's top priorities. Hopefully, the statewide labor organizations, such as PORAC, will add this important item to their future legislative programs.

Retired member benefits that we believe are in need of basic improvement include the following:

The PERS program provides that cost-of-living (COLA) increases are paid after a two-calendar-year wait, payable in May for the month of April. We support those efforts by statewide labor organizations to sponsor legislation to make those pension increases in a more timely manner by reducing both the wait and the monthly lag, which can no longer be justified as "administratively impossible" to facilitate.

Some retirement program plans provide for annual COLAs at 3, 4, or 5 percent, but the significant majority offer a maximum of 2 percent each year. The PERS Board of Administration has adopted staff recommendations

over the years to increase that amount from 2 to 3 percent. To date, those efforts supported by statewide employee organizations have failed passage in the California Legislature or have been vetoed by the governor. This will be a really tough one to win because of cost considerations.

The 1937 Counties Act agencies provide 60 percent for the surviving spouse of a retired member. We believe that the comparable benefit for PERS plans should be increased to that amount from the current 50 percent for those without federal Social Security coverage, and from 25 to 30 percent for those that include Social Security as a part of their plan provisions.

These are only some of the more basic pension benefit improvements which we believe make the various public pension plans more comprehensive in coverage for both the active and retired memberships. Gaining these benefit changes will require the aggressive support of statewide public sector employee organizations in California such as PORAC.

Given the difficult task, your organization has an enviable record in representing its membership. We are hopeful that other such groups will join in the continuing fight to gain basic benefit improvements beyond those pension formulas most recently enacted while protecting what is already in place. The GOOD FIGHT goes on.