

Retirement and Benefits: Moving Forward, Rebuilding Trust

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Almost every state has undertaken pension reform since the economic downturn of 2008, and some states have undertaken multiple rounds of it. Today, the need to align retirement planning, participant trust, and benefits costs with fiscal realities is widely accepted. Consensus about how best to achieve this end goal is elusive, however. The Great Recession was a primary driver for change. More than a decade later, amidst a tumultuous political climate, there is much work yet to be done to move forward and to rebuild trust among all those with a role in ensuring adequate benefits and a secure retirement for public education employees.

This chapter provides selected retirement and benefits indicators, gives an update on

pension reform in two states, and provides an overview of the Model Act and how collective bargaining can be used to implement it.

EMPLOYER COSTS FOR EMPLOYEE COMPENSATION

Employer costs are often cited as a primary reason for limiting benefits. How much do employers pay? Employer Costs for Employee Compensation (ECEC), calculated by the U.S. Bureau of Labor Statistics, is a measure of the average cost to employers for compensation per employee hour worked. Compensation includes wages and salaries, and benefits.¹ Employer costs for employee compensation averaged \$35.64 in September 2017, up \$1.49 from the previous year. The increase in total

compensation for state and local government workers was even higher, up \$2.85 (Tables 1 and 2).² State and local government compensation averaged \$48.78. Wages and salaries averaged \$30.54 and benefits averaged \$18.24 (Table 2).

ECEC provides summary data about three major occupational groups for state and local government workers: (1) management, professional, and related occupations, including teachers; (2) sales and office occupations, including clerical workers; and (3) service occupations, including police and firefighters. Professional and administrative support occupations (including teachers) account for two-thirds of the state and local government workforce compared with one-half of private industry.

Table 1 shows employer costs per hour for employee compensation for September 2016. Total compensation for all state and local government workers averaged \$45.93 per hour. Separated into the two components of compensation, wages and salaries averaged \$29.06 and benefits averaged \$16.87. Public sector college and university employees averaged \$53.05 per hour: \$35.49 for salaries and wages, and \$17.56 for benefits.

Table 2 shows the same data for September 2017. Total compensation for all state and local government workers averaged \$48.78 per hour. Public sector college and university employees averaged \$57.18 per hour worked: \$37.00 for salaries and wages, and \$20.18 for benefits. The increase in total compensation for public sector college and university employees was \$8.40. This was significantly higher than for all state and local government workers.

Tables 1 and 2 also identify benefits costs by type of benefit, which vary by industry group. For example, supplemental pay costs are lower for educational services employees than for health care and social assistance or public administration workers. In September 2017, employer cost for paid leave averaged \$2.71 per hour for elementary and secondary school employees, \$4.12 per hour for health care and

social assistance workers, \$4.36 for employees in state and local government public administration, and \$4.98 for public college and university employees (Table 2).

Insurance costs averaged \$5.80 per hour for state and local government employees, up from \$5.55 in the previous year (Tables 1 and 2). Insurance costs for employers increased from \$5.18 per hour for employees in junior colleges, colleges, and universities in 2016 to \$6.42 per hour in 2017. Employer costs for retirement and savings ranged from \$3.55 per hour for hospital workers to \$6.11 per hour for public sector elementary and secondary school employees.

Figure 1 shows the costs of total benefits as a percentage of total compensation for state and local government workers, by selected industry groups, since 2004. Overall, benefits accounted for 37 percent of total employer compensation costs for state and local government workers in September 2017, unchanged from the previous year.

Costs of total benefits as a percentage of total compensation varied by specific industry groups. Figure 1 shows trend lines for two groups of state and local government workers: (1) education and health services and (2) public administration. Education and health services data are identified for elementary and secondary schools; junior colleges, colleges, and universities; and for hospitals. Total benefits account for one-third or more of total compensation for state and local government workers across the two industry groups.

Benefits accounted for 35 percent of total compensation for education and health services employees, up one percent from the previous year, but still below the 37 percent of total employer compensation costs for all state and local government workers in September 2017 (Figure 1).

Figure 2 shows the percent change in total benefits costs from 2004 to 2017. There has been more variation in total benefits costs for hospital workers and for public college and university employees than for other industry groups.

Table 1. Employer Costs per Hour Worked for Employee Compensation: State and Local Government Workers, by Industry Group, September 2016

	Benefit Costs							
	Total Compensation	Salaries and Wages	Total Benefits	Paid Leave	Supplemental Pay	Insurance	Retirement and Savings	Legally Required Benefits
	Cost per Hour Worked							
State and Local Government Workers	\$ 45.93	\$ 29.06	\$ 16.87	\$ 3.28	\$ 0.38	\$ 5.55	\$ 4.98	\$ 2.67
Industry Group								
Education and Health Services	48.00	31.57	16.44	2.89	0.25	5.73	4.98	2.58
Educational Services	49.27	32.68	16.59	2.77	0.18	5.80	5.26	2.58
Elementary and Secondary Schools	48.22	31.91	16.31	2.42	0.19	5.96	5.30	2.45
Junior Colleges, Colleges, and Universities	53.05	35.49	17.56	4.03	0.15	5.18	5.17	3.03
Health Care and Social Assistance	40.08	24.61	15.47	3.65	0.64	5.35	3.21	2.62
Hospitals	42.52	26.26	16.26	3.90	0.79	5.68	3.23	2.66
Public Administration	43.84	25.79	18.05	4.02	0.61	5.41	5.22	2.80

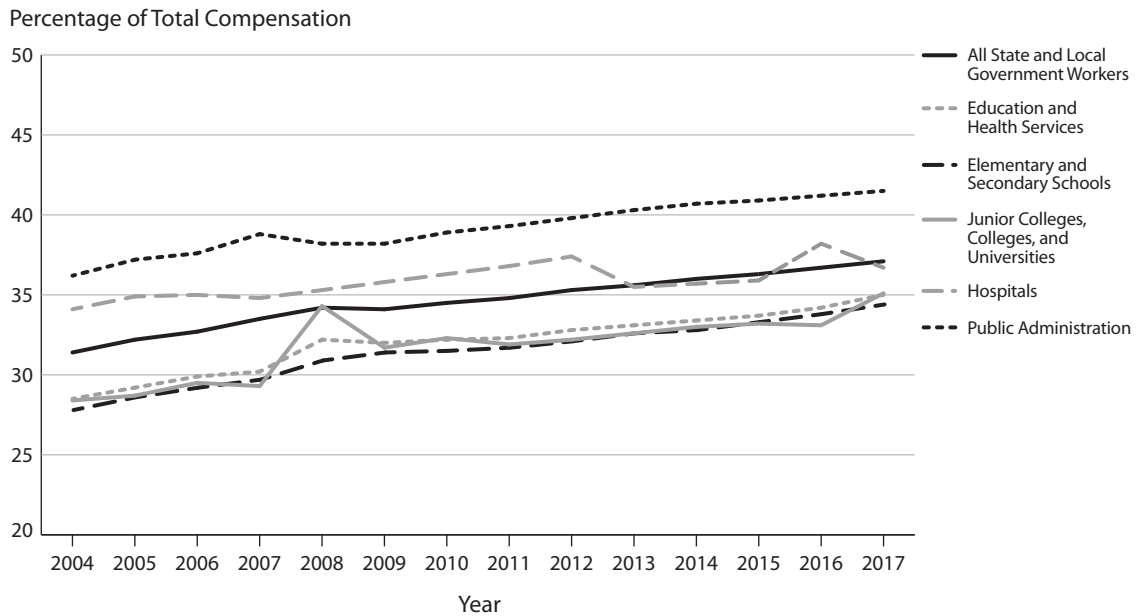
Source: Bureau of Labor Statistics, "Employer Costs for Employee Compensation, September 2016."

Table 2. Employer Costs per Hour Worked for Employee Compensation: State and Local Government Workers, by Industry Group, September 2017

	Benefit Costs							
	Total Compensation	Salaries and Wages	Total Benefits	Paid Leave	Supplemental Pay	Insurance	Retirement and Savings	Legally Required Benefits
	Cost per Hour Worked							
State and Local Government Workers	\$ 48.78	\$ 30.54	\$ 18.24	\$ 3.68	\$ 0.50	\$ 5.80	\$ 5.56	\$ 2.71
Industry Group								
Education and Health Services	51.22	33.21	18.01	3.40	0.34	6.04	5.60	2.63
Educational Services	52.64	34.34	18.30	3.27	0.25	6.20	5.94	2.65
Elementary and Secondary Schools	51.10	33.44	17.66	2.71	0.21	6.11	6.11	2.51
Junior Colleges, Colleges, and Universities	57.18	37.00	20.18	4.98	0.35	6.42	5.39	3.04
Health Care and Social Assistance	43.10	26.74	16.36	4.12	0.84	5.15	3.68	2.57
Hospitals	45.60	28.87	16.73	4.35	1.00	5.11	3.55	2.71
Public Administration	46.88	27.34	19.54	4.36	0.74	5.64	5.88	2.92

Source: Bureau of Labor Statistics, "Employer Costs for Employee Compensation, September 2017."

Figure 1. State and Local Government Workers, by Industry Group: Total Benefits Costs as a Percentage of Total Compensation, 2004–17



Source: Bureau of Labor Statistics, *National Compensation Survey*. Derived from "Employer Costs for Employee Compensation Historical Listing, March 2004–March 2017."

Note: Excludes federal employees.

Employers of public junior colleges, colleges, and university employees saw a higher percent change in total benefits costs between 2016 and 2017 than employers in any other industry group (six percent). Hospitals saw the only decrease from the previous year (–3.9 percent). Total benefits costs for state and local government hospital employers increased 6.4 percent between 2015 and 2016, however. The percent change in total benefits costs was remarkably stable for other industry groups, even after the Great Recession (Figure 2).

Figure 3 shows the distribution of benefits costs as a percentage of total benefits in 2017. Insurance and retirement and savings continue to comprise the bulk of employer benefits costs for employees: 62 percent for all public state and local government workers.

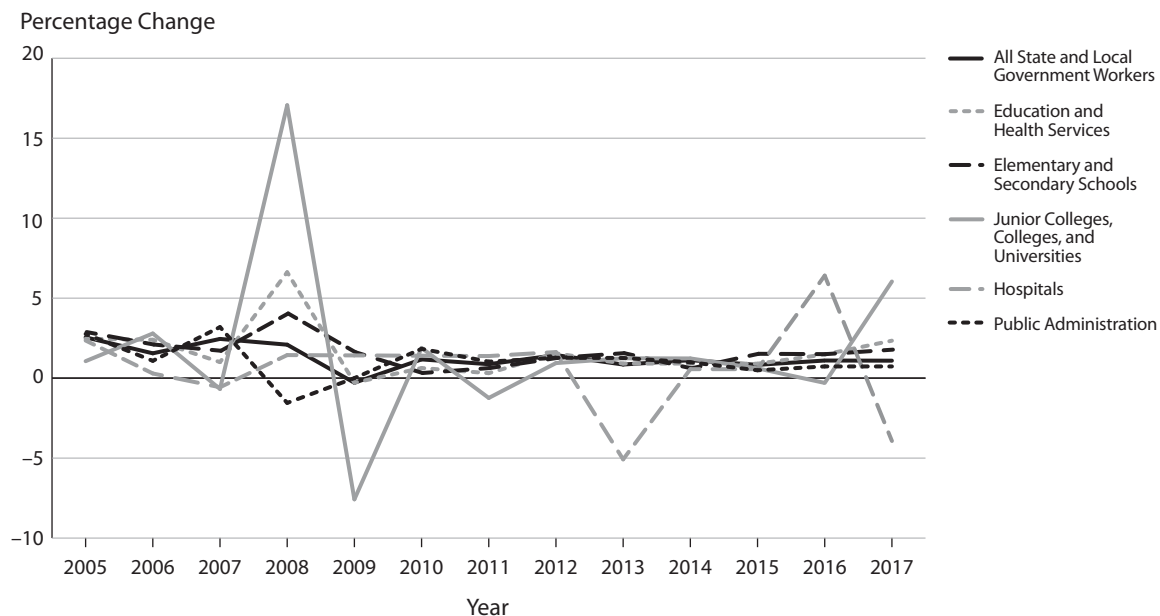
Although the increase in employer contributions to retirement and savings as a percentage

of total compensation has been gradual, the steady upward trend is consistent across industry groups (Figure 4).

INDICATORS OF PENSION HEALTH

Two indicators of pension health are pension liabilities and funded ratios of state and local pensions. In 2016, the funded ratio of state and local pensions nationwide declined under both old and new accounting rules. According to a Center for Retirement Research brief, "This decline reflected steady growth in liabilities and slow growth in assets due to poor stock performance. More recently, the revival of the stock market is helping plan assets recover, with funded ratios expected to improve in 2017."³ However, unless plans establish contribution levels that will actually reduce unfunded liabilities, funding ratios are expected to remain essentially flat.

Figure 2. State and Local Government Workers, by Industry Group: Percent Change in Total Benefits Costs, 2004–17



Source: Bureau of Labor Statistics, *National Compensation Survey*. Derived from “Employer Costs for Employee Compensation Historical Listing, March 2004–March 2017.”

Note: Excludes federal employees.

Figure 5 shows selected state funded ratios 2013–15. California, Florida, Illinois, New York, Ohio, and Pennsylvania now spend more at the state and local level on retirement plan contributions than on total (public and private) higher education spending.⁴

Figure 6 illustrates pension liabilities—the difference between the total amount due to retirees and the actual amount of money available to make those payments—for six states’ pension plans. Note that the increase in pension liabilities is higher for California than for the other states.

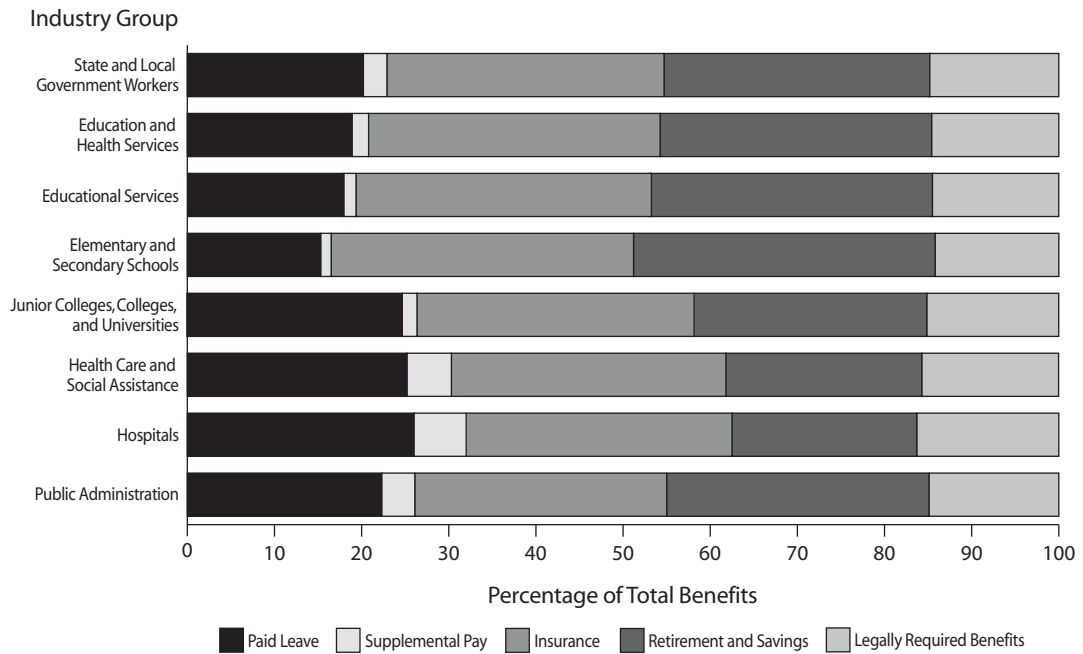
An indicator that shifts the focus from states to individuals is the National Retirement Risk Index (NRRI), which measures the percentage of working-age households at risk of being unable to maintain their pre-retirement standard of living in retirement. The Center for

Retirement Research estimates the NRRI has shown modest improvement between 2013 and 2016. However, half of households are currently “at risk” of not having enough to maintain their current standard of living after retirement, down from 52 percent in 2013.⁵

TRENDS IN STATE RETIREMENT PLANS

Most pension reforms enacted across states have included reduced benefits for new employees, increases in years of service for maximum benefits eligibility, increases in employee contributions for all employees, and freezes for cost-of-living adjustments for retirees. Yet states have taken vastly different approaches. Summaries of steps taken in two states provide examples of these different approaches to pension reform.

Figure 3. State and Local Government Workers, by Industry Group: Distribution of Benefits Costs as a Percentage of Total Benefits, 2017



Source: Bureau of Labor Statistics, "Employer Costs for Employee Compensation, September 2017."

California

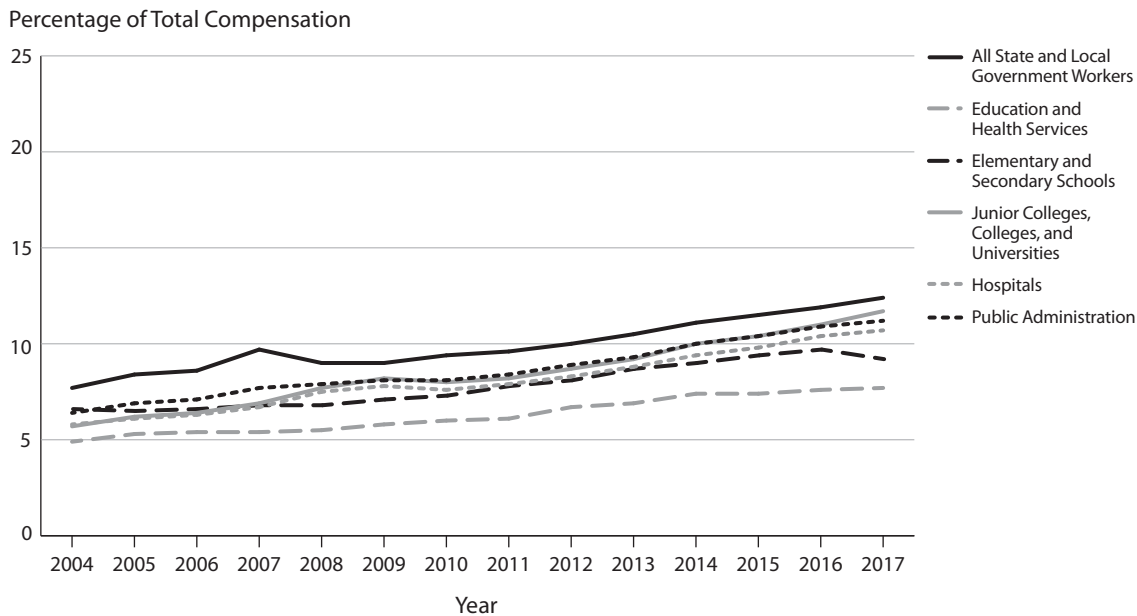
In October 2011, California Governor Jerry Brown responded to the pension crisis brought to light by the Great Recession by proposing a 12-point pension reform plan. The plan's goals were to "reduce taxpayer burden for state retiree health care costs" and to "put California on a more sustainable path to providing fair public retirement benefits."⁶ Most of the governor's plan was enacted and became known as the California Public Employees' Pension Reform Act (PEPRA). It was approved in 2012 and took effect January 1, 2013.

"Despite the pension changes Brown championed, the state's two largest public pension systems are still severely underfunded," reported Adam Ashton in the *Sacramento Bee*. "CalPERS, with \$343 billion in assets, and the California State Teachers' Retirement System, with \$220 billion, each have a little more than two-thirds of the assets they'd need to

pay the benefits they owe."⁷ Now the California State Senate is proposing the California Public Employees' Pension Reform Act of 2018 (PEPRA II), seeking to extend some provisions to current employees. Could this be the beginning of the end of the "California Rule"?

Considered one of the most important developments in public pension policy, the California Rule can be traced to a 1955 decision of the California Supreme Court in *Allen v. City of Long Beach*.⁸ The California Rule protects employees in public pension systems from changes short of their facing a crisis that threatens their survival. It is an assumption that public employee pension benefits, once granted, can never be modified, even for future work. Twelve states have adopted the California Rule: Alaska, Colorado, Idaho, Kansas, Massachusetts, Nebraska, Nevada, Oklahoma, Oregon, Pennsylvania, Vermont, and Washington.

Figure 4. State and Local Government Workers, by Industry Group: Retirement and Savings as a Percentage of Total Compensation, 2004–17



Source: Bureau of Labor Statistics, *National Compensation Survey*. Derived from "Employer Costs for Employee Compensation Historical Listing, March 2004–March 2017."

Note: Excludes federal employees.

In 2017, Governor Brown's office filed a brief arguing California should be able to reduce public employees' pension benefits.⁹ The brief targets a specific provision of PEPRA, known as spiking, which refers to artificially inflating compensation during the three years preceding retirement. But the brief goes further:

The filing embraces a cluster of recent court decisions that hold public employees are entitled to reasonable pensions, but not necessarily ones that are calculated on the most favorable formulas for them. And the filing paints unions as unreasonable in insisting that any reduction in pension benefits must be offset by additional compensation.¹⁰

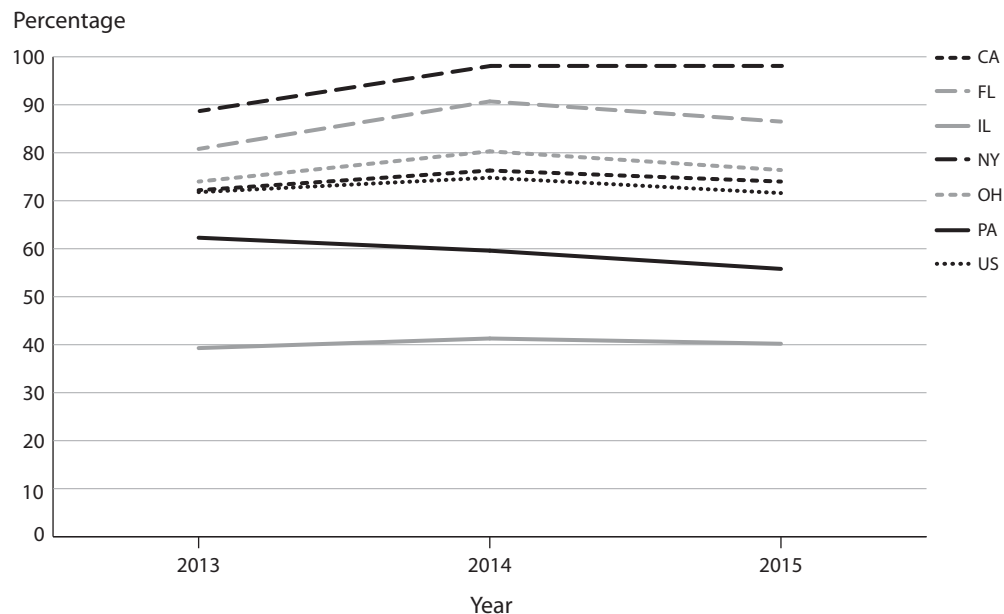
In a footnote, Brown's attorneys referenced:

Many legal experts have criticized the rigid inflexibility of the Union's position,

pointing out that it is contrary to contract clause principles, inconsistent with general contract and economic theory, and effectively depresses the salaries and benefits of newer generations of public employees.¹¹

It is clear what is at stake.

Collective bargaining rights have made a significant positive impact on public employee pensions since their inception, leading to more generous pensions, with the largest estimated effects on employer contributions.¹² The effects on overall pension amounts, measured by total contributions or payouts, however, are also substantial. Collective bargaining has also increased compensation by approximately five percent of salary. The downside to these findings is that an increase in payouts and a net increase in employer contributions also suggest that collective bargaining requirements may have contributed to the underfunding of pension systems.

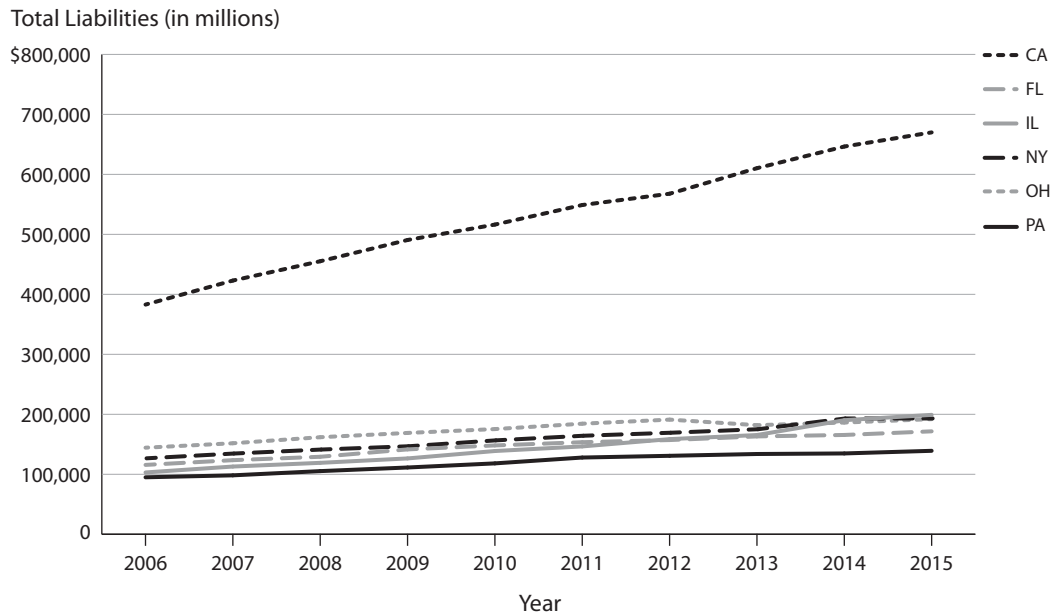
Figure 5. Funded Ratios, Selected States, 2013–15

Source: Pew Charitable Trusts, *The Fiscal Health of State Pension Plans, 2003–15*.

Pennsylvania

In 2001, Pennsylvania had a \$20 billion surplus in its pension funds. By 2015, the funds faced a deficit of \$61 billion—one of the largest swings ever recorded. In June 2017, the state passed pension reform legislation, known as Act 5, designed to lower costs and significantly reduce risk for taxpayers while also providing retirement security for public workers. The Pew Charitable Trusts played an active role in supporting this legislation as part of their work related to the fiscal health of states and localities. Key aspects of Pennsylvania’s plan include the following:

- Beginning in 2019, all new employees will be part of a hybrid retirement plan. This will consist of a reduced defined benefit program as well as a separate defined contribution savings account. An optional stand-alone defined contribution plan will also be available.
- The retirement age for new employees will increase from 65 to 67 starting in 2019.
- Current employees will have the option to 1) choose one of two hybrid plans (one offers lower employee contributions and a slightly reduced benefit); 2) choose the defined contribution plan; or 3) remain in the defined benefit plan.
- Retirees will remain in the legacy pension plan.
- Final average salary will be calculated by averaging the five highest years of compensation rather than the three highest years.
- Cost-sharing provisions require pension holders to contribute more during periods of economic distress and underperforming investments.
- Establishment of a Public Pension Management and Asset Investment Review Commission charged with making recommendations regarding active and passive investment performance and strategies. Among the Commission’s goals are to enhance transparency and reduce investment fees.¹³

Figure 6. Total Liabilities in Pension Plans, Six States, 2006–15

Source: Pew Charitable Trusts, *The Fiscal Health of State Pension Plans, 2003–15*.

Shifting employees from defined benefit to defined contribution-only plans is costly. So far, courts have protected the plans of current members. Legacy plans have huge unfunded liabilities though. Coupled with a shrinking payroll base as new members enroll in new defined contribution plans, hybrid plans offer a win-win.

Lower administrative fees are predicted for the hybrid plan, primarily because active managers are being eliminated. Instead, the hybrid plan will rely on a Public Pension Management and Asset Investment Review Commission. There is potentially a trade-off between fees and rate of return. Time will tell if this strategy results in real savings.¹⁴

Pennsylvania's new legislation also includes an enhanced cost-sharing provision. The shared risk concept emerged from pension reform negotiations in 2010. If the pension fund does not achieve the assumed investment rate of return over time, members share the risk and pay higher contributions. Required contributions are capped in a three-year period

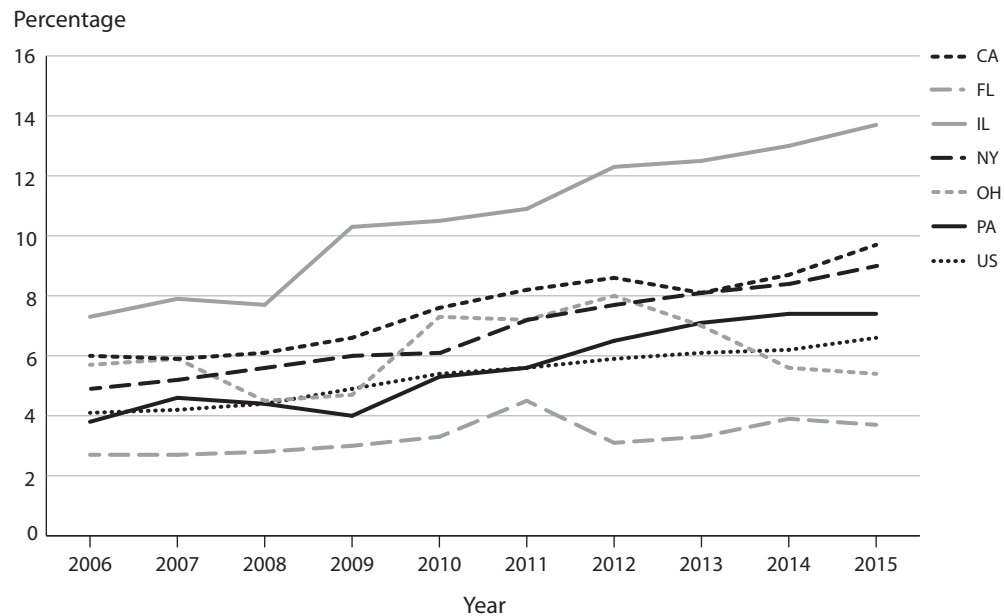
at 0.75 percent. The new legislation takes this a step further. New members hired after 2019 will have a fluctuating employee rate known as a shared gain plan. Members' pension contributions go down if investment returns exceed return targets.

Summaries of steps taken in California and Pennsylvania provide examples of different approaches to pension reform. Before closing this section on state activity, a final shift is worth noting. Four states, California, Virginia, Washington, and Hawaii now require "stress testing": substantial, regular analysis of the possible financial position of their public pension funds under a variety of economic and investment return scenarios. There appears to be interest in this testing among several other states as well.¹⁵

THE MODEL ACT

More than \$3.6 trillion in retirement fund investments for participants and their beneficiaries are held in state and local pension

Figure 7. Annual Required Contribution as a Percentage of State and Local Own-Source Revenue, 2006–15



Source: Pew Charitable Trusts, *The Fiscal Health of State Pension Plans, 2003–15*.

plans. Returns on these investments account for approximately 60 percent of the money paid out annually in pension benefits.¹⁶ In recent decades, public pension funds have sought to boost returns by moving funds away from low-risk, fixed-income investments such as bonds and toward equities and alternative investments. This change in strategy has the potential to provide higher returns, but it also increases the complexity of fund portfolios and the risk of losses.

Rules governing pension fund trustees and administrators have not kept up with this trend. The Pew Charitable Trusts developed a Model Act that defines six core duties for trustees or other fiduciaries as they fulfill their responsibilities related to a retirement system. These duties should be:

- (1) solely in the interest of [retirement system] participants and beneficiaries;
- (2) for the exclusive purpose of providing benefits to participants and beneficiaries

and paying reasonable expenses [for] administering the system;

- (3) [developed] with the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
- (4) impartial, taking into account any different interests of participants and beneficiaries;
- (5) [designed with] only costs that are appropriate and reasonable; and
- (6) in accordance with a good-faith interpretation of the law governing the retirement program and system.¹⁷

The Model Act also recognizes two other key responsibilities for trustees and recommends that they “Shall diversify the investments of each retirement program or appropriate grouping of programs unless the trustee reasonably

determines that, because of special circumstances, it is clearly prudent not to do so” and that they “May consider benefits created by an investment in addition to investment return only if the trustee determines that the investment providing these collateral benefits would be prudent even without the collateral benefits (i.e., what are known as economically targeted investments or ETIs).”¹⁸

These suggestions would go a long way toward resolving concerns about opaque business practices. Fiduciary responsibility is at the heart of a number of legal filings in fall 2017, including some by current and former employees raising questions about the administrative fees TIAA charges on many of their investment plans.¹⁹ In addition, eight leading universities, including University of Pennsylvania, Duke, Emory, Johns Hopkins, and Vanderbilt, were each named in class-action lawsuits in 2016 for allegedly mishandling their employee retirement plans. The lawsuits have generally alleged that the universities breached their fiduciary responsibility by requiring employees to pay excessive fees and miss out on extra savings.²⁰

This trend is similar to the public’s calls for greater institutional responsibility and transparency as college costs have increased at a rate far greater than inflation over the past three decades. As recently as the 1980s, institutional policies and practices were largely allowed to be opaque because the financial requirements from families were not as large. However, as students and their families have had to invest a greater proportion of their own money to acquire a college degree, their expectations from colleges and universities have risen, as has their need to be protected from unreasonable costs.

Indeed, a need for empowerment is evident as studies indicate that although individuals are now charged with managing their own defined contribution plans, many lack the skills required to adequately save for retirement. According to research by the TIAA Institute, “Most public servants do not know how much they need to save for a comfortable retirement,

nor have they planned and saved specifically for medical expenses in retirement.”²¹ The TIAA Institute also found that women are particularly vulnerable financially. Although the percentage has decreased since 2012, one-third of working women are still not able to meet an unexpected \$2,000 expense within 30 days.²² Among women in their 50s and 60s, total debt has more than doubled in recent decades. The percentage of older women with less than \$25,000 in savings has also increased sharply.²³ This study also found that older women who are over-indebted and financially fragile tend to have lower financial literacy.

MOVING FORWARD, REBUILDING TRUST

Employer costs for insurance and for retirement and savings continue to rise as a percentage of total compensation, as this chapter has shown. However, changing benefits can only go so far in containing benefits costs, and funding levels among plans vary substantially. Regardless of the specifics, keeping pension plans solvent is a shared responsibility between employers and employees. Collective bargaining can play an important role in strengthening safeguards through contract negotiations that ensure trustees and other fiduciaries conform to the Pew Charitable Trusts’ Model Act.

Additionally, unions can and should shine a spotlight on the importance of benefits to higher education employees and to teaching financial literacy. What might be the role of collective bargaining in developing this financial literacy? Who should monitor the impact of shared risk by demographic characteristics and employment groups? Given this complex landscape, the question of the day is: How do all parties involved move forward and rebuild trust?

NOTES

¹ The Bureau of Labor Statistics’ *National Compensation Survey* collects detailed information about civilian non-farm private industry and state and local government employers and workers.

² U.S. Department of Labor, *National Compensation Survey: Employer Costs for Employee Compensation*

Historical Listing, March 2004–March 2017, Quarter 1–March and Quarter 3–September. All data cited in this section are from this source.

³ Aubry et al., “State and Local Pension Plan Funding Sputters in FY 2016.”

⁴ Aldeman, “10 States Spend More on Employee Retirement Costs Than on Higher Education.”

⁵ Munell et al., “National Retirement Risk Index Shows Modest Improvement in 2016.”

⁶ State of California, “Twelve Point Pension Reform Plan,” p. 1.

⁷ Ashton, “California Should Be Able to Reduce Public Employee’s Pension Benefits, Jerry Brown Argues.”

⁸ *Allen v. City of Long Beach*, 45 Cal.2d 128

⁹ Ashton, *op. cit.*

¹⁰ *Ibid.*

¹¹ Monahan, “Statutes as Contracts? The ‘California Rule’ and Its Impact on Public Pension Reform.”

¹² Frandsen, “Public Employee Pensions and Collective Bargaining Rights: Evidence from State and Local Government Finances.”

¹³ Mennis, “Pennsylvania’s Historic Pension Reforms: How the New Law Reduces Risks for Taxpayers, Ensures Benefits for Workers.”

¹⁴ Nickol, interviewed by authors. Steve Nickol is the state staff liaison for the Retired Pennsylvania State Education Association

¹⁵ See Mennis and Dawson, “Hawaii Adds New Tool to Monitor State Pension Fund: Regular Stress Testing Will Help Track Fund’s Fiscal Health.”

¹⁶ Pew Charitable Trusts, “Basic Legal Protections Vary Widely for Participants in Public Retirement Plans: States Take Differing Approaches to Setting Core Fiduciary Standards.”

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ See Bernard, “If You Bought Into TIAA Based on Reputation, Check Your Accounts.”

²⁰ Jackson, “College Retirement Plans Under Attack: Getting an Institution’s Plan in Compliance to Better Serve Higher Ed Employees—And Avoid a Lawsuit.”

²¹ Yakoboski and Franzel, “2016 Retirement Confidence Survey of the State and Local Government Workforce.”

²² Lusardi and de Bassa Scheresberg, “Financial Capability and Financial Literacy among Working Women: New Insights.”

²³ Lusardi and Mitchell, “Women and Retirement Security.”

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