

JOINT COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT

THIRD QUARTER MEETING

September 10, 2013

The Joint Committee on Public Employee Retirement held its 3rd Quarter Meeting on Tuesday, September 10, 2013 at 4:00 pm in House Hearing Room 3. With a quorum being established, Representative Leara called the meeting to order. Joint Committee members in attendance were Senators Kehoe, Lamping and Walsh and Representatives Anders, Bernskoetter, Pierson, Runions and Wieland. Senator Chappelle-Nadal attended via telephone and Senators Keaveny and Rupp were not in attendance.

Representative Leara turned the meeting over to the Executive Director, Ronda Stegmann. The Director discussed updates on the Joplin Police & Firemen's Retirement Plan relative to concerns previously expressed to the committee by retired firefighter, Mr. Robert Davidson. The Director discussed the communication with the City Manager of Joplin and the corresponding response from the City. To ascertain typical pension plan processes and procedures, it was noted other municipal public safety pension plan staff were contacted and asked to complete an informal survey regarding topics such as plan administration, education for board of trustee members and plan legal counsel. It was noted, of the responses received, municipal plans surveyed maintain similar processes for plan administration and education with the one variation being plan legal counsel. Mr. Davidson indicated to committee staff an interest in a management audit of the plan. Because the committee does not have statutory auditing authority, Mr. Davidson has been provided with contact information for the State Auditor's office.

The Director discussed the filing of a recent court case regarding the collection by municipalities of a \$3 court cost surcharge used to fund the Sheriffs' Retirement System. Recent legislation from the 2013 session was overviewed as well as the recent opinion from the Attorney General's Office regarding collection of this surcharge by municipalities. Staff will monitor this litigation as it moves through the judicial process and keep the committee updated of any action.

Preliminary annual reporting for plan year 2012 was provided. This reporting reflects approximately one-third of defined benefit plans has been transferred into the database. This plan information reflected plan year 2012 net investment income and membership changes. It was overviewed that this year's annual survey request included new questions associated with Missouri Based professionals and investments, plan investment assumptions, and amortization of unfunded liabilities. The Director also review the second quarter investment reporting as of June 30, 2013 which outlined positive investment performance for the previous twelve months.



JOINT COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT

THIRD QUARTER MEETING

September 10, 2013

(Continued)

The Director discussed a recent questionnaire forwarded to 15 of the largest plans by the State Auditor's office. According to the Auditor's office, this survey is for informational purposes only. It is believed this informational report should be available by the end of the calendar year.

A list of projects being worked on during the interim was provided to the committee. The Director discussed statutory modifications, including what is the procedure for non-compliant plans and records keeping in regards to board member education. A draft copy will be provided at the 4th quarter meeting regarding any proposed modifications for member review as well as plan review.

The Chairman then welcomed Mr. Robert Davidson and any other interested parties relative to Joplin plan issues to address the committee. Mr. Davidson thanked the committee for listening to and seriously considering his concerns with the Joplin Police & Firemen's Retirement Plan. He conveyed that he appreciated the committee's time and effort.

The Chairman made a motion for the committee to go into closed session. Senator Lamping seconded the motion. The motion was unanimous with a roll call vote.

After business was completed in the closed session and no further business being presented, the committee adjourned.


Ronda Stegmann
Executive Director



JOINT COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT

3rd QUARTER MEETING
September 10, 2013
4:00 p.m.
House Hearing Room 3

AGENDA

Roll Call

Plan Updates/Issues
Joplin Police & Fire Retirement Plan
Sheriff's Retirement System

Preliminary Annual Reporting

Quarterly Reporting

State Auditor's Office

Interim Projects

Other Business
Closed Session pursuant to Section 610.021, RSMo



Joplin Police & Fire Retirement Plan

Joplin Police & Fire Retirement Plan

Funded Ratio

Nov 1	Market Value	Actuarial Value	Liabilities	Unfunded Actuarial Accrued Liability	MV	AV
2012	\$ 28,359,384	\$ 28,678,333	\$ 53,113,500	\$ 24,435,167	53.39%	53.99%
2011	27,053,135	27,463,741	51,495,365	24,031,624	52.54%	53.33%
2010	26,194,324	25,518,976	44,434,007	18,915,031	58.95%	57.43%
2009	22,901,458	23,231,978	42,292,408	19,060,430	54.15%	54.93%
2008	17,348,384	20,818,061	40,827,363	20,009,302	42.49%	50.99%
2007	25,392,571	22,896,993	39,279,954	16,382,961	64.65%	58.29%
2006	22,161,826	21,123,764	37,043,414	15,919,650	59.83%	57.02%
2005	19,302,683	19,722,351	33,384,405	13,662,054	57.82%	59.08%
2004	17,861,758	18,759,224	32,073,023	13,313,799	55.69%	58.49%
2003	16,618,908	17,796,728	30,086,731	12,290,003	55.24%	59.15%
2002	14,309,491	16,775,548	28,525,157	11,749,609	50.16%	58.81%
2001	14,984,668	16,013,559	27,009,397	10,995,838	55.48%	59.29%

Employer Contributions

Ending Oct 31	Annual Required Contribution	Actual	% Contributed
2014	\$ 2,737,752	N/A	
2013	2,580,017	N/A	
2012	2,214,118	\$ 2,473,301	111.7%
2011	2,214,118	2,653,556	119.8%
2010	2,206,690	1,797,683	81.5%
2009	2,169,744	2,443,752	112.6%
2008	1,761,639	1,201,804	68.2%
2007	1,821,934	1,091,380	59.9%
2006	1,374,361	1,395,340	101.5%
2005	1,334,841	1,068,332	80.0%
2004	1,234,197	1,023,804	83.0%
2003	1,189,928	1,014,212	85.2%

Date Established: 1947 **Social Security Coverage:** no

Employee Contribution Rate : Hired before 01/31/09 18.08%
Employee Contribution Rate: Hired after 01/31/09 10.00%
Employer Contribution Rate: for FYE 10/31/13 30.56%

Employees Covered: **Membership:** Active: 199
 Full-time police officers & firefighters Inactive: 156

Normal Retirement Eligibility: Hired before 1/31/09 2.5% of compensation for the first 20 YOS,
 plus 1% for each of the next 15 years; maximum 65% of compensation
Hired after 1/31/09 2.2% of compensation for first 25 YOS,
 plus 1% for each of the next 5 years of service; maximum 60% of compensation

Normal Retirement Benefit: 20 YOS age 60 w/1 YOS (hired before 1/31/09)
 25 YOS age 60 (hired after 1/31/09)

COLA Provisions: No COLA

Investment ROR Assumption: 7%

Joplin pension case news article



STATE OF MISSOURI
JOINT COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT

STATE CAPITOL, ROOM 219-A
JEFFERSON CITY, MO 65101
PHONE (573) 751-1280
FAX (573) 526-6459

September 10, 2013

Mr. Robert Davidson, Jr.
4031 S. Jackson Avenue
Joplin, MO 64804

Dear Mr. Davidson:

Thank you for your correspondence to the Joint Committee on Public Employee Retirement (JCPER). The JCPER welcomes the opportunity to assist Missouri's citizens on all levels of government regarding pension related matters. This communication is to serve as a follow up to concerns expressed in your correspondence.

At the Second Quarter Meeting of the Joint Committee on Public Employee Retirement (JCPER), committee members reviewed your correspondence outlining concerns associated with the Policemen's and Firemen's Pension Plan of the City of Joplin. At the direction of the JCPER, staff corresponded with the City of Joplin and plan officials to outline these concerns for clarification and provide assistance/recommendations, if possible. While you were provided a copy of that June 5, 2013 correspondence, another copy is enclosed for your reference.

The concerns raised in your correspondence were presented to the City Manager. The enclosed June 25, 2013 correspondence from the City was the response to such concerns. To gain a better understanding of routine processes within Missouri's municipal public safety pension plans, an informal survey was performed of a sample of such plans regarding their administrative procedures. Of the six plans responding, it appears there is similarity with Joplin Policemen's and Firemen's Pension Plan processes in several areas such as:

- Trustee Education
- Plan Auditing
- Plan Administration, and
- Accounting for Employee Contributions

Areas where differences were noted include:

- Employer Contributions above the Annual Required Contribution (ARC) were not made to the respective plan, with one exception. Your correspondence noted plan contributions were not deposited in a timely manner thereby resulting in a loss of investment income to the plan. It is our

understanding this deposit was an extraordinary contribution above the plan actuary's recommended ARC. Because this contribution is additional to the ARC, it may be this deposit was more at the discretion of the employer.

-Plan legal counsel was submitted as outside legal counsel rather than a City Attorney, with one exception. The Joplin City response indicated an outside legal counsel has been utilized by the plan Board of Trustees however the City Attorney is primarily utilized by the plan board.

(It is important to note Section 105.663, RSMo. authorizes a retirement plan to "...*appoint an attorney at law or firm of attorneys at law to be the legal advisor...*" – see attached statutory reference.)

-Federal HEART Act implementation appears to have been fully implemented by all except two of those responding rather than solely the death benefit portion (a mandatory provision) of the Act as is the case in Joplin. Due to the permissive nature of the disability portion of the HEART Act, each pension plan may elect to adopt this portion.

Please know the JCPER advocates interest and participation by public pension plan stakeholders. However, it appears from the information gathered from the City of Joplin and other Missouri municipal public safety pension plans, current administrative practices in place for the Joplin Policemen's and Firemen's Pension Plan are relatively standard with their peers. Please find attached a summary of the responses received from the municipal plans surveyed.

Public pension plans are governed under a Board of Trustees who is charged with making decisions in the best interest of the plan and its participants. As the Board of Trustees for Joplin Policemen's and Firemen's Pension Plan, these individuals ultimately have the authority to address concerns relative to Plan processes and personnel. Should your concerns remain associated with this plan, it is advisable to continue to work with the Board of Trustees to address such concerns.

If you believe additional measures are warranted, please be advised Section 29.216, RSMo passed during the 2013 legislative session in House Bill 116, provides the State Auditor with the authority to audit any public employee retirement system in the State. Should you wish to consider seeking a formal audit from the State Auditor, that office can guide you through the appropriate steps to facilitate such action. Mr. Harry Otto, Deputy State Auditor can be reached at 573-751-4213.

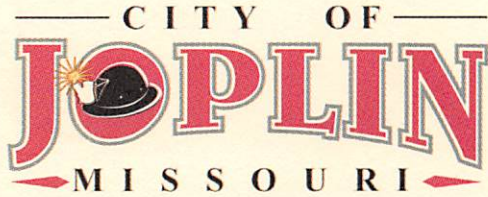
Again, thank you for your communication with the JCPER. You are to be commended for being a concerned and active plan participant. If we can provide additional assistance or you have any questions, please do not hesitate to contact our office.

Sincerely,

DRAFT – For discussion purposes only

Ronda Stegmann
Executive Director

cc: JCPER Members
Retirement Plan Board of Trustee Members
Mr. R. Mark Rohr, Joplin City Manager



RECEIVED
JUL 08 2013

BY:

City Manager's Office
602 S. Main Street
Joplin, MO 64801
(417) 624-0820 ext. 200
(417) 625-4707 (Fax)

June 25, 2013

Ronda Stegmann
Executive Director
Joint Committee on Public Employee Retirement
State Capitol, Room 219-A
Jefferson City, MO 65101

Dear Ms. Stegmann,

In response to your letter dated June 5, 2013, below is our response to the concerns raised by JCPER members and Mr. Davidson. Please know that I am fully aware of the issues addressed in your letter, and am also aware of the importance of the well-being of our pension system.

Comment: Plan Board of Trustee Education: As you are aware, Section 105.666 RSMo requires the education of the Board of Trustee members on an annual basis. This education requirement was drafted generally to allow individual plans flexibility in the education process. While not required in statute however when asked, our office has encouraged pension plan officials to maintain a log of education performed in the event this process is ever questioned. We are not certain whether this type of documentation has been maintained by Joplin officials. However, if so, we request a copy of such document be forwarded to our office.

Answer: The Joplin Policemen's and Firemen's Pension Board trustees have complied annually with the education requirement in the state statute. The board has quarterly visits from the investment consultant. Additionally, the board has annual visits from the actuary. The board has discussed the education requirement. They determined that due to the detailed discussions by these experts about investments and actuary requirements, the trustees are meeting the education requirement solely through these presentations. The City can document this education through our minutes and recordings of each meeting. Additionally, the trustees are given the opportunity to attend MAPERS annually or other pension-related training. While no trustee has been able to attend these conferences the past two years, the board is sending three trustees to MAPERS this July. Therefore, the City feels that the pension board trustees are compliant with the education requirement.

Comment: Internal audit of Plan-Discrepancies in member contributions and overpayments by the plan were highlighted in the forwarded correspondence. Please advise if an audit has ever been performed on the retirement plan outside of inclusion in the City's Comprehensive Annual Financial Report (CAFR).

Answer: As required, the Joplin Policemen's and Firemen's Pension Plan receives a separate audit of the plan itself. The required pension components are also included in the City's Comprehensive Annual Financial Report (CAFR). The annual audit of the pension fund is sent to the JCPER annually, along with the annual actuarial valuation. The annual audit is provided to the pension board trustees, as well as the City Council, on an annual basis. Due to the EF-5 tornado that struck our community and the extension of the 2011 audit, we also have an extension on the 2012 audit. So, the pension audit for 2012 is not complete yet, but the extension was granted to October 31, 2013. Therefore, the City feels that we are compliant with the annual audit requirement of the pension plan.

As you are aware an audit only reviews a sample of transactions, not each and every item. By and large, the discrepancies described happened a long time ago and were discovered as a result of the lawsuit filed against the pension board. The member contribution was one error that was the result of new personnel in both Human Resources and Finance. All of the contributions have since been collected from the employee and the matter was resolved.

Comment: Third Party Plan Administrator-As outlined in the attached, there are concerns expressed regarding the administration of the retirement plan. Please forward the process by which the plan is administered as well as any information that might clarify the raised concerns.

Answer: The Pension Plan describes the administrative powers, duties and responsibilities of the trustees in Section 7.5. A copy of the plan document has been included for your reference. The plan states the board may appoint counsel, specialists, advisors, and other persons as it deems necessary or desirable in connection with the administration of this Plan. The trustees have always utilized the Finance Director for the calculation of the benefits and other financial matters due to the fact that the payroll records are handled by the Finance Department. If the board hired a TPA, the information would still come from the Finance Department. The board also hires an independent investment consultant and custodian to administer the plan. Under the provisions of the plan, the board can certainly elect to administer the plan as they see fit.

The City voluntarily budgeted in the 2013 fiscal year to contribute another additional \$1 million to the pension plan. The budget year covers November 1, 2012 to October 31, 2013. The City never stated a specific date when the payment would be made, other than at some point during the fiscal year. Although the additional payment by the City was not required at all, the City felt the payment could be made in February of 2013, but the payment could certainly have also been made at any point through the end of October. The City is currently contributing 31.46% of payroll to the pension plan. In order to increase the funding of the plan, the City contributed an extra \$950,000 in 2009 and an extra \$1,000,000 in February of 2013 in a display of extreme good faith. These large contributions, in addition to rising health care costs, are not easy for any municipality to

make. However, the City recognizes the funding status of the pension plan and continues to strive to make improvements to that level.

Comment: Plan Legal Counsel-Conflict of interest concerns have also been expressed relative to the City's legal counsel representing the retirement plan. Please advise as to the utilization of outside legal counsel relative to plan litigation or legal advice to Board of Trustee members.

Answer: Pursuant to Section 6.02 of our Charter, "The city attorney...shall have the power and be required to advise the council or any committee or member thereof, the city manager and the heads of all departments, boards, commissions and offices concerning any legal questions affecting the city's interest." Section 7.4 of the Pension Plan document also states the City Attorney shall be the legal advisor to the Board of Trustees.

However, the board also utilizes Alan Kandel with the Husch, Blackwell law firm. Alan is a pension expert and assists the board with pension tax matters, as well as plan document language. The board hired Karl Blanchard of the Blanchard, Robertson, Mitchell & Carter law firm to defend them in the recent lawsuit from a retiree.

In specific reference to the recent plan language change for the HEART Act, Mr. Kandel indicated to the board that Section 104(a) of the HEART Act added section 401(a)(37) to the Internal Revenue Code. Section 401(a)(37) of the IRC deals with the death of a participant while in military service. This provision is mandatory, must be included in the plan, and is reflected in the amendment.

Section 104(b) of the HEART Act added section 414(u)(9) to the Internal Revenue Code. Section 414(u)(9) deals with both death and disability of a participant while in military service. Because this provision is permissive, and not mandatory, it is not included in the amendment due to the funded status of the plan. This provision could impose a new benefit that could decrease the funding of the plan and therefore, is not allowable under section 105.684 RSMo.

The City feels that the plan has followed the letter of the statute to make changes to the plan language to keep the tax status recently provided through the IRS determination letter, while not granting additional benefits as to further erode the funding status of the plan.

In conclusion, the funding status of the plan is increasing slowly. However, last year was the 5-year period in which the plan receives an experience study. The study, as with the previous experience study, showed that our assumptions differed from actual experience. This resulted in the funded status decreasing for 2011. However, the assumptions are now the worst that they can possibly be projected, so it is the City's belief that the funding status will not decrease any further and will only continue to climb. The new benefit tier referenced in your letter, which was effective January 31, 2009, will take time to impact the pension plan. However, the City continues to monitor the plan to ensure the funded status improves as quickly as possible.

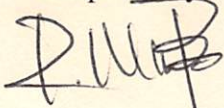
Letter to Ms. Stegmann, Joint Committee on Public Employee Retirement

Date: June 25, 2013

Page: 4

Again, I would like to thank you and the JCPER members for your time and efforts. If you have any questions regarding these issues or other matters, please do not hesitate to contact me.

Respectfully,

A handwritten signature in dark ink, appearing to read "R. Mark Rohr". The signature is stylized with a large, looped "R" and a trailing flourish.

R. Mark Rohr
City Manager

Plan	Trustee Education	Internal Audit of Plan	Administration of Plan and Employee Contributions	Employer Contributions above ARC	Plan Legal Counsel	Federal HEART Act Death and/or Disability enactment
<u>Concerns:</u>						
Joplin Police & Fire AV Assets: \$28,678,333 Liabilities: \$53,113,500 Funded Ratio: 54%	Lack of Education	Necessity of Internal Audit	Need for a Third Party Administrator rather than City staff administering the plan	Deposits were not made in an expeditious manner thereby allowing the plan to lose approximately \$70,000 in investment returns to the plan.	City Attorney representing plan is a conflict of interest.	Death provision was enacted however disability provision was not.
<u>Responses:</u>						
Brentwood Police & Fire AV Assets: \$27,206,099 Liabilities: \$34,641,073 Funded Ratio: 79%	Regular Board meetings; Agenda Education topics; Plan's Attorney provides education	Retirement Plan is included in City's Annual Audit	City Finance Director is Board Secretary; Employee Contributions monitored by City and verified by actuary.	Contributions have not been made above the ARC.	Outside Legal Counsel	Both HEART Act provisions have been adopted.
Kansas City Fire AV Assets: \$420,336,845 Liabilities: \$535,215,109 Funded Ratio: 79%	MAPERS and attendance at other pre-approved conferences	Plan receives an Annual Audit as well as a Management Audit.	City Staff administers plan; there are mechanisms in place to ensure employee contributions are made.	Contributions have not been made above the ARC.	Outside Fund Counsel	Both HEART Act provisions have been adopted.
Ladue Uniformed Employees AV Assets: \$23,012,239 Liabilities: \$35,826,301 Funded Ratio: 64%	MAPERS conference	Plan is audited annually	Administered by Plan Trustees with functions provided by City staff and Commerce Trust	Yes - In conjunction with plan modifications	City Attorney or other as retained by Trustees	Both HEART Act provisions have been adopted.
Richmond Heights Police & Fire AV Assets: \$32,327,770 Liabilities: \$32,832,894 Funded Ratio: 98% (PY11 data)	Various means; MAPERS conference; Plan professional presentations, i.e., actuary, investment	City's Independent Auditors audit plan annually	City Manager & City Finance Director per municipal code; City Staff ensures employee contributions are made.	Contributions have not been made above the ARC.	Outside Legal Counsel	Both HEART Act provisions have been adopted.
Springfield Police & Fire AV Assets: \$211,406,045 Liabilities: \$356,339,821 Funded Ratio: 59%	MAPERS conference; Plan investment consultant and counsel	Plan is audited annually. A management audit is not performed.	Plan has an executive director; Trustees receive monthly financial reports reflecting employee contributions	Yes	Outside Legal Counsel with assistance of City Attorney if necessary	Neither have been adopted however trustees keep these provisions in mind when disability ruling.
University City Police & Fire AV Assets: \$26,000,177 Liabilities: \$32,543,955 Funded Ratio: 80%	Board meets quarterly	City's Independent Auditors audit plan annually	City staff in Human Resources & Finance administer plan	Funded through property tax proceeds	Outside Legal Counsel	Neither have been adopted.

Missouri Revised Statutes

Chapter 105

Public Officers and Employees--Miscellaneous Provisions

Section 105.663

August 28, 2012

Retirement plan may appoint attorney as legal advisor.

105.663. Notwithstanding any other provision of law to the contrary, each public retirement plan as defined in section 105.660, through its board of trustees or other responsible administrative body, is authorized to appoint an attorney at law or firm of attorneys at law to be the legal advisor and to represent the plan and the board of trustees or other responsible administrative body in all legal proceedings.

(L. 1995 H.B. 416, et al.)

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[Missouri General Assembly](#)



STATE OF MISSOURI
JOINT COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT

STATE CAPITOL, ROOM 219-A
JEFFERSON CITY, MO 65101
PHONE (573) 751-1280
FAX (573) 526-6459

September 10, 2013

Mr. R. Mark Rohr, City Manager
City of Joplin
602 S. Main St
Joplin, MO 64801

Dear Mr. Rohr:

Thank you for your response associated with the inquiry made by the Joint Committee on Public Employee Retirement (JCPER) relative to the Policemen's and Firemen's Pension Plan. We appreciate the efforts made to address concerns and clarify pension plan procedures and processes.

As summarized in the attached correspondence, the JCPER staff informally surveyed a sample of 10 municipal public safety pension plans regarding trustee education, plan administration, Employer contributions, etc. Upon receipt of the survey responses, it appears the majority of the plans utilize similar procedures and processes as in place for the Joplin plan, with one exception being the plan legal counsel.

Due to the heightened emphasis being placed on public pension plan funding across the country, the education of pension plan policy makers is critical. The JCPER strongly advises City staff as well as the Plan Board of Trustees remain cognizant of and expeditious in the ongoing need for education and communication both internally as well as with plan stakeholders.

Thank you for your cooperation. If you have any questions, please do not hesitate to contact our office.

Sincerely,

Ronda Stegmann
Executive Director

cc: JCPER Members
Retirement Plan Board of Trustee Members
Robert Davidson, Jr.

Sheriff's Retirement System

Sheriffs' Retirement System

Funded Ratio

January 1	Market Value	Actuarial Value	Liabilities	Unfunded Actuarial Accrued Liability	MV	AV
2013	\$32,316,212	\$32,303,509	\$35,396,051	\$3,092,542	91.30%	91.26%
2012	\$29,329,109	\$31,010,301	\$34,302,866	\$3,292,565	85.50%	90.40%
2011	\$30,105,275	\$30,110,220	\$32,429,617	\$2,319,397	92.83%	92.85%
2010	\$27,469,898	\$27,474,416	\$28,751,540	\$1,277,124	95.54%	95.56%
2009	\$23,643,907	\$23,627,415	\$28,739,289	\$5,111,874	82.27%	82.21%
2008	\$29,255,959	\$29,254,426	\$26,941,296	(\$2,313,130)	108.59%	108.59%
2007	\$27,565,602	\$27,598,312	\$25,891,328	(\$1,706,984)	106.47%	106.59%
2006	\$25,788,864	\$25,634,674	\$24,830,420	(\$804,254)	103.86%	103.24%
2005	\$24,387,957	\$24,274,470	\$23,686,607	(\$587,863)	102.96%	102.48%
2004	\$22,527,503	\$22,514,629	\$22,299,506	(\$215,123)	101.02%	100.96%
2003	\$19,853,675	\$19,854,961	\$21,405,534	\$1,550,573	92.75%	92.76%
2002	\$21,659,233	\$21,660,769	\$20,364,194	(\$1,296,575)	106.36%	106.37%

Employer Contributions

Ending December 31	Annual Required Contribution	Actual	% Contributed
2013	\$ 1,767,128	N/A	
2012	1,797,679	\$ 1,674,091	93.1%
2011	1,819,656	1,653,864	90.9%
2010	1,754,053	1,696,393	96.7%
2009	1,797,972	1,773,689	98.7%
2008	1,313,650	1,743,092	133.0%
2007	1,449,584	1,700,270	117.0%
2006	1,628,214	1,708,827	105.0%
2005	1,548,958	1,682,208	108.6%
2004	1,582,570	1,631,800	103.1%
2003	1,819,031	1,598,065	87.9%
2002	1,378,662	1,430,630	103.8%
2001	962,262	1,378,204	143.2%

Date Established:	1983	Social Security Coverage:	Yes
Membership:	Active: 114	Employee Contribution Rate:	0.0%
Term Vested: 23	Inactive: 165	Employer Contribution Rate (2013):	29.9%
		Funded through a \$3 court surcharge	

Employees Covered: Elected or Appointed Sheriff of a county

Normal Retirement Eligibility: Age 55 w/ 12 YOS, or
Age 62 w/ 8 YOS

Normal Retirement Benefit: 2% X Compensation^ X Service
Maximum: 75% of compensation

*Monthly supplemental benefit not to exceed \$450.
2013 monthly supplement = \$304*

COLA Provisions: Benefit increased annually by increase in CPI (5% max)

^Compensation = average of 3 highest years salary

IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

FILED

AUG 27 2013

**COLE COUNTY
CIRCUIT COURT**

FRANCIS J. VATTEROTT, and

CITY OF SLATER, a political subdivision of
the State of Missouri, and

MICK WILSON, and

MISSOURI MUNICIPAL LEAGUE, and

CHRISTINE CATES, and

BARBRA SCHAEFFER

Plaintiffs,

vs.

STATE OF MISSOURI

Serve:

JEREMIAH W. NIXON, Governor
Office of the Governor
Rm. 216, State Capitol Building
Jefferson City, Missouri

MISSOURI SHERIFFS' RETIREMENT SYSTEM

Serve: Secretary

Missouri Sheriffs' Retirement System
1739 Elm Court, Suite 202
Jefferson City, Missouri 65110

OFFICE OF STATE COURTS ADMINISTRATOR

Serve: Greg Linhares, State Court Administrator
2112 Industrial Drive
Jefferson City, Missouri

**CHRIS KOSTER, ATTORNEY GENERAL OF THE
STATE OF MISSOURI** (courtesy notice)

Cause No.

Division

Serve: Missouri Attorney General's Office)
Supreme Court Building)
207 W High Street)
Jefferson City, Missouri)

**PETITION FOR DECLARATORY JUDGMENT, TEMPORARY RESTRAINING
ORDER, PRELIMINARY INJUNCTION, AND PERMANENT INJUNCTION**

COME NOW PLAINTIFFS Francis J. Vatterott, City of Slater, Mick Wilson, Christine Cates, Barbara Schaeffer, and the Missouri Municipal League (collectively, "**Plaintiffs**"), and for their causes of action against Defendants Jeremiah W. Nixon, Governor of the State of Missouri, Sheriffs' Retirement System, the Office of State Courts Administrator, and Chris Koster, Attorney General of the State of Missouri, state and allege as follows:

GENERAL ALLEGATIONS

Parties

1. Plaintiff FRANCIS J. VATTEROTT is an attorney, part time municipal judge, a resident of the County of St. Louis, State of Missouri and a taxpayer.
2. Plaintiff MICK WILSON is an attorney, the Public Defender in the Municipal Court of the City of Columbia, County of Boone, State of Missouri, a resident of the County of Boone, State of Missouri and a taxpayer.
3. The CITY OF SLATER is a political subdivision of the State of Missouri located in the County of Saline, with a municipal court.
4. CHRISTINE CATES is the Assistant City Administrator for the City of Blue Springs, Missouri, a resident of the County of Jackson, State of Missouri and a taxpayer.
5. BARB SCHAEFFER is a Court Clerk and the Court Administrator for the Municipal Court of the City of Jefferson, located in Cole County, State of Missouri, a resident of Cole County and a taxpayer.

6. The MISSOURI MUNICIPAL LEAGUE is an incorporated association of municipalities whose principal office is located in the City of Jefferson, County of Cole, State of Missouri, with 672 members distributed throughout the State of Missouri, most of whom operate municipal courts within their jurisdictions.

7. Defendant STATE OF MISSOURI is represented by JEREMIAH W. NIXON, who is the Governor of the State of Missouri.

8. Defendant MISSOURI SHERIFFS' RETIREMENT SYSTEM is a statutorily created entity under Chapter 57 RSMo and the recipient of funds collected pursuant to § 57.955 RSMo.

9. Defendant OFFICE OF STATE COURT ADMINISTRATION is a State agency tasked with oversight and administration of the courts of the State.

10. Defendant CHRIS KOSTER is the Attorney General of the State of Missouri charged with enforcement of legislation at issue and with defense of constitutional challenges to State statutes.

Jurisdiction and Venue

11. This Court has jurisdiction to consider this Petition pursuant to § 478.070, RSMo.

12. Venue is proper in this Court because the Governor's and Attorney General's Offices are located in Cole County and this action is against the State of Missouri, the capital of which is located in and whose principal duties are performed in Cole County.

Standing

13. Cities and their representative association have direct standing because they have a legally protectable interest at stake and will be directly affected by the outcome of this action, those individuals charged with implementation and defense of issues within municipal courts have direct standing as their duties and obligations are impacted by the legal uncertainty and

expenses in reviewing and implementing requirements and procedures necessary to conform to the application of §57.955, RSMo to municipal courts and defendants within those courts. Taxpayers have standing under Mo. Const, Art. X, § 23 to bring suit in this Court to enforce the provisions of sections 16 through 22, inclusive, of Mo. Const., Art. X.

14. The impending application and implementation of §57.955, RSMo to municipal courts creates a justiciable controversy that presents a real, substantial, presently-existing controversy as to which specific relief is sought that is ripe for judicial determination. The Plaintiffs have no adequate remedy at law and will suffer irreparable harm because, among other reasons, conflicting orders have been entered by Municipal Court Judges, the collection of unlawful costs exposes the Plaintiffs to litigation and judgments, and the duties of court personnel to follow constitutional principles are impaired. Only injunctive relief can prevent these and the other violations of the Missouri Constitution from occurring after August 28, 2013.

THE SHERIFFS' RETIREMENT FUND

1983 Enactment of § 57.949, RSMo

15. The Missouri Legislature created the Sheriffs' Retirement Fund (the "**Fund**") through the passage of House Bill 81 in its 1983 session, which was codified as part of Chapter 57 RSMo beginning at §57.949.

16. The funding mechanism for the Fund was and is presently the imposition of an additional three dollar (\$3.00) court cost (the "**Surcharge**") as codified in §57.955, RSMo as adopted in 1983 and subsequently modified by A.L. 1984 S.B. 704 and A.L. 1996 S.B. 869 (the "**1996 Amendment**").

17. During the first thirty years of the statute's existence, including the seventeen years after the 1996 Amendment, the statute was deemed not to apply to municipal courts.

2013 Actions by OSCA and the Attorney General

18. In July of 2013, all 575 Municipal Courts throughout the State, including the Municipal Courts in Columbia, Slater, Blue Springs, Jefferson City, and those in St. Louis County, received guidance from the Office of State Courts Administrator (“OSCA”) to begin assessment on August 28, 2013 of an additional surcharge of three dollars to be added to court costs for the “Sheriffs’ Retirement Fund” in every case disposed of by a plea of guilty or a finding of guilty.

19. The authority cited for OSCA’s guidance arises from Opinion 20-2013, dated April 17, 2013, issued by Chris Koster, Attorney General of the State of Missouri (“**Opinion 20-2013**”), which concluded that the language of § 57.955, RSMo is authority for the requirement of an assessment of a three dollar surcharge, not only in the circuit divisions, but also in the municipal divisions, for the Sheriffs’ Retirement Fund.

20. OSCA determined the Surcharge applied to municipal courts after Opinion 20-2013 stated the three dollar surcharge applies to all “civil actions filed in the courts of this state.”

21. The Attorney General issued two opinions on the interpretation of §57.955, RSMo prior to issuing Opinion 20-2013, which reached similar conclusions but based on somewhat different reasoning. (Opinion 8-2010 issued in 2010 and revised in 2011). The reasoning set forth in Opinion 20-2013 was included in the two prior versions along with other reasoning,

22. OSCA expressed its opinion that the Surcharge should not be collected after both prior opinions and indicated in correspondence after the second version that “the Office of State Courts Administrator does not intend to change its guidance to courts regarding assessment of the sheriff’s retirement fund surcharge until either the underlying statute or case law in question has been modified.” The letter from OSCA, acting as the Administrative Arm of the Supreme

Court, went on to state: “Therefore, we do not believe it would be proper to provide courts guidance advising them to assess this surcharge in municipal cases.”

23. In April 2011, OSCA on behalf of the Supreme Court notified all municipal divisions not to assess the Surcharge.

24. Neither case law nor statutory provisions have changed with respect to §57.955, RSMo in the years after 1996, but OSCA’s position has changed without explanation.

AMENDMENTS TO THE STATUTE AND THEIR STATUTORY CONSTRUCTION

The 1996 Amendment to § 57.955, RSMo

25. Prior to the 1996 amendment of § 57.955, RSMo, the three dollars of costs applied to “each civil suit, action and all other proceedings of a civil nature filed in a circuit court or division thereof” (emphasis added)

26. The 1996 Amendment removed the phrase “all other proceedings of a civil nature” and the municipal division exception along with the insertion of only “civil action” effectively made it clear that municipal ordinance violations were not subject to the three dollar surcharge, especially in light of the city of St. Louis exception to the newly inserted language specifically including county ordinances.

27. The 1996 amendment added the phrase “including violation of any county ordinance or any violation of criminal or traffic laws of this state, including infractions” such that the opening sentence of §57.955 reads, “There shall be assessed and collected a surcharge of three dollars in all civil actions filed in the courts of this state and in all criminal cases including violation of any county ordinance or any violation of criminal or traffic laws of this state, including infractions,”

Statutory Construction following the 1996 Amendment

28. The rule of *expressio unius est exclusio alterius* – the express mention of one thing implies the exclusion of another – and the rule of *in pari materia* – statutes upon the same subject matter should be construed together – should be considered in determining the meaning of § 57.955, RSMo.

29. Application of *expressio unius est exclusio alterius* would result as follows: that by specifically including “violations of county ordinances,” the legislature intended to not include the violation of municipal ordinances. In addition, by including “any violation of criminal or traffic laws of this state, including infractions,” the same rule of exclusion would exclude any violation of criminal or traffic laws of a municipality.

30. This interpretation is bolstered by the 1996 Amendment’s addition of the sentence, “For purposes of this section, the term “county ordinance” shall not include any ordinance of the City of St. Louis.” The legislature made certain that there was no question that the City of St. Louis was also excluded, as were all other cities, from collecting the surcharge because of its unique situation as a city not within a county.

31. The statement in Attorney General Opinion 20-2013 that “in interpreting statutes, courts ‘presume that the legislature intended an amendment to have some effect’” also leads to the conclusion that cities in general are not required to collect the Surcharge, otherwise the legislature adding the phrase specifically excluding the City of St. Louis’ ordinances from the definition of a “county ordinance” would not have been necessary or logical. The addition was to ensure all cities were excluded.

32. Historically, the legislature did not intend to have municipalities collect the Surcharge. Attorney General Opinion 54-84, which was written when § 57.955, RSMo did not then contain the specific “municipal” division exception that was included later (and then

removed, via the 1996 Amendment) determined that “Section 57.955.1, RSMo Supp. 1983, does not impose court costs in cases filed in the municipal divisions of the circuit courts.”

33. In reading §57.955 in the context of Chapter 57 RSMo, particularly §§57.090 -- 57.101, and applying the doctrine of *in pari materia*, the legislature’s knowledge of the sheriffs relationship to courts, i.e. limited to those presided over by circuit and associate circuit judges, leads to the conclusion that §57.955 was never intended to extend to municipal courts.

“Civil Actions”

34. Under the language of § 57.955, RSMo as amended, “civil actions” require collection of the Surcharge.

35. Rule 42.01 states: “There shall be one form of action to be known as “civil action.” (*See also*, § 506.040 RSMo.) Rule 42.01 is in the Rules of Civil Procedure that include Rules 41 through 101.

36. Rule 41.01(a) declares “Rules 41 through 101” “shall govern” “civil actions” pending in the Supreme Court, the Court of Appeals, and the Circuit Court cases pending before a Circuit or Associate Circuit Judge.

37. Rules 41.01 and 42.01 make no mention of municipal courts, therefore these rules do not apply to municipal ordinance violations.

“Municipal Divisions”

38. Supreme Court Rule 37 “governs the procedure in all courts of this state having original jurisdiction of ordinance violations and the disposition of any such violation in a violation bureau.”

39. A “municipal division” is defined in Rule 37.06(i) as “any division of the circuit court presided over by a judge having original jurisdiction to hear and determine municipal ordinance violations.”

40. Rule 37.03 states: "Rule 37 shall be construed to secure the just, speedy and inexpensive determination of ordinance violations." Rule 37 does not state or indicate in any way that municipal courts have authority to hear or adjudicate a "civil action." "Civil actions" are not filed in municipal courts. Municipal courts do not have jurisdiction over "civil actions."

Statutes Requiring Assessment of other Court Costs

41. There are a number of surcharges (part of "court costs" as defined in §488.010(1) RSMo), which municipal courts must by statutory mandate collect, or if authorized by city ordinance, may collect. All of these surcharges (Domestic Violence Shelter, §488.607 RSMo; Inmate Security Fund, §488.5026 RSMo; POST, §488.5336 RSMo, and Crime Victim Compensation, §488.5339.1 RSMo) are authorized by specific reference in each such statute to apply to municipal ordinance violations.

42. The surcharge for Crime Victim Compensation, referenced above, and for the Domestic Violence Shelter, also referenced above, are to be collected in "criminal" cases, which each Section states, include municipal ordinance violations. The Crime Victim Compensation statute provides the surcharge it shall be assessed "in each court proceeding filed in any court in the state in all criminal cases, including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance. . . ." Section 488.5339.1, RSMo. The legislature therefore considers a municipal ordinance violation as a "criminal" case for purposes of these two surcharges.

43. The Sheriffs' Retirement Fund surcharge, §488.024 RSMo (same as §57.955 RSMo), does not make any similar reference that it applies to municipal ordinance violations.

FAILED LEGISLATIVE ATTEMPTS TO IMPOSE THE SURCHARGE IN MUNICIPAL COURTS

44. HB 424 and the companion SB 355 introduced in the 2013 Missouri Legislative Session were attempts to amend § 57.955, RSMo to specify the assessment of the Sheriffs' Retirement Surcharge in the municipal divisions.

45. Said bills proposed payment of a court cost for "municipal ordinance violations" (wording that is used in virtually all other court cost statutes that cover municipal court cost situations).

46. Neither of those bills was adopted.

47. The legislative attempt to amend § 57.955, RSMo by adding the phrase "municipal ordinance violations" indicates a legislative view that the current § 57.955, RSMo, does not include municipal ordinance violations.

48. Neither bill would be necessary following the reasoning that all "civil actions" or "civil cases" include municipal ordinance violation cases.

ST. LOUIS COUNTY EXEMPTION

49. Court Operating Rule 21 (court costs) has for many years shown an exemption from the surcharge for the 21st Circuit (St. Louis County) because its Sheriff is not in the Fund plan pursuant to either §57.961 or §57.962 (St. Louis County did not elect to have its sheriff participate) and the St. Louis County Circuit Court has never collected the surcharge as a result.

50. Recent guidance from OSCA has been inconsistent as to the inclusion or exclusion of municipal courts located within St. Louis County.

51. OSCA's latest determination of the applicability of §57.955, RSMo to municipal courts located within St. Louis County was through publication of a new Supreme Court order

under Rule 21 issued on August 16, 2013 with an effective date of August 28, 2013, which states that St. Louis County municipal courts are not to collect the §57.955 court cost for the Fund.

52. Although by memoranda issued OSCA dated July 2, 2013, all 86 St. Louis Municipal Courts were ordered to begin assessment of the Surcharge.

STATUTORY PROVISIONS RELATED TO SHERIFFS

Duties

53. The duties of the 114 sheriffs of this State do not include services to the municipal courts of the State. They have no connection whatsoever to municipal court administration.

54. The duties of sheriffs as set out in §§57.090 and 57.100 RSMo limit sheriffs' duties to courts presided over by circuit or associate circuit judges.

§57.090: The several sheriffs shall attend each division of the circuit court **presided over by a circuit or associate circuit judge** held in their counties, when so directed by the court; and it shall be the duty of the officer attending any court to furnish stationery, fuel, and other things necessary for the use of the court whenever ordered by the court." (emphasis added)

§57.100: Every sheriff shall quell and suppress assaults and batteries, riots, routs, affrays and insurrections; shall apprehend and commit to jail all felons and traitors, and execute all process directed to him by legal authority, including writs of replevin, attachments and final process issued by **circuit and associate circuit judges**. (emphasis added)

55. Sheriffs are only authorized to serve cities and villages when there is a written agreement with the municipality. §57.101, RSMo.

Participation in Sheriffs Retirement Fund

56. The beneficiaries of the Sheriffs' Retirement Fund are solely retired, head sheriffs and their surviving spouses. Retired deputy sheriffs are not included in the Fund.

SALE OF JUSTICE **ARTICLE I §14 MISSOURI CONSTITUTION**

57. The provisions of §57.955, RSMo, when applied to municipal courts constitutes a "sale of justice" in violation of Article I, §14 of the Missouri Constitution, which cautions

“[T]hat the courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property or character, and that right and justice shall be administered without sale, denial or delay.”

58. Harrison v. Monroe County, 716 S.W.2d 263, (Mo.banc 1986), stated that the “constitutional proscription against the sale of justice extends to guarantee access to the courts without a requirement of payment of unreasonable charges.” Id. at 267. The Court then opined that the “proper test is whether the court costs required are reasonably related to the expense of the administration of justice.” Id. at 267. The collection and payment of the court cost imposed by §57.955 RSMo constitutes a requirement of the payment of unreasonable charges as the Surcharge is not reasonably related to the expense of the administration of justice, but is for a retirement fund for an official who performs no functions and has not statutory duties related to municipal courts.

59. The Opinion of the Attorney General, Opinion 20-2013, contains a footnote, which reads as follows: “We do not address the constitutionality of collecting this surcharge at all.” Opinion 20-2013 (citing *Harrison v. Monroe County*, 716 S.W.2d 263, (Mo.banc 1986)).

HANCOCK AMENDMENT
ARTICLE X §21 MISSOURI CONSTITUTION

60. Missouri Constitution Article X, Section 21 (“**Hancock Amendment**”) provides in relevant part:

A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the general assembly or any state agency of counties or other political subdivisions, unless a state appropriation is made and disbursed to pay the county or other political subdivision for any increased costs.

61. No provision within §57.955 RSMo nor any other section of Chapter 57 provides for any cost recovery for the administration, collection and transmittal for court costs related to the Sheriffs' Retirement Fund.

62. In order for all municipal courts to implement, collect and transmit the §57.955 court costs, said courts would be required to expend funds on the printing and editing of communication regarding the costs, accurately maintain additional records, and engage in other the financially related activities to pay the amounts collected, such as accounting. Computer systems utilized within the municipal courts also would require reprogramming.

63. The municipalities with municipal courts will incur more than *de minimis* increased costs as a result of this unfunded mandate, and neither the State nor OSCA appropriated or otherwise provided any funding to pay for these mandatory activities, resulting in costs that must be passed on to the Taxpayers and other local taxpayers.

SIX MONTH EFFECTIVE DATE

64. Article V JUDICIAL DEPARTMENT Section 5 of the Missouri Constitution provides:

The supreme court may establish rules relating to practice, procedure and pleading for all courts and administrative tribunals, which shall have the force and effect of law. The rules shall not change substantive rights, or the law relating to evidence, the oral examination of witnesses, juries, the right of trial by jury, or the right of appeal. The court shall publish the rules and fix the day on which they take effect, but no rule shall take effect before six months after its publication. Any rule may be annulled or amended in whole or in part by a law limited to the purpose.

65. Court Operating Rule 21 is a "Rule" included by Article V, Section 5. Therefore, even if the Surcharge is found to be constitutional or otherwise legally valid, municipal divisions should not be required to assess the Surcharge until six months after August 16, 2013.

COUNT I DECLARATORY JUDGMENT

66. Plaintiffs incorporate all the above paragraphs 1 through 65.

WHEREFORE, Plaintiffs pray this Court enter a Judgment decreeing and declaring as follows:

a) That the provisions of §57.955 RSMo be found to be inapplicable to municipal courts of the State and, as applied, unconstitutional as an unreasonable impediment to a defendant's access to justice in violation of Article I §14 of the Missouri Constitution.

b) That the provisions of §57.955 RSMo as applied to municipal courts be found to be unconstitutional unfunded mandates in violation of Mo. Const. Art. X, § 21.

c) That the provisions of §57.955 RSMo, as amended, when properly construed do not apply to municipal courts of the State.

d) That the provisions of §57.955 RSMo, as amended, when properly construed do not apply to municipal courts located with St. Louis County.

e) That the effective date of the revised Rule 21 order be six months from August 16, 2013 which is computed to be February 16, 2014.

f) That Defendant MISSOURI SHERIFFS' RETIREMENT SYSTEM be directed and ordered to return any amounts received after August 28, 2013 from municipal courts under §57.955 RSMo to the originating courts.

g) That Defendant OFFICE OF STATE COURTS ADMINISTRATOR be directed and ordered to provide clear guidance that the municipal courts should not charge and collect the three dollars court cost pursuant to §57.955 RSMo and should a court receive a refund of inappropriately collected amounts to provide a mechanism for refunding overpayments to individual defendants.

h) That a permanent injunction should issue enjoining the application and enforcement of §57.955 RSMo upon municipal courts of the State.

- i) Award Plaintiffs their costs and attorneys' fees.
- j) Grant such other relief the Court deems just.

COUNT II INJUNCTIVE RELIEF

Plaintiffs pursuant to Missouri Rules of Civil Procedure 92 request a temporary restraining order, preliminary injunction and permanent injunction enjoining and staying any application of §57.955 to municipal courts of the State and prohibiting the defendants from implementing, enforcing, applying or asserting any provision of §57.955 to municipal courts. In support of this request, Plaintiffs state as follows:

- 67. Plaintiffs incorporate the above paragraphs numbered 1 through 66.
- 68. Plaintiffs are likely to succeed on the merits of one or more of their claims.
- 69. Plaintiffs will suffer irreparable harm if the court denies injunctive relief and the status quo is not maintained and have no adequate remedy at law for the reason that money damages are wholly inadequate to address constitutional violations. Plaintiffs will be faced with collecting the Surcharge and having to issue refunds to multiple defendants who cannot be found or not collecting the Surcharge and being required to pay funds over to the State. Either scenario could be enforced by litigation including through a class action by those directly paying the Surcharge or an action by the State or Sheriffs' Retirement Fund to collect the Surcharge.

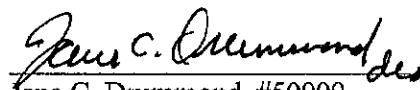
WHEREFORE, Plaintiffs pray this Court enter a Judgment decreeing and declaring as follows:

- a) That a temporary restraining order and preliminary injunction should issue enjoining the enforcement and collection of three dollars in court costs in Municipal Courts of the State for the support of the Sheriffs Retirement Fund pursuant to §57.955 RSMo pending a hearing on the merits of Plaintiffs' claims;

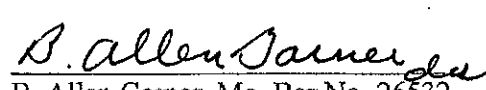
- b) That a temporary restraining order and preliminary injunction should issue enjoining the effectiveness and application of the revised Rule 21 prior to February 16, 2014.
- c) That a temporary restraining order and preliminary injunction should issue enjoining the MISSOURI SHERIFFS' RETIREMENT SYSTEM from expending any amounts received after August 28, 2013 from municipal courts under §57.955 RSMo.
- d) That a permanent injunction should issue enjoining the application and enforcement of §57.955 RSMo upon municipal courts of the State
- e) Award Plaintiffs their costs and attorneys' fees.
- f) Grant such other relief the Court deems just.

Respectfully submitted,

SCHREIMANN, RACKERS,
FRANCKA & BLUNT, L.L.C


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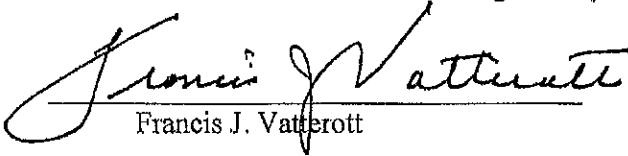
ATTORNEYS FOR PLAINTIFFS

VERIFICATION OF PETITION

STATE OF MISSOURI)
) ss.
COUNTY OF St. Louis)

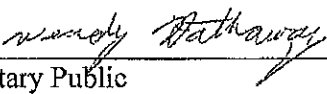
I, Plaintiff FRANCIS J. VATTEROTT, being first duly sworn on my oath, state

that the information contained in this Petition is true and correct according to my best information and belief.


Francis J. Vatterott

Subscribed and sworn to before me this 27th day of August 2013.

My Commission expires:


Notary Public

Wendy Hathaway
Notary Public - Notary Seal
St. Louis County
State of Missouri
My Commission Expires February 7, 2014
Commission #10547146

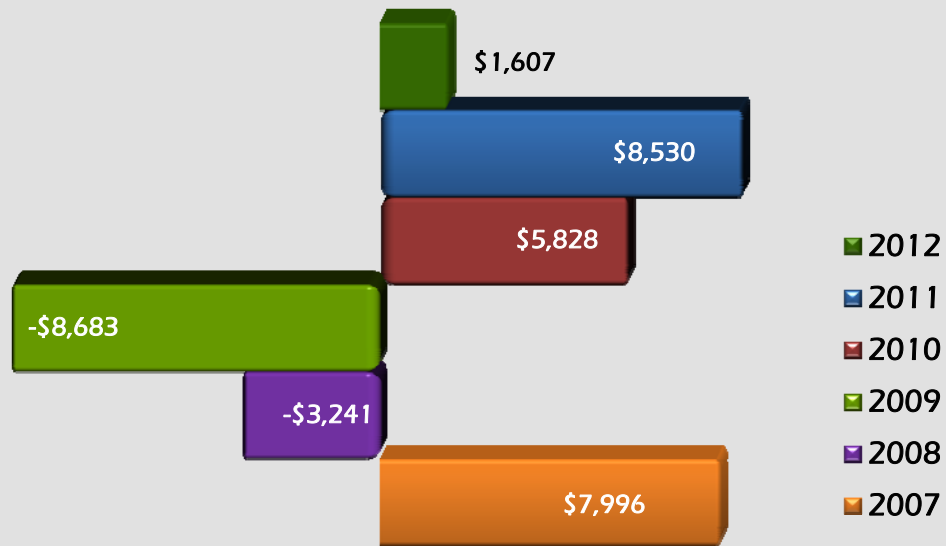
Preliminary Annual Reporting

Preliminary Plan Year 2012 Data

NET INVESTMENT INCOME

(in millions)

Preliminary Plan Year 2012



MEMBERSHIP CHANGES 2007-2012



Quarterly Plan Reporting

Joint Committee on Public Employee Retirement

Quarterly Reports

2013 Second Quarter

<u>Plan Name</u>	<u>Beg. Market Value</u>	<u>End. Market Value</u>	<u>ROR 12 mos.</u>	<u>ROR 36 mos.</u>	<u>ROR 60 mos.</u>
Affton FPD Retirement Plan	\$5,307,504	\$5,665,407	13.15% (Net)	11.12% (Net)	8.92% (Net)
Arnold Police Pension Plan	\$8,404,381	\$8,613,702	13.2% (Gross)	13.0% (Gross)	6.4% (Gross)
Black Jack FPD Retirement Plan	\$9,641,426	\$9,499,447	1% (Net)	1% (Net)	1% (Net)
Brentwood Police & Firemen's Retirement Fund	\$27,900,126	\$28,108,287	N/A% (Gross)	N/A% (Gross)	N/A% (Gross)
Bridgeton Employees Retirement Plan	\$23,104,734	\$23,078,689	13.12% (Gross)	11.79% (Gross)	3.99% (Gross)
Carthage Policemen's & Firemen's Pension Plan	\$5,869,593	\$5,871,134	11.86% (Net)	8.92% (Net)	4.04% (Net)
Cedar Hill Fire Protection District Length of Service Awards Program	\$63,514	\$64,062	N/A% (Gross)	N/A% (Gross)	N/A% (Gross)
Clayton Non-uniformed Employee Pension Plan	\$11,800,470	\$12,235,722	13.63% (Gross)	12.57% (Gross)	5.87% (Gross)
Clayton Uniformed Employees Pension Plan	\$33,743,283	\$33,493,067	12.27% (Gross)	12.11% (Gross)	6.53% (Gross)
County Employees Retirement Fund	\$370,321,000	\$373,889,000	15.0% (Gross)	12.6% (Gross)	7.4% (Gross)
Creve Coeur FPD Retirement Plan	\$9,442,811	\$8,317,185	N/A% (Gross)	N/A% (Gross)	N/A% (Gross)
Eureka FPD Retirement Plan	\$8,208,265	\$8,396,411	1% (Net)	1% (Net)	1% (Net)
Fenton FPD Retirement Plan	\$23,444,647	\$22,545,763	11.36% (Net)	10.65% (Net)	5.81% (Net)
Florissant Employees Pension Plan	\$10,989,468	\$11,212,439	6.06% (Net)	5.42% (Net)	5.42% (Net)
Glendale Pension Plan	\$4,945,055	\$4,922,234	13.00% (Gross)	11.50% (Gross)	5.80% (Gross)
Hazelwood Retirement Plan	\$30,278,443	\$30,118,191	23.23% (Net)	17.61% (Net)	5.81% (Net)
High Ridge Fire Protection District Pension Plan	\$6,346,007	\$6,307,006	11.07% (Net)	9.80% (Net)	11.48% (Net)
Jackson County Employees Pension Plan	\$207,634,571	\$208,468,354	7.2% (Gross)	12.2% (Gross)	6.1% (Gross)
KC Area Transportation Authority Salaried Employees Pension Plan	\$13,434,724	\$14,042,567	12.02% (Gross)	11.32% (Gross)	4.82% (Gross)
KC Trans. Auth. Union Employees Pension Plan	\$39,217,146	\$38,744,591	13.10% (Net)	11.25% (Net)	5.27% (Net)
Ladue Non-uniformed Employees Retirement Plan	\$3,976,584	\$3,903,452	10.26% (Net)	9.72% (Net)	4.93% (Net)
Ladue Police & Fire Pension Plan	\$25,971,612	\$25,817,053	10.29% (Net)	9.76% (Net)	4.99% (Net)
LAGERS Staff Retirement Plan	\$7,377,965	\$7,415,391	13.22% (Net)	10.69% (Net)	5.21% (Net)

<u>Plan Name</u>	<u>Beg. Market Value</u>	<u>End. Market Value</u>	<u>ROR 12 mos.</u>	<u>ROR 36 mos.</u>	<u>ROR 60 mos.</u>
Little River Drainage Dist Retirement Plan	\$1,140,945	\$1,140,396	3.83% (Net)	2.87% (Net)	2.76% (Net)
Local Government Employees Retirement System	\$5,274,692,165	\$5,288,403,395	14.54% (Net)	13.48% (Net)	6.56% (Net)
Metro West FPD Retirement Plan	\$35,190,907	\$34,846,890	7.63% (Net)	7.72% (Net)	3.42% (Net)
Missouri State Employees Retirement System	\$8,375,545,133	\$8,082,512,187	10.3594% (Net)	10.9475% (Net)	4.7930% (Net)
MoDOT & Highway Patrol Employees' Retirement System	\$1,663,496,588	\$1,674,921,460	13.42% (Net)	12.36% (Net)	3.82% (Net)
North Kansas City Policemen's & Firemen's Retirement Fund	\$42,329,934	\$42,875,587	12.8% (Gross)	12.0% (Gross)	6.1% (Gross)
Prosecuting Attorneys' Retirement System	\$32,260,655	\$31,894,356	7.82% (Net)	7.64% (Net)	4.07% (Net)
Public Education Employees' Retirement System	\$3,266,480,636	\$3,297,836,171	12.3% (Net)	11.5% (Net)	4.8% (Net)
Public School Retirement System	\$30,071,951,646	\$30,176,804,594	12.6% (Net)	11.8% (Net)	5.0% (Net)
Raytown Policemen's Retirement Fund	\$9,670,831	\$9,917,019	9.22% (Gross)	9.46% (Gross)	0.00% (Gross)
Richmond Heights Police & Fire Retirement Plan	\$37,534,587	\$40,470,624	11.06% (Net)	10.10% (Net)	7.31% (Net)
Rock Community FPD Retirement Plan	\$11,149,085	\$11,240,174	13.18% (Net)	11.61% (Net)	6.16% (Net)
Saline Valley Fire Protection District Retirement Plan	\$1,620,102	\$1,620,604	11.13% (Net)	9.04% (Net)	12.07% (Net)
Sedalia Firemen's Retirement Fund	\$6,280,610	\$6,663,357	6.2% (Gross)	32.9% (Gross)	28.0% (Gross)
Sedalia Police Retirement Fund	\$3,295,150	\$3,118,001	6.85% (Gross)	2.74% (Gross)	0% (Gross)
Sheriff's Retirement System	\$33,676,574	\$33,425,567	15.610% (Gross)	10.009% (Gross)	7.667% (Gross)
St. Joseph Policemen's Pension Fund	\$30,939,728	\$31,703,760	10.3% (Gross)	34.5% (Gross)	31.2% (Gross)
St. Louis County Employees Retirement Plan	\$527,113,576	\$525,938,164	14.19% (Gross)	12.64% (Gross)	5.76% (Gross)
St. Louis Employees Retirement System	\$705,145,392	\$701,739,989	14.05% (Gross)	12.47% (Gross)	5.5% (Gross)
St. Louis Firemen's Retirement System	\$463,146,602	\$454,528,004	15.08% (Gross)	13.41% (Gross)	4.63% (Gross)
St. Louis Public School Retirement System	\$902,312,934	\$877,244,116	11.6% (Net)	10.8% (Net)	5.1% (Net)
Valley Park FPD Retirement Plan	\$4,203,537	\$4,212,493	11.35% (Net)	N/A% (Net)	N/A% (Net)
	<u>\$52,386,600,646</u>	<u>\$52,223,786,062</u>			

State Auditor's Office



OFFICE OF MISSOURI STATE AUDITOR

August 21, 2013

Dear :

The Missouri State Auditor's Office is obtaining information on all Missouri public employee defined-benefit retirement plans. Our objective is to identify, compare, and report key data, which indicate and support financial condition of the plans. As part of this project, we have selected 15 plans (the largest and/or state-wide plans) from which to gather more detailed data. Your plan is one of the 15 plans selected for this purpose.

Examples of plan-reported key data we anticipate including in this project include: assets and liabilities, funded ratio, employer/employee contributions, investment performance, and various actuarial assumptions. While we plan to summarize and report this data, we do not intend to draw conclusions regarding management's decisions or the financial condition of the individual plans. Much of the data has been obtained from the Joint Committee on Public Employee Retirement (JCPER); however, some additional information is needed from each selected plan. Enclosed is a questionnaire that describes the additional information needed and questions we have for each selected plan.

We would appreciate the completion and return of the questionnaire electronically to the email listed below by September 4, 2013, or as soon as possible thereafter. An electronic copy of this questionnaire has been previously provided to your office. Thank you for your assistance and cooperation in this project. If you have any questions, please contact Gayle Garrison at (573) 751-4213. Email questions or comments can be sent to Gayle.Garrison@auditor.mo.gov.

Sincerely

Kim Spraggs, CPA
Audit Manager

Enclosure



OFFICE OF MISSOURI STATE AUDITOR

Retirement Plan Questionnaire

Please fill in or check the appropriate boxes based on current practices of your plan. If the practice(s) has significantly changed in recent years, please explain. It is not our expectation or intent that you should need to consult with an actuary or other paid professional in order to complete this questionnaire. Please submit the completed questionnaire electronically to Gayle.Garrison@auditor.mo.gov.

Funded Status

1. What significant changes, if any, has the plan implemented since the recent economic decline to address the impact on the plan's financial condition (e.g. changes to benefits structure, actuarial assumptions, investment policies, vesting period, employee contributions, etc.)?

2. Please provide the plans' funded ratio for 2003 through 2012.

	Funded Ratio		Funded Ratio
2012	%	2007	%
2011	%	2006	%
2010	%	2005	%
2009	%	2004	%
2008	%	2003	%

If the funded ratio of your plan has changed significantly during the ten year period, please provide the primary factors contributing to the funding level fluctuations.

Employer Contributions

3. Employer contribution rates (as a percentage of payroll):

_____ % Plan Year 2012

_____ % Plan Year 2013

_____ % Plan Year 2014 (If known)

Please list the primary reasons for significant changes in contribution rates for the last 5 years, if applicable. In addition, please provide any known or expected significant changes to contribution rates in future years.

Investment Performance

4. Market value rate of return (actual), and recognized rate of return (smoothed) net of investment fees for plan year:

	Market	Recognized			Market	Recognized
2012	%	%		2007	%	%
2011	%	%		2006	%	%
2010	%	%		2005	%	%
2009	%	%		2004	%	%

2008	%	%		2003	%	%
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Average market value rate of return for the above 10 years: _____%

Please describe how this average was calculated (e.g., averaging the percentages above, based on asset values applicable to each year, etc.).

Actuarial Assumptions

5. Please complete the components of the Real Return Objective/Real Rate of Return formula for each plan year below: [e.g., Real Rate of Return (RRR) % = Investment Rate of Return (IRR)% - Price Inflation (PI) (excluding real salary increase) %]

	RRR %	IRR %	PI %*			RRR %	IRR %	PI %*
2012	%	%	%		2007	%	%	%
2011	%	%	%		2006	%	%	%
2010	%	%	%		2005	%	%	%
2009	%	%	%		2004	%	%	%
2008	%	%	%		2003	%	%	%

* (excluding real salary increase)

Please explain reasons supporting any significant changes to one or more components in the formula above in recent years.

6. Is unfunded actuarial liability amortized over open or closed periods?

_____ Open _____ # years

_____ Closed _____ # years

If closed, how is new unfunded liability amortized?

_____ Within original closed period? _____ # years

_____ In a new closed period? _____ # years

_____ In an open period? _____ # years

GASB 67 and GASB 68

7. Based on your evaluations of the recent GASB changes (GASB 67 and 68), do you anticipate policy or actuarial valuation changes to ensure compliance with the new GASB requirements (or has the plan previously been using the new GASB requirements)? (Please indicate yes or no.)

_____ Change in actuarial cost method to entry age normal. _____ (already in use)

_____ The actuarial valuation calculation will require the use of the risk free rate (a blended rate). _____ (already in use)

_____ The new GASB financial reporting requirements will be adopted for the purpose of calculating actuarially required contributions. _____ (Annually required contributions are already being calculated in compliance with the new GASB financial reporting requirements.)

_____ Two separate actuarial valuations will be completed to 1) satisfy GASB's reporting requirements for the plan's financial statements, and 2) calculating actuarially required contributions in the same manner as prior years. (Describe)

Please provide the following additional information regarding expected impact of required GASB changes.

- _____ We expect significant change to the plan's funded status. (Describe)
- _____ We expect other significant changes/impacts (Describe)
- _____ No significant changes are expected
- _____ We have not yet evaluated expected impacts

8. Are you aware of the recommendations issued by the Pension Funding Task Force 2013 contained in *Pension Funding: A Guide for Elected Officials*? _____
 (A copy is located at: www.nasact.org/washington/downloads/announcements/03_13_Pension_Funding_Guide.pdf)

If so, do you plan to follow the recommendations which are listed below? (please indicate yes or no)

Recommendation	Yes/No	Explanation (if no)
1. Each participant's benefit should be fully funded under a reasonable allocation method by the expected retirement date.		
2. The benefit costs should be determined as a level percentage of member compensation and include expected income adjustments.		
<i>The Task Force 2013 has indicated: The Entry Age Normal (level percentage of payroll) actuarial cost method is especially well-suited to meeting recommendations 1 and 2.</i>		
3. The funding policy should specify all components of asset smoothing, such as the amount of return subject to smoothing and the time period(s) used for smoothing a specific gain or loss.		
4. The asset smoothing method should be the same for both gains and losses and should not be reset or biased toward high or low investment returns.		
<i>The Task Force 2013 has indicated: The use of a five-year period for "smoothing" investment experience is especially well-suited to meeting recommendations 3 and 4.</i>		
5. The adjustments to contributions should be made over periods that appropriately balance intergenerational equity against the goal of keeping contributions level as a percentage of payroll over time.		
6. The amortization policy should reflect explicit consideration of (a) gains and losses actually experienced by a plan, (b) any changes in assumptions and methods, and (c) benefit or plan changes.		
7. The amortization of surplus requires special consideration consistent with the goal of stable costs and intergenerational equity.		
<i>The Task Force 2013 has indicated: Amortizing the various components of the unfunded actuarial accrued liability over periods that focus on matching participant demographics but also, except for plan amendments, consider managing contribution volatility, is especially well-suited to meeting recommendations 5, 6, and 7.</i>		

If you do not plan to follow the recommendations, what alternatives are planned?

Benefits and Employee Contributions

9. To assist in our preparation of a condensed summary of your plan's benefit structure for the survey report, please provide the following vesting, retirement eligibility, and other benefit or employee contribution information. If multiple eligible retirement ages are available within a tier or group, please indicate each age and service combination in the rows designated "Normal Retirement Eligibility 1, 2, and 3". Normal Retirement Eligibility 4 is provided for use if the Tier or Group has an age + years of service rule (e.g., 80 and out). Additional eligibility lines may be added to the following table as needed.

Name of Tier or Group			
Full Vesting: Years of Service			
Normal Retirement Eligibility1: Age/Service			
Normal Retirement Eligibility2: Age/Service			
Normal Retirement Eligibility3: Age/Service			
Normal Retirement Eligibility4: Age+Service Rule/Minimum Age			
Basic Annual Benefit Formula including temporary benefit			
Guaranteed COLA Rate Minimum/Maximum			
Required Member Contributions (for example: 4% percent of payroll or \$6,000 annual flat amount)			
Optional Member Contributions Available? Yes or No			

Questions regarding responses to this questionnaire can be directed to:

Name _____

Phone # _____

Email _____

Questionnaire completed by: _____ Name, Title

_____ Date



PENSION FUNDING:

A Guide for Elected Officials

Report from the Pension Funding Task Force 2013

Issued by:

National Governors Association (NGA)
National Conference of State Legislatures (NCSL)
The Council of State Governments (CSG)
National Association of Counties (NACo)
National League of Cities (NLC)
The U.S. Conference of Mayors (USCM)
International City/County Management Association (ICMA)
National Council on Teacher Retirement (NCTR)
National Association of State Auditors, Comptrollers and Treasurers (NASACT)
Government Finance Officers Association (GFOA)
National Association of State Retirement Administrators (NASRA)



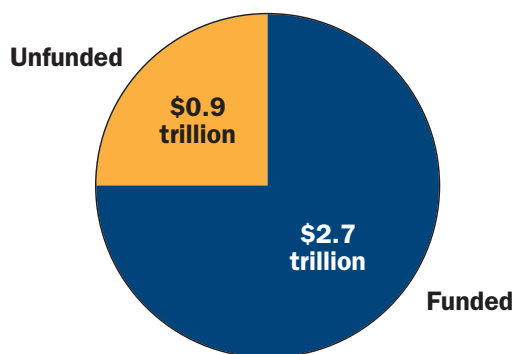
PENSION FUNDING:

A Guide for Elected Officials

Introduction

Defined benefit pension plans have a long history in public sector compensation. These plans are typically funded through a combination of employer and employee contributions and earnings from investments. Public pension plans hold more than \$3 trillion in assets in trust on behalf of more than 15 million working and 8 million retired state and local government employees and their surviving family members. The pie chart below illustrates the 2011 funded status of 109 state-administered plans and 17 locally administered plans. These plans represent 85 percent of total state and local government pension assets and members.

Figure 1. *Funding of Aggregate Pension Liability, 2011*



Source: BC-CRR Estimates based on *Public Plans Database (PPD)*.

The value of securities held by public and private retirement plans declined significantly following the economic crisis of 2008–2009, causing an increase in unfunded pension liabilities. The range of those unfunded public pension liabilities varies widely among governments. These same governments also have enacted major changes in their retirement plans over the past decade. Today, some public pension plans are well funded, while others have seen their funded status decline.

Now another change is on the horizon: new pension accounting standards issued by the Governmental Accounting Standards Board (GASB) in 2012. GASB Statement No. 67, *Financial Reporting for Pension Plans*, takes effect for pension plan fiscal years beginning after June 15, 2013 (fiscal years ending on or after June 30, 2014). GASB Statement No. 68, *Accounting and Reporting for Pensions*, applies to employers (and contributing nonemployers) in fiscal years beginning after June 15, 2014 (fiscal years ending on or after June 30, 2015).

These new accounting standards will change the way public pensions and their sponsoring governments report their pension liabilities. In particular, the new standards no longer provide guidance on how to calculate the actuarially determined annual required contribution (ARC), which many governments have used not only for accounting, but also to budget their pension plan contribution each year. In fact, these new GASB accounting standards end the relationship between pension accounting and the funding of the ARC.

In addition to GASB's new accounting standards, policymakers should be aware that rating agencies such as Moody's may use yet another set of criteria to assess the impact of pension obligations on the creditworthiness of a municipal bond issuer. If the ratings agencies publicize their pension calculations, state and local officials would be faced with the challenge of interpreting three sets of pension numbers: an accounting number to comply with the GASB's financial reporting requirements, an actuarial calculation to determine funding requirements for budgeting purposes, and a financial analysis figure produced by bond rating agencies to evaluate and compare issuers of municipal debt.

This guide provides key facts about public pension plans, why it is essential to have a pension funding policy, a brief overview of the new GASB standards, and which issues state and local officials need to address. The guide also offers guidance for policy makers to use when developing their pension plan's funding policy.

Pension funding background

In the 1970s, it was not uncommon for state and local governments to fund their pensions on a pay-as-you-go basis. Following the passage of ERISA, which set private sector funding requirements, state and local officials took steps to fully advance-fund their pensions. They were further encouraged to meet their actuarial funding obligations by new accounting and reporting standards issued by the GASB in 1986.

The trend to improve pension funding continued over the next decade. When the GASB issued Statements 25 and 27 in 1994, employers were required to disclose information on plan assets and liabilities in their financial reports. More important, to comply with GASB, employers also had to disclose their actuarially determined ARC and the percentage of the ARC the employer actually paid. The GASB defined the ARC to include the normal cost of pensions for today's employees plus a contribution to pay for any unfunded liabilities, typically amortized over a maximum 30-year period. Paying the full ARC has been an important measure of whether or not a pension plan is on track to fund its pension promises.

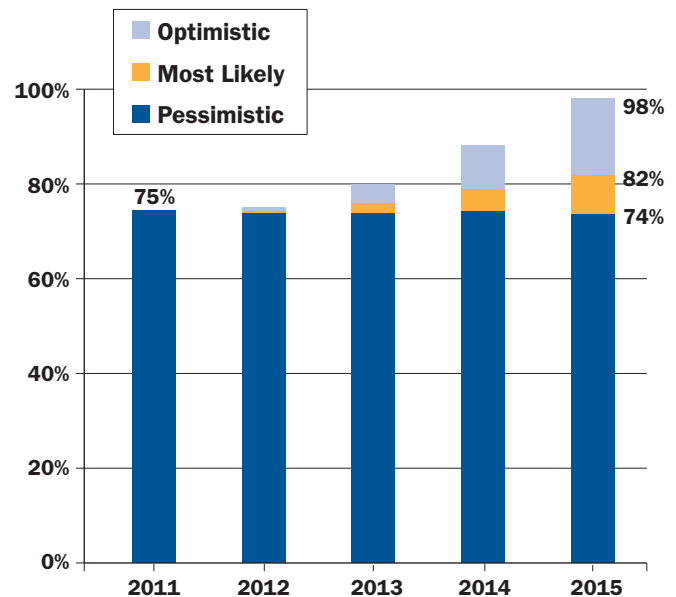
By the turn of the century, public pensions were as well funded as private pensions. In fact, most public plans were nearly 100 percent funded in 2000. Unfortunately, the last decade of economic upheaval and the wide swings in the stock market have reduced pension assets in both public and private plans.

In 2011, the estimated aggregate ratio of assets to liabilities slipped to 75 percent¹. State and local officials have stepped up their efforts to restore pension funding. According to the National Conference of State Legislatures, 44 states have enacted major changes in state retirement plans from 2009–2012.² Changes have included increases in employee contributions to pension plans, longer vesting periods, reduced benefit levels, higher retirement ages, and lower cost-of-living adjustments. Some modifications may apply to new workers only, while others affect current employees and/or retirees.

Pension funding policies

A variety of state and local laws and policies guide decisions concerning pension funding practices. Many state and local governments have passed legislation that stipulates how pensions should be funded. Others

Figure 2. Projected State and Local Funding Ratios Under Three Scenarios, 2011–2015



Source: BC-CRR estimates for 2011–2015 based on *Public Plans Database* (PPD).

have policies that address how pension assets are to be invested or if pension reserves must be maintained.

Generally speaking, employers with well-funded pension plans take a long-term approach to estimating investment returns, adjust their demographic and other assumptions as needed, and consistently pay their annual required contribution in full.

A clear pension funding policy is important because it:

- Lays out a plan to fund pensions;
- Provides guidance in making annual budget decisions;
- Demonstrates prudent financial management practices;
- Reassures bond rating agencies; and
- Shows employees and the public how pensions will be funded.

GASB's new approach

Under prior GASB statements, there was a close link between accounting and funding measures. That link has now been broken. The new GASB standards

1 Munnell, Alicia H., Aubrey, Jean-Pierre, Hurwitz, Josh, Medinica, Madeline, and Quinby, Laura, "The Funding of State and Local Pensions: 2011–2015," Center for State and Local Government Excellence, May 2012.

2 Snell, Ron, "State Retirement Legislation 2009–2012," National Conference of State Legislatures, July 31, 2012.

focus entirely on accounting measurements of pension liabilities and no longer on how employers fund the cost of benefits or calculate their ARC. This is a significant change for government employers because the ARC historically served as a guide for policy makers, employees, bond rating agencies and the public to determine whether pension obligations were being appropriately funded. The ARC also often was used to inform budget decisions.

Today, employers report a liability on the face of their financial statements only if they fail to fully fund their ARC (just as a homeowner would report a liability only for mortgage payments in arrears). Thus, many government employers today do *not* report a liability for pensions on the face of their financial statements. However, if the plan they sponsor does have an unfunded pension liability, it is reported in the notes to the financial statements, which are considered an integral part of financial reporting. In contrast, under the new GASB standards, employers will report their unfunded pension liability on the face of their financial statements, even if they fully fund each year's ARC (just as a homeowner would report a mortgage liability even if all monthly mortgage payments are paid on time, in full). Thus, in the future, all employers will report any unfunded pension liability on the face of their financial statements, and that amount may be substantial for many.

Furthermore, those seeking to know how much an employer should be contributing each year to the pension plan and how much the employer actually contributed (funding information) today can find that information in the employer's financial report. In contrast, under the new GASB pension accounting standards, employers will no longer *automatically* be required to obtain an actuarially determined ARC and then include information concerning that amount and actual employer contributions in their financial report.

Filling the gap in funding guidance

Because the GASB's new standards focus entirely on how state and local governments should account for pension liabilities and no longer focus on how employers fund the costs of benefits or calculate their ARC, a new source of guidance is needed.

To help fill that gap, the national associations representing local and state governments established a Pension Funding Task Force (Task Force) to develop policy guidelines.

The "Big 7" (National Governors Association, National Conference of State Legislatures, Council of State Governments, National Association of Counties, National League of Cities, U.S. Conference of Mayors, and the International City/County Management Association) and the Government Finance Officers Association established a pension funding task force in 2012. The National Association of State Auditors, Comptrollers and Treasurers; the National Association of State Retirement Administrators; and the National Council on Teacher Retirement also serve on it. The Center for State and Local Government Excellence is the convening organization for the Task Force.

The Task Force has monitored the work of the actuarial community and the rating agencies, as well as considered recommendations from their own organizations to develop guidelines for funding standards and practices and to identify methods for voluntary compliance with these standards and practices.

The actuarial and finance communities have been working on the pension funding issues and will be invaluable resources as governments make needed changes. Indeed, the California Actuarial Advisory Panel and the Government Finance Officers Association have issued guidelines consistent with the Task Force's recommendations, but with a greater level of specificity. The Conference of Consulting Actuaries is also preparing similar guidance. State and local officials are encouraged to review the guidelines and best practices of these organizations.

It also is important to note that some governments with well-funded pension plans will determine that they need to make few, if any, changes to their funding policies, while others may face many challenges. Keep in mind that changes can be made over time. A transition plan can address changes that may need to be phased in over a period of years. For example, an employer or retirement board that currently amortizes its unfunded liabilities over 30 years could adopt a transition plan to continue that schedule (as a fixed, decreasing period) for current unfunded liabilities and to amortize any new unfunded liabilities over 25 years. In five years, that pension plan would have completed its transition to a 25-year amortization period.

In many cases, governments will need to strike a balance between competing objectives to determine the most appropriate timeframe in which to meet their goals.

Task force recommendations

States and localities have established distinct statutory, administrative and procedural rules governing

how retirement benefits are financed. While nothing in the new GASB standards or the possible credit rating agency changes *requires* a change in funding policy, the Task Force recommends pension funding policies be based on the following five general policy objectives:

1. Have a pension funding policy that is based on an actuarially determined contribution.
2. Build funding discipline into the policy to ensure that promised benefits can be paid.
3. Maintain intergenerational equity so that the cost of employee benefits is paid by the generation of taxpayers who receives services.
4. Make employer costs a consistent percentage of payroll.
5. Require clear reporting to show how and when pension plans will be fully funded.

A sound pension funding policy should address at least the following three core elements of pension funding in a manner consistent with the policy objectives:

- Actuarial cost method;
- Asset smoothing method; and
- Amortization policy.

These core elements should be consistent with the parameters established by GASB Statement No. 27, *Accounting for Pensions by State and Local Governmental Employers*, with which most governmental entities currently comply. Such parameters specify an actuarially determined ARC that should comply with applicable Actuarial Standards of Practice (ASOP No. 4), be based on an estimated long-term investment yield for the plan, and should amortize unfunded liabilities over no more than 30 years. The actuarially determined ARC, the parameters for determining the ARC, and the percentage of the ARC the employer actually paid should be disclosed and reassessed periodically to be sure that they remain effective. To that end, the Task Force recommends that state and local governments not only stay within the ARC calculation parameters established in GASB 27, but also consider the following policy objectives when reviewing each core element of their funding policy:

Actuarial Cost Method: the method used to allocate the pension costs (and contributions) over an employee's working career.

Policy Objectives:

1. Each participant's benefit should be fully funded under a reasonable allocation method by the expected retirement date.

2. The benefit costs should be determined as a level percentage of member compensation and include expected income adjustments.

The Entry Age Normal (level percentage of payroll) actuarial cost method is especially well-suited to meeting these policy objectives.

Asset Smoothing Method: the method used to recognize gains or losses in pension assets over some period of time to reduce the effects of market volatility and provide stability to contributions.

Policy Objectives:

1. The funding policy should specify all components of asset smoothing, such as the amount of return subject to smoothing and the time period(s) used for smoothing a specific gain or loss.
2. The asset smoothing method should be the same for both gains and losses and should not be reset or biased toward high or low investment returns.

The use of a five-year period for "smoothing" investment experience is especially well-suited to meeting these policy objectives.

Amortization Policy: the policy that determines the length of time and structure of payments required to systematically fund accrued employee benefits not covered by the actuarial value of assets.

Policy Objectives:

1. The adjustments to contributions should be made over periods that appropriately balance intergenerational equity against the goal of keeping contributions level as a percentage of payroll over time.
2. The amortization policy should reflect explicit consideration of (a) gains and losses actually experienced by a plan, (b) any changes in assumptions and methods, and (c) benefit or plan changes.
3. The amortization of surplus requires special consideration consistent with the goal of stable costs and intergenerational equity.

Amortizing the various components of the unfunded actuarial accrued liability over periods that focus on matching participant demographics but also, except for plan amendments, consider managing contribution volatility, is especially well-suited to meeting these policy objectives.

Conclusion

The most important step for local and state governments to take is to base their pension funding policy on an actuarially determined contribution (ADC). The ADC should be obtained on an annual or biannual basis. The pension policy should promote fiscal discipline and intergenerational equity, and clearly report when and how pension plans will be fully funded.

Other issues to address in the policy are periodic audits and outside reviews. The ultimate goal is to ensure that pension promises can be paid, employer costs can be managed, and the plan to fund pensions is clear to everyone.

Resources

1. GFOA best practice, *Guidelines for Funding Defined Benefit Pension Plans*, at: www.gfoa.org
2. GASB Statements No. 67 and 68 at: www.GASB.org
3. GASB Statement 27: http://www.gasb.org/cs/ContentServer?site=GASB&c=Document_C&pagename=GASB%2FDocument_C%2FGASBDocumentPage&cid=1176160029312
4. Moody's Request for Comments: Adjustments to US State and Local Government Reported Pension Data at: http://www.wikipension.com/wiki/Moodys_Request_For_Comments
5. National Conference of State Legislatures, changes to state pension plans at: <http://www.ncsl.org/documents/employ/2012-LEGISLATION-FINAL-Aug-31-2012.pdf>
6. The National Association of State Retirement Administrators for examples of state funding policies at: www.NASRA.org
7. Center for State and Local Government Excellence for examples of changes to state and local government pension plans at: <http://slge.org>
8. California Actuarial Advisory Panel at: <http://www.sco.ca.gov/caap.html>
9. Conference of Consulting Actuaries at: <http://www.ccactuaries.org/index.cfm>

For More Information

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The U.S. Conference of Mayors

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International City/County Management Association

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National Council on Teacher Retirement

Leigh Snell ■ (540) 333-1015, lsnell@nctr.org

Interim Projects

Joint Committee on Public Employee Retirement
Interim Projects

Statutory Modification

Review of Chapter 21, Sections 550-564 and Chapter 105, Sections 660-692

- Non-Compliant plans and Committee testimony
- Cost Statement components
- GASB applicability and actuarial valuations
- Board member education: public record of education, minimum time requirement, outside routine plan service providers, authority to remove members not meeting education requirements
- Pension benefit revocation if work-related felony
- Benefit enhancements resulting in plan liability and 80% funded requirement

Retiree Health Care Obligations

- Reviewing Employer Financials
- Inclusion in Annual Report or supplemental reporting

Records Preservation

- Electronic copies of plan files
- Maintaining dual files (paper and electronic copies) for this plan year
- Attention first to plans with current highlighted issues