



# NATIONAL CONFERENCE *of* STATE LEGISLATURES

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### PENSIONS AND RETIREMENT PLAN ENACTMENTS IN 2007 STATE LEGISLATURES

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**INTRODUCTION.** This report summarizes selected pensions and retirement legislation that state legislatures enacted in 2007, some 2006 legislation not reported last year, and a few items of particular interest that failed to pass or were vetoed. Bills summarized below have been enacted into law unless there is a specific indication to the contrary. Not all legislation had been chaptered at the time this report was compiled. Some legislatures remain in session at the time of publication, October 2007.

The sources of this report are StateNet searches of current and enacted legislation, retirement systems' websites, state legislatures' reports of enacted legislation, and information provided by legislative and retirement system staff. I am indebted to the many legislative staff who write and share summaries of their Legislatures' acts, the many retirement system staff throughout the United States who have posted legislative summaries on their web sites, and the staff of Legislatures and retirement systems who have taken time to identify and explain legislation and its context to me.

The goal of this report is to help researchers and policy makers know how other states have addressed issues that could arise in any state. In keeping with that goal, I have excluded most clean-up legislation, cost-of-living adjustments, administrative procedures and technical amendments. This report is organized according to the topics that legislatures addressed in 2007, listed at the end of this introduction. The remainder of the introduction takes note of the main issues of 2007, which are described in more detail under the topical headings in the main part of this paper.

## MAJOR ISSUES IN 2007

### PLAN STRUCTURE AND FUNDING

Sustaining defined benefit plans for the long haul continued to be the major concern of public retirement policy in 2007. No legislature appears to have improved the benefit package for a large plan for public employees or teachers in 2007. Three states revised benefit packages plans for large numbers of public employees to reduce benefits for future employees compared to commitments to current employees. In two states, this included longer vesting requirements, running counter to the trend of the past quarter-century to abbreviate vesting requirements.

- Kansas revamped its entire state retirement system. A joint legislative study committee examined such alternatives as a defined contribution plan or a hybrid plan in the fall of 2006, and chose instead to adopt a new defined benefit plan for state, school and local government employees hired on or after July 1, 2009. The new plan makes a number of moderate changes from the existing plan, such as greater age and service requirements for regular retirement eligibility, calculation of benefits on average salary over five years instead of the three years in the existing law, and other incremental changes. The plan provided for an increased employee contribution and committed employers to contributions at the actuarially required amount but at least at the percentage of employee contributions. An unusual feature of the new law is the requirement that future costs of the plan will be equally shared by employers and employees. Future automatic COLAs and reduced vesting requirements for present and future members addressed long-standing concerns.
- Mississippi similarly changed vesting and service requirements for its Public Employee Retirement System, effective for those hired on or after July 1, 2007. It lengthened its vesting requirement from four years to eight and stiffened age and service requirements for normal retirement.
- North Dakota created a new tier in its Teachers' Fund for Retirement, with longer vesting, retirement according to the Rule of 90 instead of the Rule of 85, other increases in age and service requirements, and a benefit calculation based on a five-year average of salary, rather than three years.

A number of states addressed sustainability through increasing contribution levels to retirement systems. As is generally true, it remained rare for governments to require greater contributions from members of a system, although New Jersey imposed a 10% increase in employee contributions on several statewide plans. Oklahoma addressed the funding problems of its Teachers Retirement Plan with increased employer contributions, to be phased in over several years. New Hampshire limited transfers to its special account for additional benefits in order to protect the principal of the retirement trust fund. Washington repealed its gain-sharing plans after the state actuary reported that they had a detrimental effect upon retirement plan trust funds, and offset the repeal of gain-sharing with other benefit improvements for teachers and other public employees.

Massachusetts and Missouri provided rigorous new laws addressing the funding status of local government plans.

- Massachusetts provided for state assumption of the assets of any local government system that fails to meet specified standards for actuarial funding and investment performance over an extended period. Funds so assumed would be managed by the state board that manages investments for the two major state pension funds.

- Missouri legislation provides funding standards for local government public pension plans in the state. Those whose funded ratio falls below 60% and whose contributory government fails to make 100% of the actuarially-required contribution for five successive years can be declared delinquent in contribution payments, which will constitute a first lien on the funds of the sponsor government. The board may require payment by writ. The state treasurer is required to withhold 25% of the contribution delinquency from total moneys due the local government until the delinquency is satisfied. Plans with less than 60% funding shall also require their actuary to prepare an accelerated schedule of contributions to the plan.
- The Missouri legislation also prohibits benefit increases from funds that are less than 80% funded. It allows benefit increases for better-funded systems so long as the funded ration remains above 75%.

Connecticut authorized \$2 billion in pension obligation funds to benefit its Teachers Retirement fund, as well as appropriating \$300 million for the fund for fiscal years 2008 and 2009.

West Virginia authorized the sale of the state's interest in future tobacco master settlement funds, if the sale realizes at least \$800 million, and the deposit of the receipts into the Teachers' Retirement System to reduce its actuarial accrued unfunded liability.

No state created a broad-based defined contribution plan in 2007, although New Jersey established one for elected and certain appointed officials. Alaska fine-tuned provisions of its 2005 legislation that created defined contribution plans. The West Virginia legislation that consolidated its teachers' defined contribution plan with its teachers defined benefit plan in 2005 was declared unconstitutional by the Kanawha County Circuit Court. The decision has been appealed..

#### **OTHER POST- EMPLOYMENT BENEFITS**

This report lists enactments from 14 states to create state trust funds or enable local trust funds for retiree health care or other post-employment benefits, or otherwise to prepare to comply with the accounting rules known as GASB 43 and 45. This is probably not a complete list.

#### **STATE DIVESTMENT LEGISLATION**

This report lists divestment legislation or resolutions from 14 states in 2007. Most focus on companies operating in Sudan; an Oklahoma resolution urges scrutiny of companies operating in Iran, Syria and North Korea as well.

#### **FORFEITURE OF RETIREMENT BENEFITS**

Legislation providing for forfeiture of retirement benefits upon a public official's violation of the public trust is relatively rare. Three states enacted legislation on the issue in 2007. The enactments in Alaska and North Carolina appear to be new provisions. The New Jersey enactment strengthens existing law. Missouri legislation provides that any trustee, employee or participant of a plan who is convicted of a plan-related felony shall forfeit any retirement benefits from the plan.

#### **TAXATION OF RETIREMENT INCOME**

Kansas exempted Social Security receipts from state income tax in tax year 2007 for taxpayers reporting \$50,000 or less in federal adjusted gross income, and will extend the exemption to those reporting \$75,000 or less in tax year 2008 and thereafter. Missouri enacted a package of exemptions

to be phased in over six years that includes Social Security and public sector retirement benefits, eventually to be available to people reporting up to \$100,000 in adjusted gross income. Wisconsin enacted an exemption of \$5,000 of income from qualified retirement plans, for filers with an AGI of less than \$15,000 (single) or \$30,000 (joint), first effective for tax year 2009.

## LIST OF TOPICS

Benefit Calculation and Eligibility	Governance and Investment Policy
Contribution Rates and Funding Issues	Health Coverage
Cost of Living Adjustments	Legislative Review of Retirement Policy
Defined Benefit Plan Changes	Legislative Retirement Plans
Defined Contribution Plans	Military Service
DROP and related issues	Re-employment after Retirement
Disability	Service Credit/ Purchase of Service
Divestment	Studies
Early Retirement Incentives	Taxation of Retirement Benefits
Forfeiture of Benefits	Vesting
GASB 43 and 45	

## BENEFIT CALCULATION AND ELIGIBILITY

**ARKANSAS.** Act 220, Acts of 2007 (SB43), temporarily increases the multiplier for service through June 30, 2007 for the Public Employees Retirement System from the rate that would have taken effect without the legislation. The legislation continues the rates actually in effect, which would have fallen otherwise. For the noncontributory system, the multiplier for service through June 30, 2007, will continue at 1.75%; after that date, 1.72%. For the contributory system, the rate for service through June 30, 2007, will be 2.03% and 2% after June 30, 2007.

**CALIFORNIA.** Chapter 74, Laws of 2007 (SB 221), bill requires that the retirement allowance for certain statewide officials who become members of the Legislators Retirement System (LRS) on or after January 1, 2008 be based the highest average salary for 12 months of consecutive service. Under existing law, the allowance is based on the single highest salary level. [Proposition 140, passed in 1990, closed the Legislators Retirement System to legislators elected for the first time in November 1990 and thereafter, but specified statewide elected officials remain members.]

**NEW HAMPSHIRE.** Chapter 58, Laws of 2007 (HB 437) permits same gender couples to enter into civil unions and have the same rights, responsibilities, and obligations as married couples. This law will go into effect as of January 1, 2008. For the effective date of 01/01/2008 New Hampshire Retirement System is working on the implementation of the house bill and is creating a brochure regarding civil unions.

**MISSOURI.** SB 406 provides that within the Teacher and School Employee Retirement Systems, the maximum percentage of increase in the annual compensation in the final average salary period shall not exceed ten percent. This limit will not apply to increases due to changes in position or employer, that are required by state statute, or that are due to district-wide salary schedule adjustments for previously unrecognized education related service. Section 169.010.

Currently, certain alternative retirement allowance provisions, commonly referred to as "25 and out" and the "31st year factor" of the Teacher and School Employee Retirement Systems, terminate on July 1, 2008. This act extends the termination dates to July 1, 2013. Section 169.070.

Provides that the board of trustees for the public school retirement system in districts of 700,000 or over is authorized to increase retirement benefits for the system and to adopt additional retirement benefits for persons who have retired, including cost-of-living adjustments, as long as the board of trustees finds that the additional benefit will not require an increase in the contribution rate required by members or the board of education and is actuarially sound. Sections 169.466 and 169.471.

**TENNESSEE.** Chapter 488, Laws of 2007 (HB 464) changes the age of retirement for public safety officers. Under present law, any member in Group 1 of the TCRS is eligible for service retirement upon attainment of 60 years of age or upon completion of 30 years of creditable service. This bill authorizes Group 1 members who serve in state public safety officer positions covered by the mandatory retirement provision to retire on service retirement benefits upon attainment of 55 years of age with 25 years of creditable service. Local governments whose employees participate in TCRS may adopt this provision. The act adjusts provisions for supplemental bridging benefits to take the lower age of retirement into account.

**OREGON.** Chapter 99, Laws of 2007 (HB 2007) directs the Public Employees Retirement System to extend the same rights and benefits to registered domestic partners as are extended to married individuals, unless the plan administrator reasonably concludes such extension would conflict with a condition of the plan's tax qualification or other favorable tax treatment of the plan.

**WASHINGTON.** Chapter 491, Acts of 2007 (HB 2391 and others) provides for closing the retirement systems' gain-sharing plans. They are closed to members of PERS, TRS, and SERS Plans 3 who are hired after July 1, 2007. After January 1, 2008, gain-sharing distribution, gain-sharing is eliminated for all members of Plan 1 and Plan 3. On July 1, 2009, the Annual Increase Amount (Uniform COLA) in PERS and TRS Plan 1 is increased by approximately 14 cents. The increase is calculated by determining the difference between the actual January 1, 2008, gain-sharing amount, and 40 cents. The Uniform COLA is increased by this difference (but may not be decreased by a negative number), up to 20 cents.

Effective July 1, 2008 (September 1, 2008 in TRS and SERS), the early retirement reduction factors are improved for both members of Plans 2 and 3 of PERS, SERS, and TRS that have completed 30 or more years of service. Eligible members may retire from age 62 with no reduction in benefits, while members aged 61 or less may retire with a 2 percent benefit reduction, plus an additional 3 percent reduction for each year between age 60 and 55. For example, a member retiring at age 59 would receive an 8 percent reduction (2 years plus one year each for the 60th and 59th years of age). Individuals who are employed in a position making them newly eligible for membership in TRS or SERS have a 90-day period to irrevocably choose membership in Plan 2 or Plan 3.

The subsidized early retirement (improved early retirement reduction factors), the increases to the Uniform COLA, and the choice of Plan 2 for new entrants to TRS and SERS are intended as a replacement for gain-sharing, and are not provided as a matter of contractual right to members until there is legal certainty with respect to the repeal of gain-sharing, including the expiration of any statutory limitations on actions and the end of the process of judicial review. Any legal action brought under the bill must be commenced within three years after the effective date of the act.

For the Department of Retirement Systems' explanation of the act, see <http://www.drs.wa.gov/legislative/2007/default.htm>.

## CONTRIBUTION RATES AND FUNDING ISSUES

**CONNECTICUT.** The General Assembly appropriated \$90 million from surplus for FY 2008 and \$210 million from surplus for FY 2009 for the Teachers Retirement Board.

**CONNECTICUT.** Act 186, Public Laws of 2007, authorizes state general obligation (GO) bonds to fund:

- (1) \$2 billion of the unfunded liability of the Teachers' Retirement System (TRS),
- (2) the cost of issuing the bonds, and
- (3) up to two years of interest on the bonds.

It exempts the bonds from the state's debt limit. The maximum bond term is 30 years.

For each fiscal year in which the bonds are outstanding, the act automatically appropriates the actuarially required annual state contribution to the Teacher's Retirement Fund (TRF). It allows the state to reduce annual TRF contributions only if it protects bondholders' rights in another way or the governor declares an emergency or extraordinary circumstances, a supermajority of the legislature approves, and the reduction does not cause the TRF's funded ratio (assets versus liabilities) to fall below specified levels.

The act makes all TRS benefits contractual for all vested TRS members while the bonds are outstanding, thus barring the state from unilaterally reducing benefits during that time. Certain specified TRS benefits are already contractual for active teachers who were vested in the system on October 1, 2003 or who become vested or accumulate 10 years of credited service after that date.

The act eliminates the cost of living adjustment reserve account (CLARA) within the TRF and credits all CLARA's assets to the TRF. CLARA was used to fund annual cost of living adjustments (COLAs) for TRS members who retired on or after September 1, 1992 and their surviving beneficiaries. Under prior law, CLARA was funded by allocating to it any total annual TRF returns above 11.5%.

The act guarantees TRS members who retire on or after September 1, 1992 an annual COLA by eliminating a provision that barred TRS from paying them a COLA in any year that TRS actuaries determined CLARA did not have enough money to pay for it. The act also reduces promised retirement COLAs for members who join TRS on or after July 1, 2007.

Finally, the act automatically appropriates all the GO bond premiums the state receives from July 1, 2007 through June 30, 2009 for GO bond debt service in addition to budgeted debt service appropriations. Under the act, premium funds do not lapse at the end of those fiscal years and the treasurer can use them for debt service unless she determines they are no longer needed for that purpose. The treasurer usually deposits any bond premiums in the General Fund's debt service account. Source: Conn. General Assembly, Summary for Public Act No. 07-186 <http://www.cga.ct.gov/2007/SUM/2007SUM00186-R02HB-06141-SUM.htm>.

**CONNECTICUT.** Act 204 (SB 848) creates a municipal pension solvency loan program to lend money to municipalities for their unfunded employee pension liabilities. Loans carry the same interest rate the state pays on the bonds, notes, or obligations it issues to fund the program. The act permits the bonds to be either general obligation or revenue bonds.

Loan agreements must contain penalty provisions for municipalities that fail to (1) repay the loan on time or (2) contribute to their pension funds as required under the agreement. The agreements must also require repayment of the administrative costs associated with the loan program.

The treasurer and the secretary must establish a priority list of eligible towns and a ranking system for making the loans. They must consider, among other things, the amount of a municipality's unfunded pension liability and whether the loan can eliminate or substantially eliminate the liability.

The act states, among other requirements, that if a municipality fails to appropriate the required actuarially recommended pension contribution, such an amount will be deemed appropriated by the municipality, regardless of any other state law, charter, special act charter, or local ordinance. The act does not include a bond authorization dollar amount.

**FLORIDA.** Chapter 84, Laws of 2007 (HB 7085), provides that employer contribution rates for the Florida Retirement System for 2007-2008 will be unchanged from the 2006-2007 year, with rates equal to the FRS Pension Plan normal cost rates.

**HAWAII.** Act 286, Laws of 2007 (SB1284), authorizes the board of trustees of the employees' retirement system to set the salary scale assumptions based on the recommendations of the actuary. Provides that the employer contributions for normal cost and accrued liability shall be based on 19 and 7/10 per cent of the member's compensation for police officers, firefighters, corrections officers and 15 per cent of the member's compensation for all other employees. Prohibits benefit enhancements for any group of members, including reduction of retirement age, when there is an unfunded accrued liability from January 2, 2008 until January 2, 2011.

**MICHIGAN.** Public Act 16 of 2007 (HB 4512) reduced the required contribution for the State Employee Retirement System for FY 2007 to cover only the interest on the UAAL and to forego the otherwise required payment on principal. Public Acts 15 and 22 (HBs 4530 and 4766) enact conforming changes in state statutes.

**MONTANA.** Chapter 306, Laws of 2007 (HB 95) provides for a one percentage point increase in the employer contribution to employee accounts in the optional retirement program, funded by the state general fund.

Chapter 305 (HB 63) provides for increased state contributions to the teachers' retirement system with the goal of amortizing its UAAL by 2033. For that purposes, the legislation calls for future review of the contribution rates. The employee contribution rate will remain at 7.15% through 2010. The employer contribution rate will increase from 7.47% to 9.85% by 2010. The state supplemental contribution will increase from 0.11% for FY2007 to 2.49% for FY2011. If termination pay is used in the calculation of a retirement benefit, the employee and employer must make comparable contributions to the retirement fund based on the amount of the termination pay. The bill appropriates \$50 million to the retirement fund.

Chapter 371, Laws of 2007 (HB 131) increases employer contribution rates for the Public Employee Retirement System and a number of other state retirement systems for two bienniums; does not result in an actuarially sufficient level of funding. For state employers, the rate increase over the biennium is from 6.9% to 7.17%.

**NEBRASKA.** LB 596 increases the monthly benefit for retired school personnel in the School Employees Retirement System to 85 percent of the purchasing power of the original annuity benefit. The employee contribution rate will increase from 7.25 percent to 7.28 percent.

**NEW JERSEY.** Chapter 103, Laws of 2007 (AB 5005) establishes higher employee contribution rates for various public employee retirement systems. It increases from 5% to 5.5% the member contribution rate for the Teachers' Pension and Annuity Fund (TPAF), the Public Employees' Retirement System (PERS), and the Defined Contribution Retirement Program (DCRP).

It caps the amount of compensation on which contributions to the defined benefit plans will be made. Under current law, base salary is used for members of PERS and TPAF to determine contributions and benefits. This bill imposes a cap on base salary pegged to the annual maximum wage contribution base for Social Security, and requires that for amounts earned above the Social Security annual maximum wage contribution, a person will be eligible for membership in the DCRP with regard to the portion of the salary over the maximum.

**NORTH DAKOTA.** Chapter 157, Laws of 2007 (SB 2046) increased the employer contribution for the teachers' retirement system from 7.75% to 8.25%. This level will remain in effect until the system reaches a funded ratio of 90%.

**NEW HAMPSHIRE.** Chapter 268, Laws of 2007 (HB 653) provides that the amortization period for the New Hampshire Retirement Fund for purposes of calculating the required annual contribution shall be 30 years (up from 20 in previous law) or the maximum allowed by GASB, whichever is less. The law also limits transfers from the fund to the special account for additional benefits to years in which the actuarial study reports that the funded ratio is greater than 85%, and limits the transfer to earnings in excess of 10.5%. The law also requires that employer contributions to the fund never fall below the rate of employee contributions.

**OKLAHOMA.** SB 357 (signed into law on April 30, 2007) increased employer contribution rates for the Teachers Retirement System, which on June 30, 2006, was reported to have a funding ratio of 49.3%. Members of the system will continue to contribute 7% of salary. Most employers currently contribute 7.6%. For K-12 school, technical schools and two-year colleges, contribution rates will gradually increase annually to 9.5% on January 1, 2010. For four-year colleges, which contribute 7.05% at present, rates will increase to 8.55% over the same period. The increases are projected eventually to contribute as much as \$60 million more a year.

HB 1105 appropriated \$10 million to remitting agencies to assist with the additional cost.

**TEXAS.** Chapter 1389, Laws of 2007 (SB 1846) would allow the Teacher Retirement System to require that the rate of contribution to the Teacher Retirement System (TRS) retirement trust fund by active members be increased up to 6.58 percent if a supplemental benefit payment is authorized by the legislature and TRS determines that after paying the supplemental benefit payment the funding period of the pension trust fund would exceed 30 years by one or more years. The bill would stipulate that the state contribution rate may not be lower than the active member contribution rate and that the state contribution rate shall be 6.58 percent for the 2008-09 biennium.

The bill would direct TRS to make a one-time supplemental benefit payment to eligible annuitants in September 2007 equal the lesser of \$2,400 or the amount of the regular annuity payment to which annuitants are entitled for August 2007. The bill would allow TRS to delay payment in order to allow the determination of actuarial soundness and to determine whether an increase in the active member rate, as permitted by the bill, is warranted.

**WEST VIRGINIA.** Chapter 251, Laws of 2007 (SB 185) authorizes the sale of the state's interest in future tobacco master settlement funds, if the sale realizes at least \$800 million, and the deposit of the receipts into the Teachers' Retirement System to reduce its actuarial accrued unfunded liability.

## **COST OF LIVING ADJUSTMENTS**

This section does not attempt to report all cost of living adjustments. Its purpose is to report on structural changes, such as the ways colas are determined or capped.

## **DEFERRED COMPENSATION PLANS**

**ARIZONA.** Chapter 98, Laws of 2007 (S.B. 1200), loosens restrictions on voluntary contribution plans for state employees: Clarifies that an employee who elects to participate in a DC plan shall elect either a definitive dollar amount or percentage that may not be modified or revoked by the employee. It: Removes the one percent floor as the minimum employee contribution rate; removes the requirement that employer matching monies be made to the plan in which the employee participates until IRC limits are met; and requires the employee to determine whether the employer shall pay the matching contribution to the 401(a), 403(b) or 457 plan in which the employee participated.

**VIRGINIA.** Chapter 253, Laws of 2007 (H 1830), changes the participation in the deferred compensation plan for new state employees hired on or after January 1, 2008, to an "opt-out" plan rather than an "opt-in" plan. The default contribution rate was set at a twice-monthly amount of \$20, subject to employee change.

## **DEFINED BENEFIT PLAN CHANGES**

**ARKANSAS.** Act 177, Laws of 2007 (SB 90), transferred the powers and plan liabilities of the District Judge Retirement System to the Public Employees Retirement System. For active members, benefits and contribution requirements will remain unchanged unless an actuary determines that a different rate of retired contribution should be applied. The current rates are 5% employee, 18% employer. District judges who join the system after the effective date of the act, July 1, 2007, will receive benefits under its provisions for elected officials. The current contribution rates for PERS are 5% employee and 12.54% employer.

**CONNECTICUT.** Public Law 211, Laws of 2007 (HB 6988), increases the age, from 65 to the eligibility age for full Social Security retirement benefits, after which a Tier I state retiree no longer receives the additional temporary retirement benefit. Under federal law, the full normal Social Security retirement eligibility age is increasing each year by two-month increments until it reaches age 66 in 2008 (if someone turns 65 in 2007, he or she would not be eligible for full federal benefits until reaching age 65 and 10 months). It will stay at age 66 for 11 years, then gradually increase again until reaching age 67 in 2025. Current state retirement law provides the additional temporary benefit until the retiree reaches age 65.

**KANSAS.** Chapter 164, Laws of 2007 (SB 362), creates a new retirement plan for state, school and local employees hired on or after July 1, 2009. It provides certain retirement enhancements for those who joined or will join the system before that date. The new plan provides:

- First day membership (as opposed to the present 6-month delay for state government employees under current law; first-day membership will apply to all current and new employees after the date the bill is effective).
- Five-year vesting (as opposed to 10-year vesting in current law; this applies to employees hired before July 1, 2009 as well those hired on or after that date).
- 1.75% defined benefit multiplier: same as current plan.

- Final highest salary based on five highest years ( as opposed to three highest years in current plan).
- Normal retirement at age 65 with five years of service or age 60 with 30 years of service (current plan provides for 65/1; 62/10; or the Rule of 85).
- Early retirement at age 55 with 10 years of service, the same as the current plan, with actuarially reduced benefits.
- An annual 2% cost of living adjustment at age 65 (current plan provides only for ad hoc cost of living adjustments).
- Employee contribution rate of 6% (current plan's contribution rate is 4%).
- Employer contribution rate at the actuarially-required amount, but not less than the employee contribution (current plan does not establish a floor for the employer contribution).
- Future cost increases will be equally shared by employees and employers (a new provision).

**MISSISSIPPI.** Chapter 407, Laws of 2007 (HB 1016) increased vesting requirements and requirements for eligibility for benefits for people who join the Public Employees' Retirement System on or after July 1, 2007. The vesting requirement was changed from four years of membership to eight years. The previous benefit eligibility requirements were age 60 with four years of membership or 25 years of membership. The new requirement is age 60 with eight years of membership.

The act also extended the new vesting requirement to various other system benefits, such as receipt of up to four years of credit for military service, eligibility for a partial lump sum withdrawal upon retirement, purchase of non-covered or retroactive or out-of-state service and so forth.

**NEBRASKA.** LB 328 gives state and county employees who participate in the defined contribution retirement plan a second opportunity to choose a cash balance benefit option. Initially, the option was given to state and county plan members in 2002, at which time they were required to make a permanent choice of retirement plan options. The cash balance benefit option is designed to provide a more stable rate of return on contributions. Under the bill, employees will have from Nov. 1, 2007, to Jan. 1, 2008, to make their choice.

**NEW JERSEY.** Chapter 92, Laws of 2007 (SB 17, AB 21), §20, effective January 1, 2008, prohibits a person performing professional services for a political subdivision of this State or of a board of education, or of any agency, authority or instrumentality thereof, under a professional services contract from becoming a member of the PERS. In addition, the bill provides that a person who performs professional services will not be eligible, on the basis of performance of those professional services, for membership in the PERS, if the person meets the definition of independent contractor as set forth in regulation or policy of the federal Internal Revenue Service for the purposes of the Internal Revenue Code. While a person performing professional services will continue to accrue service credit during the term of any current contract, the person will no accrue service credit for the performance of those services after the contract expires.

§21 requires the Division of Pensions and Benefits to investigate increases in compensation reported for credit in the various State-administered retirement systems, which is a codification of a current regulation.

§§42 to 46 limit, at the local government and school district level, the payment of supplemental compensation to \$15,000 at the time of retirement for unused sick leave for elected and certain appointed officials. Those who have accrued supplemental compensation based upon unused sick leave at the time the bill is enacted, at the expiration of a contract in effect at that time, or upon becoming such an elected or appointed official will be eligible to receive the amount so accumulated

or not more than \$15,000, whichever is greater. The carry-forward of unused vacation leave is also limited for these same local government and school district officials, to one successive year.

**NORTH DAKOTA.** Chapter 157, Laws of 2007 (SB 2046) created a new tier in the Teachers' Fund for Retirement. Tier 2 Members include all new members and returning refunded members who are employed on or after July 1, 2008. Tier 2 members would have the following benefit changes:

- Rule of 90, instead of Rule of 85
- 5-year vesting, instead of 3-year vesting
- Early (reduced) retirement eligibility would be age 55 and 5 years of service (instead of age 55 and 3 years).
- Normal (unreduced) retirement eligibility would be age 65 and 5 years of service (instead of age 65 and 3 years). Final average salary would be computed as a 5-year average, rather than as a 3-year average

**WEST VIRGINIA.** HB 2717 creates a new retirement system under the Consolidated Public Retirement Board for Emergency Medical Services (EMS) officers. Modeled after the Deputy Sheriff retirement system, the new system becomes effective Jan. 1, 2008, if, by Dec. 31, 2007, at least 70 percent of all eligible EMS officers and at least 85 percent of the eligible EMS officers who are currently active members of the Public Employees Retirement System elect to participate in this plan. Membership will be required of new state hires and those returning to state employment after passage of the plan. Current EMS Officers in the retirement system who elect to do so will transfer their service credits and assets into the new system. Members of local plans may join upon the vote of their county commission. Employee contributions are set at 8.5 percent but may be raised to 10.5 percent if the plan isn't 70 percent funded by July 1, 2012. Local government contributions are 10.5 percent. No benefits except disability may be paid until 2011. Failure of the requisite number of EMS Officer's to elect to join by the end of 2007 voids the statute.

## **DEFINED CONTRIBUTION PLANS**

**ALASKA.** Chapter 20, Laws of 2007, provides for certain retirement benefits not included in Senate Bill 141 of 2005, which established defined contribution plans in the state. This act provides for annual cost of living increases for recipients of disability benefits and recipients of a survivor's pension, medical premium cost-sharing for recipients of disability benefits and their survivors at normal retirement, and funding for disabled peace officer and firefighter members who choose a monthly retirement benefit. This will be defined benefit additions to the defined contribution plan, funded through separate trust funds with contributions from employers.

**COLORADO.** Chapter 426, Laws of 2007 (HB 1377) changes retirement plans options that would have been provided to employees of higher education as of January 1, 2008. That legislation gave new employees of that date and thereafter the choice of two statewide DC plans plus the PERA DB plan. This legislation changes that to limit their choice to the PERA DB and DC plans.

**NEW JERSEY.** Chapter 92, Laws of 2007 (SB 17, AB 21), §§ 1-19, establishes a Defined Contribution Retirement Program for elected and certain appointed officials and for retired elected officials who choose to participate in the program. The program becomes operational on July 1, 2007. State and local government employers will contribute to the program three percent of the employee's base salary; group life insurance and the option for disability benefits coverage will be provided to participants. Participants will contribute five percent of their salary. Participants in the program will be allowed to allocate their contributions and the contributions of their employer into investment alternatives as determined by the new program board. A Defined Contribution

Retirement Program Board is established. Service credit earned in the defined contribution retirement program would be excluded from service required for employer-paid health care benefits in retirement. The legislation does not provide for transfer of membership from any other public retirement plan to this plan.

**WEST VIRGINIA.** In January 2007, the Circuit Court of Kanawha County declared unconstitutional the 2005 West Virginia legislation that provided for the merger of the West Virginia defined contribution retirement plan for teachers into the defined benefit State Teachers' Retirement System (STRS). The court found that the provisions that required that the amounts in the individual accounts maintained under the DC plan be consolidated into the trust fund of the STRS represented an unconstitutional taking of private property. The law that consolidated the plans did not provide for severability. On April 11, 2007, the Consolidated Public Retirement Board voted to appeal the decision to the West Virginia Supreme Court.

## **DISABILITY**

**GEORGIA.** Act 24 (SB 162) provides that a person who becomes a member of the Employees' Retirement System of Georgia on or after July 1, 2007, shall be entitled to a disability benefit based upon the actual years of creditable service he or she had attained on the date of retirement and provides that no such person who is eligible for an equivalent service retirement shall be entitled to receive a disability allowance.

**WYOMING.** Chapter 47, Laws of 2007, tightens the definition of a disability that entitles a law enforcement officer to a disability benefit. The definition was changed from an illness or injury "in the scope of employment" to "duty-connected illness or injury," with "duty-connected" defined as "an illness, injury or disability from an injury or disease which results primarily from a specific act or occurrence determinable by a definite time and place, from a physical or mental trauma which arises from the nature and in the course of a person's law enforcement employment."

## **DIVESTMENT**

**ARKANSAS.** SCR 20 encourages state retirement systems to identify their investments in companies operating in Sudan; recommends that they divest investments in those companies; and recommends that they make no future investments in those companies until the genocide has ended.

**CALIFORNIA.** Chapter 671, Laws of 2007 (AB 221) prohibits the state's two largest retirement systems, the Public Employees' Retirement System and the State Teachers' Retirement System, from investing public employee retirement funds in a company with business operations related to the defense or nuclear sectors of Iran, or the development of petroleum or natural gas resources of Iran, or a company doing business with any organization the U.S. government has labeled a terrorist organization. The requires the divestment of assets in any such companies.

**COLORADO.** Chapter 149, Laws of 2007 (HB1184), bill requires certain public fund managers to develop a list of "scrutinized" companies that have business operations in Sudan; notify those companies by mail; and sell, redeem, divest, or withdraw all publicly traded securities of any company that does not stop its active Sudan-related business operations within 90 days of receiving notification. The Attorney General is charged with enforcing the requirements of the bill. The requirements apply to the following public fund managers: the Colorado State Treasurer; the board of directors of the Public Employees Retirement Association; the State Deferred Compensation Committee; the Colorado County Officials and Employees Retirement Association; the board of

directors of the Fire and Police Pension Association; the board of directors for the Regional Transportation District; and the board of trustees of the Denver Public School Retirement System.

In compiling the list, the bill allows public fund managers to review and rely on information provided by nonprofit organizations, research firms, international organizations, and government entities. The bill requires a post-enactment review 2 years after passage to ensure that all public funds sell, redeem, divest, or withdraw investments in scrutinized companies with active business operations in Sudan and maintain communication with scrutinized companies with inactive business operations in Sudan.

**FLORIDA.** Chapter 88, Laws of 2007 (SB 2142) limits investments by prohibiting investments in companies doing business in or with Sudan, require identification within 90 days of passage of affected investments, notification to the companies of pending divestiture, and divestiture if the companies' business practices do not change in response to the notice by the SBA.

**HAWAII.** Act 192, Laws of 2007 (HB 34), prohibits the employee's retirement system from acquiring securities of companies that have active business operations in Sudan. Requires annual reports to the legislature.

**ILLINOIS.** Public Act 95-0523 of 2007 (SB 1169) amends the Pension Code concerning prohibited investments. Relates to the Republic of Sudan, private market funds, state-funded retirement systems and eligible finance entities. Relates to divestiture; prohibits certain investments.

**INDIANA.** Public Law 149 of 2007 (HB 1067) requires the public employees' retirement fund (PERF) and Teachers Retirement Fund (TRF), in the capacity of shareholders, to: (1) request that companies with certain business activities in Sudan cease those business activities; and (2) for a company that is unresponsive to a request, sell or divest all publicly traded securities held by PERF or TRF in that company. Requires that PERF and TRF report their Sudan-related activities to the general assembly. Excludes private equity funds held by PERF and TRF from the divestment requirement.

**IOWA.** Enrolled Senate File 361 (signed April 4; chapter number pending) provides that companies with specified kinds of activities in the Sudan are characterized as scrutinized companies and that state funds shall not invest additional funds in scrutinized companies, and shall divest their holdings over a period of 90 days after a company is listed as scrutinized and by 18 months after the listing occurs. The legislation provides various safeguards and provides for termination of its effect if the president declares that the Darfur genocide has been halted for at least 12 months, or if a court declares that federal law preempts this legislation or similar legislation in other states.

**KANSAS.** HB 2457 prohibits the investment of KPERS funds in companies with certain business operations in Sudan, and establishes standards and procedures for targeted divestment from holdings in prohibited companies except for passively-managed commingled funds when the estimated cost of divestment exceeds a threshold test.

**LOUISIANA.** Act 352, Laws of 2007 (HB 86), Requires a public retirement system having investment ownership in companies having facilities or employees, or both, in a prohibited nation to adopt a corporate governance policy in which the system engages such companies or the investment managers holding equities in such companies to remove their facilities or employees from prohibited nations; requires such retirement entities to join a terror-free index fund which identifies and excludes holdings in prohibited nations.

**MARYLAND.** Chapters 39 and 40 (HB 1336 and SB 543) authorize the State Retirement and Pensions System (SRPS) trustees to divest holdings in companies that do business in Sudan after

engaging with them to act responsibly and refrain from any activities that sustain or enable abuses of human rights in Darfur.

**MINNESOTA.** Chapter 117, Laws of 2007 (SF 1075), requires the state board of investment to identify companies with direct or indirect holdings in Sudan, prescribes identification procedures, requires divestment of certain companies, prohibits certain acquisitions, provides exemption and exclusions, expiration and reinvestment.

**OKLAHOMA.** HR 1026 encourages the retirement systems managed by the State of Oklahoma to divest interests or assets of companies entering into transactions with, or entities working on behalf of, the governments of the Islamic Republic of Iran, the Republic of Sudan, the Syrian Arab Republic, and the Democratic People's Republic of Korea, when such companies are organized in a country other than the United States or Canada.

**RHODE ISLAND.** Chapters 79 and 93, Laws of 2007, address divestment.

**TEXAS.** Chapter 1375, Laws of 2007 (SB. 247) requires ERS to engage with and possibly divest from certain companies doing business in Sudan. Only those companies that substantially benefit the central government, provide little benefit to Sudanese citizens, and who have failed to address their role in indirectly facilitating Sudan's genocidal capacity are covered in this bill. SB 247 Current law does not place any restriction on the ability of the Employees Retirement System of Texas (ERS) to invest in companies that are beneficial to the Sudanese government and are indirectly facilitating the genocide occurring in Sudan. ERS may be investing in these companies and this bill restricts ERS from doing business with certain companies associated with the Sudanese government.

This bill differs in very significant ways from Sudan divestment legislation passed in states like Illinois and New Jersey since the proposed Texas legislation targets only the small subset of companies operating in Sudan that have problematic behavior (so called "scrutinized companies" – less than 15 percent of multinational corporations operating in Sudan).

This bill mandates engagement with scrutinized companies before any divestment action is taken. The state pension funds will have very little administrative expense associated with this bill because all material for researching and engaging problematic companies is publicly available and free of charge to ERS. This bill protects ERS by excluding certain "hard to target" investments and providing an opt-out if a pension fund can objectively demonstrate that divestment has had a negative impact on its portfolio. Source: Sponsor's Statement of Intent: <http://www.capitol.state.tx.us/tlodocs/80R/analysis/html/SB00247F.htm>.

## **DROP AND RELATED ISSUES**

**ARKANSAS.** Act 298 (HB 1191) makes various changes to the provisions of the Arkansas Teacher Retirement Deferred Retirement Option Plan, including revising the employer contribution rate, providing that a member's participation in the plan shall not exceed ten (10) years, and authorizing the Board of Trustees of the Arkansas Teacher Retirement System to make necessary adjustments to render the plan cost-neutral.

## EARLY RETIREMENT INCENTIVES

**WEST VIRGINIA.** SB 599 eliminates the \$500 bonus teachers can receive for giving early notification of his or her resignation. Under the bill, only retiring teachers who give early notification are eligible for the bonus. The amount of the bonus stays the same.

## FORFEITURE OF BENEFITS

**ALASKA.** Chapter 47, Laws of 2007 (HB 109), provides that a public officer, a legislator, or a person employed as a legislative director, who is convicted of a federal or state felony, offense of bribery, receiving a bribe, perjury, subornation of perjury, scheme to defraud, fraud, mail fraud, misuse of funds, corruption, or evasion may not receive a state pension benefit if the offense was committed on after the effective date of this section and was in connection with the person's duties. Pension benefits and employee contributions that accrue to a person the date of the person's commission of the offense are not diminished or impaired. The act excludes insurance, voluntary wage reductions, involuntary wage reductions, or supplemental or health benefits and member or employee contributions from the forfeiture, and provides protection for certain spousal or dependent benefits, depending upon circumstances including spousal complicity. The law also provides that a person whose offense results in a pension forfeiture may not subsequently accrue service credit in public service.

**NEW JERSEY.** Chapter 49, Laws of 2007 (SB 14) imposes mandatory imprisonment and mandatory forfeiture of pension and retirement benefits for public officers or employees convicted of certain crimes involving or touching their office or employment. This bill amends current law concerning forfeiture of public office to include a definition of the phrase concerning crimes and offenses "involving or touching" public office or employment, in accordance with the definition set forth by the New Jersey Supreme Court in *McCann v. Clerk of the City of Jersey City*, 167 N.J. 311 (2001).

The act clarifies that the board of trustees of a State or local pension fund can order forfeiture of "earned service credit" and provides that the board of trustees can implement any pension forfeiture ordered by a court pursuant to the substitute. The bill would require mandatory pension forfeiture for crimes or offenses involving or touching the office, position or employment for specified crimes.

Currently, a member whose pension is forfeited receives a refund of his own contributions to the fund or system, and this bill is not intended to change this practice, except under certain instances. Contributions are considered part of the employee's salary and not part of the pension benefit.

The act provides mandatory terms of imprisonment for conviction of any of the listed crimes. The act provides that a State, county or local employer participating in a pension fund or retirement system would be responsible for reimbursement to the pension fund or retirement system of all pension costs incurred by the pension fund or retirement system following any settlement agreement between the employer and an employee that provides for the employer not to pursue any civil or criminal charges or an action for misconduct against the employee.

**NORTH CAROLINA.** Chapter 179, Laws of 2007 (SB 659) provides that elected officials who are members of the Legislative Retirement System, the Local Governmental Employees' Retirement System, the Teachers' and State Employees' Retirement System, or the Consolidated Judicial Retirement System shall forfeit their pensions upon conviction of a State or Federal offense involving public corruption or a felony violation of election laws. Member contributions will be returned.

## **GASB 43 AND 45**

**ALABAMA.** Chapter 16, Laws of 2007, directs the state as grantor, and members of the State Employees' Insurance Board and the Public Education Employees' Health Insurance Board, as trustees, to create irrevocable trusts for the purpose of holding, investing, and distributing assets to be used for certain post-employment health care benefits; designates the members of the State Employees' Insurance Board serving from time to time as the trustees of the trust or trusts; provides for permitted investments. A constitutional amendment, Ballot Measure 2 of 2007, approved by the voters on June 18, 2007, requires that funds dedicated for the purpose of paying health care costs of retired state and educational employees be used for that purpose.

**CALIFORNIA.** Chapter 318, Statutes of 2007 (AB 554), expands the conditions controlling the trust fund for retiree health liabilities established by the California Public Employee Retirement System (according to Chapter 331, Statutes of 1988) to allow any public employer in the state to deposit amounts in the fund by agreement with CalPERS.

**DELAWARE.** Chapter 70, Laws of 2007 (SB 136), creates a trust fund for the investment of assets for future retiree healthcare liabilities; provides that Board of Pension Trustees will be the trustees of this trust fund and given the authority to invest those assets.

**INDIANA.** P.L. 44 of 2007 (SB 501), establishes a retirement medical benefits account for elected officers, appointed officers, and employees of the executive, legislative, and judicial branches to pay expenses after retirement; designates the budget agency as the account administrator; requires the state to make annual contributions to the account based on the age of the participant; provides for a supplemental contribution; provides for judges and attorneys; relates to the Internal Revenue Code; provides for reimbursement.

**GEORGIA.** Act 23 (SB 156) allows counties, municipal corporations, and other political subdivisions to establish trust funds in accordance with GASB statements 43 and 45 to provide post-employment benefits other than retirement or pension benefits. It also created the Board of Regents Retiree Health Benefit Fund to provide for a trust fund to provide for retiree post-employment health care benefits.

Act 61 (HB 448) establishes two funds for the provision of term life insurance to certain eligible persons; provides for a retired and vested inactive members fund and an active members fund; provides for fund assets.

**LOUISIANA.** Act 202, Laws of 2007 (HB 759), authorizes political subdivisions to establish post-employment benefits funds.

**MARYLAND.** Chapter 355, Laws of 2007 (SB 780) requires the transfer to the Postretirement Health Benefits Fund all future budgetary allocations made for the purpose of reducing the state's accrued liabilities associated with health benefits provided to state retirees. The bill also transfers funds allocated in the FY2007 and FY2008 budgets for retiree health liabilities to the trust fund, and allows payments from the trust fund in future years to pay the ongoing costs of health benefits for state retirees.

**MISSOURI.** SB 406 requires the Missouri State Retirement System Board set up and maintain a separate employee and retiree medical benefit trust for each state medical plan that the system contracts with, in which shall be placed contributions made by the state to fund medical plan benefits, employee contributions and premiums, and other payments or income from any source, to satisfy obligations of the state entity to provide benefits to its employees, retirees, and dependents

under such state medical plan. The board may establish trust instruments that set forth applicable terms and conditions for the investment and disbursement of assets of a medical benefit trust, which may be irrevocable. The board may also consolidate retiree assets of one or more medical benefit trusts or commingle assets of trusts with assets of the system for investment purposes, but must maintain separate accounting for the assets of each trust. Section 104.320.3, .4, .5 & .6.

**NEVADA.** Chapter 253, Laws of 2007 (SB 457), allows a local government to establish an irrevocable trust fund for the purpose of providing health insurance or other retirement benefits, other than a pension, to its retired employees, and to use the trust fund to accumulate the funding necessary for the future provision of those benefits. It requires the appointment of a board of trustees to administer the trust fund, and provides for various limitations on the powers and duties of the board of trustees, including its authority to invest the money in the trust fund. Section 5 of this bill provides for the investment of any money in such a trust fund together with any assets of the Public Employees' Benefits Program in the same manner as the money in the Public Employees' Retirement Fund is invested.

Chapter 520 (SB547) creates an irrevocable trust fund to be administered by the Board of the Public Employees' Benefits Program. Section 4 of this bill creates the Retirees' Fund and specifies its purpose. Sections 5 and 6 of this bill specify how money is to be paid into the Retirees' Fund, invested and paid out of the Retirees' Fund.

**TENNESSEE.** Chapter 184, Laws of 2007 (HB 465 & SB 333) § 10, revises provisions concerning local governments' trust funds for OPEB. Present law authorizes any local government entity to establish investment trusts for the purpose of pre-funding non-pension, post-employment benefits accrued by employees of the entity, to be paid as they come due in accordance with the arrangements between the employers, the plan members and their beneficiaries. The authorization is subject to the following conditions:

- (A) The chief governing body establishes a written plan of the post-employment benefits provided;
- (B) The investment committee of the political subdivision adopts a written investment policy authorizing how assets in the trust may be invested;
- (C) The trust conforms to all applicable laws, rules and regulations of the IRS; and
- (D) The trust document, the written plan of benefits, and the investment policy, as well as any other information or documentation as determined by the funding board, is submitted to the state funding board for approval.

This bill adds the following requirements for any local government entity's authorization for an investment trust to pre-funding non-pension, post-employment benefits:

- (A) The investment policy does not authorize investment of trust assets in any instrument, obligation, security, or property that would not constitute a legal investment for assets of Tennessee domestic life insurance; and
- (B) The local government entity is solely responsible for compliance with IRS rules and regulations, and federal tax laws.

**TEXAS.** Chapter 1224, Laws of 2007 (HB 2365) allows the state and political subdivisions of the state to follow state statutory modified accrual standards of accounting as described in the act, if other accounting bases conflict with state law. The state or its political subdivisions could account for other post-employment benefits (OPEBs) on this statutory basis if generally accepted accounting principles (GAAP) require accounting on any basis other than pay-as-you-go.

The act would have the practical impact of exempting those who choose the alternate accounting from requirements in Governmental Accounting Standards Board (GASB) statement 45, and potentially some in GASB statement 43.

The act partly outlines how the state shall account for OPEBs, and would allow Texas to exempt itself from following GASB standards of accounting for OPEBs. This would result in Texas financial statements no longer following the official GAAP standard, which would lead to adverse opinions by outside auditors. The auditor's opinions would be dual opinions, one opinion expressing compliance with GAAP standards, and another expressing compliance with statutory standards. Differences with GAAP may be small enough to initially get a qualified opinion, though in a short time they would be material and lead to an adverse opinion. Source: LBB Analysis of HB 2365: <http://www.capitol.state.tx.us/tlodocs/80R/fiscalnotes/html/HB02365F.htm>.

**UTAH.** Chapter 99, Laws of 2007 (HB 7), establishes a trust fund to accumulate monies to pay post-retirement benefits. This bill creates a trust fund to pay for post-retirement benefits; creates a board of trustees to act as the trustee of the trust; establishes investment criteria for the state treasurer in investing the trust assets; and directs the Division of Finance to transfer certain monies into the fund.

Chapter 207, Laws of 2007 (HB 337), provides that local government other post-employment benefits trust funds are exempt from the requirements to invest monies in certain assets; defines certain terms; requires monies in a local government OPEB trust fund to be deposited or invested in certain types of assets that meet certain criteria; provides that the state treasurer may develop and offer a variety of asset allocation options for monies in an OPEB trust fund and review the options for efficiency as needed.

**VERMONT.** Act 13, §16 (HB 516), modifies the state employees' postemployment benefits pension trust fund.

**VIRGINIA.** Chapter 710, Laws of 2007 (SB 789) Provides that counties, cities, towns, school divisions, and certain political subdivisions may establish local trusts or equivalent arrangements to fund postemployment benefits other than pensions.

**WEST VIRGINIA.** Chapter 208, Acts of 2007 (SB129), allows the transfer of surplus funds from the Public Employees Insurance Agency to the West Virginia Retiree Health Benefit Trust Fund.

## **GOVERNANCE AND INVESTMENT POLICY**

### ***SEE ALSO DIVESTMENT***

**ARIZONA.** Chapter 270, Laws of 2007 (HB 2147), allows the Arizona State Retirement System to invest up to 30 percent, rather than the current 20 percent, of ASRS assets in foreign equity securities; eliminates the requirement that ASRS investment management have not less than \$250 million currently under management.; specifies that individual employees within a firm meet the requirement of three years' experience at handling institutional investments of at least \$250 million, and provides protections for proprietary commercial information.

**GEORGIA.** Act 43 (HB 318) broadened the authority of retirement systems to invest in non-United States corporations, real investment trusts, and contracts, agreements, and other instruments designed to manage risk exposure.

**HAWAII.** Act 260, Laws of 2007 (SB 1365), encourages the Employees' Retirement system to invest in Hawaii venture capital; requires the system to report annually on any Hawaii venture capital investments; provides that if the system board determines it is not prudent to invest in any Hawaii venture capital, the board shall report the rationale for the decisions; requires the system to develop

criteria to determine the amount of funds that may be prudently invested in Hawaii private placement .

**LOUISIANA.** Act 78, Laws of 2007 (HB 254), provides for advance education of potential trustees prior to becoming a trustee of the Retirement and Sheriffs' Funds.

Act 367 (SB 58) extends the life of the pilot program requiring state retirement systems to direct 10 percent of commissions on certain domestic equity trades and 10 percent of certain domestic fixed income investments through Louisiana broker-dealers. Requires quarterly reports to the Legislature. It will expire on June 30, 2010.

Act 484 (SB 127), Constitutional amendment, requires increases in benefits for state retirement systems to also provide a funding source. To be on the ballot on October 20, 2007.

**MAINE.** PL 2007, Chapter 58, Public Laws of 2007, [LD 512] changes the name of the retirement system from the Maine State Retirement System (MSRS) to the Maine Public Employees Retirement System (MainePERS) to better reflect the groups for which the System administers retirement plans.

**MARYLAND.** Chapter 368, Laws of 2007 (SB 999) gives the board of trustees of the state retirement system authority to determine the compensation and bonuses of the system's chief investment officer (CIO) and gives the CIO power to hire and fire external asset managers, with the goal of increasing the attractiveness of the position.

**MASSACHUSETTS.** Chapter 68, Session Laws of 2007 (HB 4125) provides for state government management of local government retirement funds whose funded ratio and investment rate of return fall below specified minimums over the previous decade. The Public Employee Retirement Administration Commission (PERAC) is required to review the investment performance and funded ratio of all systems annually. A system found by the commission to have a funded ratio of less than 65 per cent and an average rate of return during the previous 10 years that is at least 2 percentage points less than that of the PRIM\* Fund rate of return over the same period shall be declared underperforming by the commission. The commission shall notify, in writing, any system deemed to be underperforming pursuant to this paragraph that it shall transfer ownership and control of all of its assets to the PRIM board. The act provides for an appeal of a PERAC decision to a review board that can grant exemptions to a local system under specified circumstances. An exemption requires approval by a local government board to be effective: it cannot simply be accepted by the trustees of a local government system. Denial of an exemption can be appealed to a court

Underperforming systems may also decide voluntarily to transfer control of assets to the PRIM board, and apparently have the power to withdraw the assets after five years.

The act requires PERAC to report each public retirement system's average rate of return and funding level to the General Court (legislature) of Massachusetts annually.

\*PRIM is the Pension Reserves Investment Management Board, which manages the investments of the state Teachers Retirement and Employee Retirement Systems. It also manages assets of any local system that voluntarily deposits them with PRIM.

**MISSOURI.** SB 406 included various provisions intended to strengthen the funding and administration of all retirement plans in the state:

- Reduces the amortization period associated with plan unfunded accrued liabilities to a maximum of 30 years, rather than the current maximum of 40 years, in order to meet recommendations of the Governmental Accounting Standards Board. Section 105.665.
- Requires each plan to create education and continuing education programs for board members, which shall include education on topics enumerated in this act. Also, each retirement plan, upon request, shall provide a pension benefit statement to a participant in written or electronic form, written in a manner calculated to be understood by the average plan participant. Such statement shall include accrued participant contributions, total accrued benefits, date first eligible for a normal retirement benefit, and projected normal retirement benefit. Any plan failing to comply shall submit reasons in writing to the joint committee on public employee retirement. Section 105.666.1 and 105.666.2.
- Prohibits any appointing authority, board member, or employee from receiving any gains or profit from any funds or transactions of the plan, and provides that any such person who accepts political contributions or compensation to influence his or her action with respect to the system shall forfeit his or her office and be subject to penalties for bribery. Also, any trustee, employee, or participant of a plan who is convicted of a plan-related felony after August 28, 2007, shall forfeit any retirement benefits from such plan. Section 105.667.
- Provides that any plan whose actuary determines has a funded ratio below 60 percent, other than the Public School Retirement System and the Public Education Employee Retirement System of Missouri, and the political subdivision has failed to make 100 percent of the actuarially-required contribution for five successive plan years shall be deemed delinquent in contribution payments, which shall constitute a first lien on the funds of the subdivision. The board is authorized to compel payment by writ, and the state treasurer shall withhold 25 percent of the contribution deficiency from the total moneys due the subdivision until the delinquency is satisfied. Section 105.683.
- Prohibits any new benefit increases for plans that are less than 80 percent funded, but plans funded at 80 percent or more may adopt increases as long as the funded ratio remains above 75 percent; unfunded actuarial accrued liabilities associated with benefit changes shall be amortized over a twenty-year period. Also, any plan with a funded ratio less than 60 percent shall have the actuary prepare an accelerated contribution schedule. The provisions of this section do not apply to the Missouri local government employees' retirement system under chapter 70, RSMo, or the judicial retirement plan under chapter 47, RSMo. Section 105.684.

**MONTANA.** Chapter 285, Laws of 2007 (HB 771) requires annual, instead of biennial, actuarial reports on the finances and investments of the state retirement systems, including the defined contribution plans, and requires prompt reporting to the legislature. Prohibits charging the legislature for the cost of the actuarial reports.

**NEW JERSEY.** Chapter 92, Laws of 2007 (SB 17, AB 21), §§ 23 to 28 remove language from existing law that permits the State Treasurer to reduce the amount of normal contributions needed to fund the various State-administered retirement systems when excess assets are available and requires each system to use consistent and generally-accepted actuarial standards. Any modification of the assumption or actuarial methodology at the direction of the State that changes asset values will require public disclosure and a financial impact analysis prior to adoption.

**OHIO.** HB 272 of the 126<sup>th</sup> Legislature provides that public employers are to remit employer contributions to the Public Employee Retirement Plan monthly rather than quarterly.

**SOUTH CAROLINA.** Act 1, Laws of 2007 (SB 152), ratified last year's approval by South Carolina voters of the referendum to amend the state constitution to allow full diversification of the South Carolina Retirement Systems' investment portfolio (Amendment 3a).

**TEXAS.** Chapter 124, Laws of 2007 (SB 1447) Senate Bill 1447 amends the Government Code to provide additional authority to the Teacher Retirement System of Texas (TRS) to make certain private investments before September 1, 2012. The act allows the TRS board of trustees to delegate investment authority over a portion of the assets of the retirement trust fund to external managers. Contracts for external management allowed under the provisions of the bill cannot extend past September 1, 2012. The act authorizes the TRS board of trustees to delegate investment authority to TRS staff and allows the trustees to consider certain investment-related matters in closed session. The act restricts investments in hedge funds to no more than five percent of the value of the system's investment portfolio.

Chapter 1224, Laws of 2007 (HB 2365) allows the state and political subdivisions of the state to follow state statutory modified accrual standards of accounting as described in the act, if other accounting bases conflict with state law. The state or its political subdivisions could account for other post-employment benefits (OPEBs) on this statutory basis if generally accepted accounting principles (GAAP) require accounting on any basis other than pay-as-you-go.

The bill would have the practical impact of exempting those who choose the alternate accounting from requirements in Governmental Accounting Standards Board (GASB) statement 45, and potentially some in GASB statement 43. GASB 45 requires governmental entities to account for OPEBs, in particular retiree health benefits, in a manner similar to methods used for pension benefits.

The bill partly outlines how the state shall account for OPEBs, and would allow Texas to exempt itself from following GASB standards of accounting for OPEBs. This would result in Texas financial statements no longer following the official GAAP standard, which would lead to adverse opinions by outside auditors. The auditor's opinions would be dual opinions, one opinion expressing compliance with GAAP standards, and another expressing compliance with statutory standards. Differences with GAAP may be small enough to initially get a qualified opinion, though in a short time they would be material and lead to an adverse opinion..

Chapter 733 (HB 2664) seeks to reduce actuarial variability and increase pensioner confidence by requiring certain actuarial statements to be audited once every five years to reduce variability in audit results over time. Under current law, each public retirement system conducts its own independent actuarial analysis.

**WEST VIRGINIA.** SB 438 (vetoed and overridden) makes amendments to the current law regarding the Investment Management Board. Included is an increased allowance in the securities in which the board may invest. These are now defined as any and all forms and types of investments, financial instruments, or financial transactions that may be determined prudent for investment by the board. The bill increases the power of the board by delineating that those powers listed in the code only illustrate the kinds of powers it can have and does not limit it to those provided as examples. The bill helps to further expand the Board's power in dealing with public health, safety, and the convenience and welfare of state citizens. The wording of the bill is constructed broadly enough to grant the board full and complete authority to carry out their purpose in the financial markets. Source: West Virginia Legislative 2007 Wrap-up: [http://www.legis.state.wv.us/Wrapup/pdfs/Vol.XVIII\\_final.pdf](http://www.legis.state.wv.us/Wrapup/pdfs/Vol.XVIII_final.pdf).

## HEALTH COVERAGE

**ARIZONA.** Chapter 253, Laws of 2007 (HB 2311) extends the rural health insurance subsidy for Medicare-eligible ASRS, EORP, PSPRS and CORP retirees for an additional 2 years through fiscal year 2009, from July 1, 2007 through June 30, 2009; specifies that a member living in a non-service area who is enrolled in a managed care program is not eligible for the premium benefit supplement.

**HAWAII.** Act 294, Laws of 2007 (HB 1746), Allows for the establishment of an employee organization sponsored trust that would provide health benefits for state and county employees of a particular bargaining unit, as well as future retirees and existing retirees who wish to participate in such a trust; establishes such a trust as a voluntary employees' beneficiary association (VEBA) trust; provides for retiree coverage for any employee who retires from the state or counties who was a member of an employee organization that establishes a VEBA trust.

**NEW JERSEY.** Chapter 103, Laws of 2007 (AB5005) requires a State employee contribution of 1.5 percent of the employee's base salary, or of a monthly retirement allowance for certain retired State employees, toward the cost of the chosen health coverage under the State Health Benefits Program (SHBP) for employees who are not represented by unions. For all other State employees, and county, municipal, and school district employees, the contribution will be determined by collective negotiations agreements. For state retirees, the contribution will not take effect until a Retirees' Wellness Program is created by the SHBP and the contribution will be waived for retirees who participate in the program.

The act amends the SHBP statutes to remove the requirement for a Traditional Plan for healthcare contracts purchased after June 30, 2007 and to reflect changes to the program to be implemented as the result of certain collective bargaining agreements, and discussions with representatives of public school teachers. Specifically, the bill grants authority to the State Health Benefits Commission to contract for the administration of preferred provider organizations (PPOs), with certain benefit levels, without a Traditional Plan component. A PPO is a network of health care providers from whom an enrollee may obtain services without a gatekeeper physician for a co-payment fee, with services outside of the network being more expensive.

The bill also provides for the creation of a School Employees' Health Benefits Program, with certain benefit levels, to be operated by a new commission.

**OHIO.** HB 272 of the 126<sup>th</sup> Legislature allows the Public Employee Retirement System to create voluntary retiree medical savings accounts in which members can deposit contributions via payroll deduction to be used for qualified medical expenses upon the member's retirement.

## LEGISLATIVE REVIEW OF RETIREMENT POLICY

**OKLAHOMA.** Chapter 186, Laws of 2007 (HB 2070) subjects the Oklahoma Firefighters Pension and Retirement System, Oklahoma Police Pension and Retirement System and Oklahoma Law Enforcement Retirement System to the provisions of the Oklahoma Pension Legislation Actuarial Analysis Act. Oklahoma Police Pension and Retirement System and Oklahoma Law Enforcement Retirement System to the provisions of the Oklahoma Pension Legislation Actuarial Analysis Act.

The Oklahoma Pension Legislation Actuarial Analysis Act (SB 1894 of 2006) provides for extended review of legislation that carries a fiscal impact on a retirement plan. Any legislation with a fiscal impact on a retirement plan must be introduced in the first legislative session and cannot be passed until the second legislative session. Any measure with a fiscal impact must be assigned to the State

Auditor and Inspector and an actuarial impact statement provided before the Legislature acts on the measure.

## **LEGISLATIVE AND GUBERNATORIAL RETIREMENT PLANS**

**HAWAII.** Act 2, Laws of 2007 (HB 1073), excludes legislative session employees from mandatory enrollment in the employees' retirement system; relates to employees' retirement system.

**INDIANA.** P.L.43-2007 (SB 401) provides that, beginning in 2009, the state's contribution to the legislators' defined contribution plan shall be a percentage of the participant's salary. The percentage is to be calculated annually by the Public Employees Retirement Fund (PERF) and confirmed by the Budget Agency. It is to be determined by the state employer contribution on behalf of state employees to PERF and the state contribution to annuity savings accounts on behalf of state employees who are members of PERF. The contribution for legislators may not exceed those total contribution rates. Effective January 1, 2009, the provision establishing the contribution rate for legislators at 20% is repealed. The bill also repealed law that allowed the state to pay all or part of the health insurance premium for former state legislators or their surviving spouses (dependent upon service of four terms in the Legislature), but continues to allow former legislators or their surviving spouses to retrain membership in the group health insurance program if they pay 100% of the employee and employer share of the premium costs.

§13 of P.L.180-2007 (SB 128) continues the legislators' defined contribution plan as a pilot project through 2010, provides that employer contributions to it shall be 20% of salary for member legislators until January 1, 2009, and requires PERF to report annually whether the pilot project should be continued. PERF may recommend legislation to extend such a defined contribution plan to all the plans that it administers.

**MARYLAND.** Chapter 263, Laws of 2007 (HB 1013), allows the surviving spouses of governors who die before the age of 55 to receive 50% of the state retirement benefit the governor would have been eligible for had he or she survived to age 55.

**MISSISSIPPI.** Chapter 407, Laws of 2007 (HB 1016), provides that a person who becomes a member of the Legislature or the President of Senate after July 1, 2007, may receive credit for previous service in those positions only after serving for eight years in such positions, as opposed to four years under previous law.

**MONTANA.** Chapter 309, Laws of 2007 (HB 139), establishes a legislative branch retirement termination reserve account to be used for eligible termination pay expenditures for legislative division staff. \$400,000 was appropriated for the account for the 2009 biennium.

Chapter 334, Laws of 2007 (HB 754), provides various options for a person elected as state legislator who is a member of a state retirement plan to continue to accrue service credit in that plan; requires contributions and funding.

## **MILITARY SERVICE**

**ARIZONA.** Chapter 244, Laws of 2007 (HB 2148), changes rules for service credit for active members of the military. It changes the term "presidential" call-up to "military" call-up; adds that a death or disability may be "during" active military service in addition to "as a result of" active service; and allows a member who was activated into U.S. military service and became disabled as a result of

or during the service to purchase that active service time from the date service started through one year after the member's date of disability. Provision effective until June 30, 2009.

**ARKANSAS.** Act 176, Laws of 2007 (SB57), provides that a member of the Public Employee Retirement System must be separated from service in the National Guard or other military services reserve in order to purchase service in a military capacity from the System. The number of years a person may purchase was increased from one to three.

**ILLINOIS.** Chapter 486, Laws of 2007 (SB 647), Amends the Illinois Municipal Retirement Fund Article of the Pension Code. Increases the amount of creditable service a participating employee may be granted for service in the armed forces of the United States. Provides that, if payment is made during the 6-month period that begins one month after the effective date, the required interest shall be at a specified rate per year, compounded annually; otherwise, the required interest shall be calculated at the regular interest rate. Removes provisions allowing a reduced interest rate.

**MARYLAND.** Chapter 480, Laws of 2007 (HB 1406), provides that when military service interrupts State service, members of a State or local retirement or pension system receive specified service credit applied toward their retirement allowance using the accrual rate in effect at the time of the member's retirement from the State system.

## **RE-EMPLOYMENT AFTER RETIREMENT**

**ARKANSAS.** Act 612, Laws of 2007 (HB 1187), extends the length of a waiver from the earnings limitation for a retired teacher to teach in a critical need area to six years.

**MARYLAND.** Chapter 443, Laws of 2007 (HB 962), widens exemptions from the law that provides that a teacher who is rehired by a former employer suffers a dollar-for-dollar benefit reduction if the sum of the retiree's annual compensation and initial retirement allowance exceed the retiree's compensation at the time of retirement. Retirees who return to low-performing schools and who teach in an area of critical shortage are exempt from those provisions, under existing law. This legislation expands the definition of low-performing school to those in which at least 50% of students qualify for federally subsidized school lunches. The act also increases the number of teachers low-performing schools may rehire and broadens the definition of the work such teachers may undertake.

**IDAHO.** Chapter 131, Laws of 2007, allows retired teachers or administrators to be rehired as "at will" employees without putting their PERSI benefits in jeopardy. The Act stipulates the conditions and requirements should a school district decide to hire or rehire a retired school teacher. Retired teachers or administrators who qualify are those who have 1) reached the Rule of 90, 2) are not participating in the early retirement program, AND 3) who are retired on or after the age of 62. Districts will pay the employer's share of retirement contributions for such returned teachers, but the employee will not accrue additional benefits.

**WASHINGTON.** Act 50, Laws of 2007 (HB 1262), addresses post-retirement employment. For TRS Plan 1 members and employers, this bill prohibits prior re-employment agreements and requires documentation of need and of the hiring process. The bill increases the waiting period to one and a half months before a TRS Plan 1 retiree can return to work and it implements a lifetime limit of 1,900 hours. Any hours worked over 867 in a year while a TRS Plan 1 retiree is receiving a pension will be applied to the lifetime limit. These provisions are consistent with those that are currently a part of PERS Plan 1.

**WYOMING.** Chapter 78, Laws of 2007, reduces the waiting time between retirement from covered employment and re-employment from six months to 30 days and provides that the employer of such a person shall pay the appropriate employee and employer retirement contributions to the Wyoming Retirement System. The rehired employee will not accrue any additional retirement benefit on account of such service.

## **SERVICE CREDIT/ PURCHASE OF SERVICE/ TRANSFER OF CREDIT**

**ARKANSAS.** Act 1570 of 2007 (SB 112) broadens provisions for the purchase of out-of-state service for members of the Public Employees Retirement System. The existing provision allowed a members of five years' credited service to purchase up to five years' credit for out of state service. The new provision allows the same purchase if the purchaser is over 65 years of age, has two years of credited service with PERS, and has worked at least seven years out of state.

**MISSISSIPPI.** Chapter 407, Laws of 2007 (HB 1016), provides that no credit for prior service will be available to members who join the Mississippi PERS after July 1, 2007, until they have contributed to the system for at least eight years.

**WYOMING.** Chapter 41, Laws of 2007, broadens the ability of vested members of the Wyoming Retirement System to purchase service credit. The restriction to purchases to reflect certain kinds of prior, non-covered service were repealed. Under this act, any vested member may purchase five years service credit at its actuarial cost.

## **STUDIES**

**NEW HAMPSHIRE.** Chapter 355, Laws of 2007 (HB 876), establishes a 21-person commission to make recommendations to ensure the long-term viability of the New Hampshire Retirement System. The commission, consisting of NH House and Senate members, active and retired group I & group II members, representatives of municipal and school employers, the NHRS board of trustees' chairman, and individuals with expertise in finance and financial management governance, is required to issue its report on or before 12/01/2007.

## **TAXATION OF RETIREMENT BENEFITS**

**KANSAS.** HB 2031 provides that for the taxable year beginning after December 31, 2006, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$50,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly; and for all taxable years beginning after December 31, 2007, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$75,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly.

**MISSOURI.** HB 444, effective January 1, 2007, authorizes an income tax deduction to be phased in over six years for Social Security benefits, Social Security disability benefits, and benefits received from a nonprivate retirement system for individuals 62 years of age or older. For 2007, a taxpayer can deduct 20% of his or her Social Security benefits; for 2008, 35%; for 2009, 50%; for 2010, 65%; for 2011, 80%; and for 2012 and thereafter, 100%. A single taxpayer with an adjusted gross income

of \$85,000 or less or a married taxpayer filing a combined return with an adjusted gross income of \$100,000 or less will qualify for the maximum deduction.

If a taxpayer's adjusted gross income exceeds the income amount, the deduction will be decreased by \$1 for every dollar in excess of the maximum. If a taxpayer receives both Social Security benefits and public retirement benefits, the maximum deduction for the publicly funded retirement benefits will be decreased by \$1 for every dollar of Social Security benefits received by the taxpayer if the benefits are not included in his or her Missouri adjusted gross income.

The maximum deduction for the publicly funded retirement benefits is limited to the maximum Social Security benefits available for the tax year less any Social Security benefits not taxable to Missouri.

**WISCONSIN.** Act 20, Acts of 2007 (S 40), §1947g, provides an exemption of \$5,000 of distributions from a qualified retirement plans or an individual retirement account established under 26 USC 408, provided that the taxpayer is at least 65 years of age; had if filing singly AGI of less than \$15,000 in the tax year in question; had if married and filing jointly AGI of less than \$30,000 in the tax year in question; if married and filing separately had, with the person's spouse, a combined income of less than \$30,000 in the year in question.

## **VESTING**

**KANSAS.** Chapter 164, Laws of 2007 (SB 362) reduced vesting requirements for all members of the Public Employee Retirement System from 10 years to five.

**MISSISSIPPI.** Chapter 407 (HB 1016) increased the vesting requirement for members of the Public Employee Retirement System from four years to eight years for those who join the system on or after July 1, 2007.