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Sustaining State Retirement Benefits: Recent State Legislation Affecting Public Retirement Plans, 2005-2009

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January 2010

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introduction

Since 2007, investment losses and the weakness of state and local government revenues have produced extraordinary stress for public retirement funds in the United States. This stress magnified the funding issues retirement funds encountered because of the recession at the turn of the century.

Policymakers' responses are occurring in the context of an additional issue, that of providing for the commitments state and local governments have made for retiree health insurance and other post-employment benefits. These obligations have accumulated gradually for many years. Current accounting rules now require recognition of them. State government liabilities, aside from any local government amounts, have recently been estimated to be as much as \$560 billion.

Legislatures and governors began to address pension system issues while the economy was still strong; the recession added urgency to their endeavors to strengthen the funding streams and reduce the long-term costs of their public retirement systems. This report summarizes the most significant features of state public retirement plan changes in 18 states from 2005 through 2009.

In general, states have made a broad range of relatively minor changes to plans, rather than undertaking fundamental change. Their goal has been to adjust rather than radically alter their retirement plans. Several of the states listed in this report have made a number of the following changes at once:

- Increases in employee contributions
- Extending the period over which salary is calculated for the purpose of determining retirement benefits
- Increases in the age or service requirement, or both, for eligibility for retirement benefits
- Anti-spiking provision
- Reductions in or greater controls over post-retirement cost-of-living adjustments

As an example, these are the changes that Kansas enacted in 2008 for newly hired state employees and teachers in the Kansas Public Employee Retirement System:

- Employee contribution increased from 4 percent to 6 percent of salary.
- Future cost increases, in the old plan the employer's responsibility, will be shared equally by employees and employers in the new plan.
- The base for calculating final average salary increased from the four highest years to five highest years.
- Age and service requirements increased to allow retirement at 60 only with 30 years of service and to encourage retirement at 65.
- Included benefits employees had requested, including immediate membership for all members (in place of a six-month wait); vesting in five years (as opposed to 10 years) and a guaranteed post-retirement benefit increase of 2 percent a year for retirees over age 65.

Although the Kansas legislation included the widest range of policy changes reported here, the kinds of changes in that legislation and the

general approach of changing a number of features of the plan in a relatively moderate degree are typical of the state legislation of the period.

Kansas acted in another way typical of most states in the period by choosing to preserve and reform a traditional defined benefit retirement plan (which provides a guaranteed life-time annuity) rather than fundamentally restructure the kind of benefit it provides. Alaska and Georgia did fundamentally restructure their retirement provisions. They replaced traditional defined benefit (DB) plans with alternatives. Alaska created defined contribution (DC) plans for teachers and public employees. Georgia enacted a hybrid plan that combines a traditional defined benefit plan with a 401(k) in which all new employees are automatically enrolled.

In recent years, many legislatures have considered replacing a DB plan with a DC plan. Defined contribution plans provide each member with an individual account to which the member and the employer make contributions throughout the member's employment at some percentage of the employee's salary. The member's retirement benefit depends upon the accumulation of contributions and investment earnings in the account when the member retires. The general practice is for the employee to control the investment of his or her account.

At present, DC plans are the basic state retirement plan only for state employees in Michigan, public employees and teachers in Alaska, and state employees in Nebraska, which now uses the variant of a cash balance plan. The District of Columbia also has a DC plan as its primary pension coverage. West Virginia's retirement plan for teachers was a defined contribution plan from 1991 to 2005, when it was closed to new enrollment. Otherwise, and except for higher education, their use in state government takes two forms:

- An alternative to a defined benefit plan that employees may choose to join if they wish to. Examples are Colorado, Florida, Ohio, Montana and South Carolina. A few additional states sponsor DC plans for elected officials, as in Utah and Virginia. In these jurisdictions, a new employee is enrolled in the defined benefit plan unless he or she makes an explicit decision to join the DC plan.
- A component of a mandatory hybrid plan, in which the general practice is for employee contributions to support a defined contribution account and employer contributions to support a defined benefit program. Such plans, with various designs, exist in Georgia, Indiana, Oregon and Washington.

In 2005, Alaska became the first state to close statewide DB plans and enroll all new employees in DC plans since Michigan had done so for state employees in 1997.

In 2008, Georgia became the first state to enroll all new employees in a hybrid plan since Washington had created hybrid plans for its teachers and state employees between 1998 and 2000. Its DB component is funded by both employers and employees but with the employee contribution and potential benefit reduced from the previous state DB plan. All new members will also be enrolled in a 401(k) with a provision for self-directed levels of employee contributions and a limited employer match. Employees may withdraw from the 401(k) plan if they wish to do so.

In the following chart, major changes in state retirement plan provisions are organized first by topic—for example, employee contribution changes or changes in age and service requirements for retirement eligibility—and then by year and state. The data in this chart are taken from NCSL's annual reports on state pensions and retirement legislation. The complete reports are available on the NCSL website at or by searching on the NCSL website for "Pension and Retirement Plan Enactments." [More](#)

Major Changes in State Public Retirement Plan Provisions, 2005 – 2009

The changes listed in this chart affect only new hires unless otherwise stated.

| Employee Contributions | Alaska Public Employees and Teachers' Defined Contribution Plans: 2006 | Increased employee contribution from defined benefit plan level to 8% of salary, and provided for a flat employer contribution of 5%. |
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| | Colorado Public Employees: 2006 | Additional 1% of salary to fund post-retirement benefit increases. |
| | Iowa Public Employees: 2006 | To increase 0.5% a year, 2008-2012, if needed to fully fund the system by 2016. |
| | Kansas Public Employees: 2007 | Contribution for new employees was increased from 4% to 6%. |

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| New Jersey Public Employee System, Teachers' Fund, and defined contribution plan: 2007 | Increased to 5.5% (from 5%), and caps the base on which contributions are made at the maximum amount on which Social Security contributions are levied. Effective for current and future employees. |
| Iowa Public Employees: 2008 | Re-enacts the 2006 legislation on employee contributions and caps the annual increase at 0.5%. |
| Kentucky Public Employee Retirement Plan: 2008 | Additional 1% of salary dedicated to the retiree health insurance plan. |
| Nebraska School Employees: 2009 | Increase of 1% for five years (current employees). |
| New Hampshire Retirement System: 2009 | Increased from 5% to 7% of salary for new employees. |
| New Jersey Public Employee System, Teachers' Fund, and defined contribution plan: 2007 | Increased to 5.5% (from 5%), and caps the base on which contributions are made at the maximum amount on which Social Security contributions are levied. Effective for current and future employees. |
| Georgia Public Employees Retirement System: 2009 | For new hybrid plan, employee contribution to the defined benefit portion is 1.25% of salary; for personal accounts, it may range from 0% to 5% of salary. |
| New Mexico Public Employee plan and teachers' plan: 2009 | Increase of 1.5% of salary for fiscal years 2010 and 2011, affecting current employees. |
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| Calculation of final average salary, and percentage factor for calculating benefits | |
| Alaska Public Employees and Teachers' Defined Contribution Plans: 2006 | No defined retirement benefit; the benefit will depend upon the accumulations in a member's account. |
| Louisiana Teachers: 2005 | Base for final average salary increased from 36 months to 60 months. |
| Rhode Island Public Employees: 2005 | Rhode Island applies different multipliers to groups of years of service. As service grows longer, the multiplier increases. The scale was reduced for shorter amounts of service in 2005. The former highest multiplier was 3%; under new law, the highest multiplier is 2.5%. The cap of benefits as a percent of final average salary was reduced from 80% to 75%. |
| Kansas Public Employees: 2007 | Base for final average salary increased from four years to five years. |
| New Jersey State and Local Plans: 2007 | Limited to salary on which Social Security tax is levied. |
| North Dakota Teachers: 2007 | Base for final average salary increased from 36 months to 60 months. |
| Kentucky Public Employees 2008 | Benefit percentage previously was 1.97%; changed to range from 1.1% to 1.7%, depending on years of service. For years in excess of 30, a factor of 2% applies. |
| Georgia Public Employees: 2009 | For the member account, the benefit base will be the accumulation in the account. For the defined benefit portion, the multiplier was reduced from 2% to 1%. |

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| | Nevada Public Employees Retirement System: 2009 | Formerly allowed a benefit factor of 2.67% for service after July 1, 2001. This was reduced to 2.5%. |
| | Rhode Island Public Employees System: 2009 | Base for final average salary increased from three highest consecutive years to five highest consecutive years. |
| | New York State & Local Employees: 2009 | Increased the minimum retirement age from 55 to 62; increased the minimum retirement age for the NY State Teachers system from 55 to 57 with 30 years of service. |
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| Age and Service Requirements for Normal Retirement | Alaska Public Employees and Teachers' Defined Contribution Plans: 2006 | No state restrictions, but receipt of benefits is subject to federal rules governing withdrawals from individual retirement accounts. |
| | Colorado Public Employees: 2006 | Rule of 85 replaces the Rule of 80. |
| | Louisiana Teachers: 2005 | Minimum age of 60, up from 55. |
| | Rhode Island Public Employees System: 2005 | Previous law allowed general employees to retire at age 60 with 10 years of service or any age with 28 years. New law for new and non-vested employees allows normal retirement at age 65 with 10 years of service or age 59 with 29 years of service. For current employees, the minimum age of eligibility for retirement will vary with length of service. |
| | Kansas Public Employees: 2007 | Increased from age 65, or age 62 with 10 years of service, or the Rule of 85, to age 65 with five years of service or age 60 with 30 years of service; the Rule of 85 will not apply. |
| | New Jersey State and Local: 2007 and 2008 | Prohibited contractual employees from earning service credit. Raised normal retirement age for public employees and teachers' systems from 60 to 62 for those who become members after the effective date of the bill (previously 55/25 or age 60). |
| | North Dakota Teachers: 2007 | Rule of 90 instead of the Rule of 85; five-year service minimum for benefits. |
| | Kentucky Public Employees Retirement System: 2008 | Previously allowed general employees to retire at age 65 with four years of service, or any age with 27 years of service. For subsequent hires, it will be age 57 with 30 years of service; rule of 87 (with minimum age of 57); 65 with five years of service. |
| | Nevada Public Employee Retirement System: 2009 | Previously allowed general members to retire at age 60 with 10 years of service; revised to age 62 with 10 years of service. For new police and firefighter members, the eligible age for retirement after 10 years of service is raised from age 55 to age 60 and the former option to retire at any age after 25 years of service was eliminated. |

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| | Texas Employee Retirement System: 2009 | Minimum eligibility at age 65 with 10 years of service rather than 60/5; or the Rule of 80. |
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| Anti-Spiking Provisions | Colorado Public Employees: 2006 | Annual salary growth for calculation of benefit capped at 8%. |
| | Iowa Public Employees: 2006 | Annual salary growth for calculation of benefit capped at about 7%. |
| | Louisiana State Employee System: 2005 | Annual salary growth for calculation of benefit capped at 15%, down from 25%. |
| | Kansas Public Employees: 2007 | Annual salary growth for calculation of benefit capped at 7.5%, down from 15%. |
| | New Hampshire, all members: 2008 | If compensation in the final year of service exceeds 125% of final average compensation, the retiree's last employer will be assessed the cost of the excess benefit. |
| | Nevada Public Employees Retirement System: 2009 | Annual salary growth for calculation of benefit capped at 10% for last five years of service. |
| | Georgia all systems: 2009 | For all members, the employer must pay the system the actuarial cost of benefits whose calculation includes a pay increase of more than 5% in the last 12 months before retirement; for future employees, such salary increases will not be included in the benefit calculation. |
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| Post-Retirement Increases | Alaska Public Employees and Teachers' Defined Contribution Plans: 2006 | DB plan provided annual automatic adjustments; no provision for post-retirement increases in the defined contribution plans. |
| | Colorado Public Employees: 2006 | Capped at 3% per year (previously 3.5%) or less depending on the consumer price index (CPI). |
| | Missouri local government plans: 2006 | Allowable only in plans that are at least 80% funded; must be amortized over 20 years. |
| | Kansas Public Employees: 2007 | For all pre-retirement employees, provided an annual adjustment of 2% in place of ad hoc adjustments. |
| | Georgia, all systems: 2009 | Future post-retirement increases are prohibited for public employees hired after July 1, 2009. |
| | Iowa Public Employees: 2006 | No future benefit increases without increases in contribution rates. |
| | Kentucky Public Employee Retirement Plan: 2008 | Replaced a COLA at the rate of the consumer price index, capped at 5%, with an annual 1.5%, for all future retirees. |
| | Louisiana State Employees: 2009 | Future permanent benefit increases require age of 60 for eligibility (previously age 55) and link them to the system's actuarial funding level and investment return. |

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| | Vermont Retirement System: 2008 | Replaces the existing-law COLA, which is an annual adjustment equal to 50% of the CPI, whether positive or negative. For active members as of June 30, 2008, who retire after July 1, 2008, the COLA will be the CPI percentage or at least 1%, to a maximum of 5%, beginning on Jan. 1, 2014. Members' contribution rates are increased from 3.25% to 5% until July 1, 2019, when the contribution rate will fall to 4.75%. The additional cost of the COLA will be amortized separately from the existing UAAL over 30 years. |
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| Vesting | Alaska defined contribution plans: 2006 | Employee contributions to the individual account are immediately vested and employer contributions are vested gradually with 100% vesting after five years of service. |
| | Mississippi Public Employees: 2007 | Vesting period increased from four years to eight years. |
| | North Dakota Teachers: 2007 | Vesting period increased from three years to five years. |
| | Kentucky Public Employee Retirement Plan: 2008 | Vesting period for retiree health insurance benefits increased from 10 years to 15 years. |
| | Georgia hybrid plan: 2009 | Vesting for the defined benefit portion of the plan remains at 10 years. Employee contributions to the individual account are immediately vested and employer contributions are vested gradually with 100% vesting after five years of service. |
| | New York State and Local Employees System, and the State Teachers System: 2009 | Increased vesting requirement for new employees from five years to 10 years. |
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Sources

This report is based on NCSL's annual compilation of state legislation concerning pensions and retirement plans. The annual reports are available on the NCSL website. [More](#)

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