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FEDERAL AND TAX ISSUES

NORMAL RETIREMENT AGE REGULATION STILL UNRESOLVED

Still unresolved is the status of the IRS Normal Retirement Age Regulation. Essentially, the IRS has adopted a rule (currently suspended as to governmental plans) which requires plans to have a chronological age as a benchmark relative to in-service distributions and rehiring of retirees who wish to continue drawing a benefit. State and local government retirement (defined benefit) plans utilize three primary methods of determining eligibility for retirement: age alone; age plus years

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of service; service alone; or a point system consisting of age plus years of service totaling a statutorily determined amount.

The most recent, reliable statistics are those compiled by the U.S. Department of Labor, Bureau of Labor Statistics in its report *Employee Benefits in State and Local Governments, 1998*, published in December 2000 (Bulletin 2531), which covered 12.5 million state and local government workers. The report was also relied upon by the Employee Benefit Research Institute (EBRI) in an issue brief dated July 2001. The report focused specifically on "normal retirement," which is universally defined as the earliest date at which a member of the plan may receive an unreduced retirement benefit.

Of particular interest in those reports are tables 8 and 9 in the 2001 EBRI issue brief. According to a review of state and local plans utilizing defined benefit retirement designs, 41% utilized service only as a measure of retirement. That 41% of plans used service as follows:

Less than 20 years of service	< 0.5%
20-29 years of service	7.0%
30 years of service	27.0%
35 years of service	6.0%

As a result, it is clear that the absence of a "normal retirement *age*" has not produced plan designs which allowed retirement at an unreasonably early point in the employee's career. More than 80% of the plans reviewed, using service alone, required a minimum of 30 years of service to receive an unreduced benefit.

Of the surveyed plans using age alone (with a minimum vesting period), only 1% utilized an age lower than 55 years and then only with 25 years of service. All other plans using an age lower than 55 years amounted to less than 0.5%.

20% of reporting plans used a minimum retirement age of 55. Of those plans, half required a minimum of 30 years of service and another quarter required 25 years of service. Only one percent of all reporting plans allowed age 55 years with no service requirement.

As the minimum age increased, the required amount of service decreased. 10% of all plans reporting used age 60 as the minimum normal retirement age. Of those plans, nearly all required 10 years of credited service or less. The same was true for the 4% of all reporting plans using age 62 and the 9% of all reporting plans using age 65.

The remaining reporting plans (13% of all plans) use a point system, combining age and years of service. Of those plans, all require a minimum of 80 "points," and three quarters require between 81 and 90 "points." From a practical standpoint, the average hiring age for public safety employees is approximately 24 years. This would mean with a median normal retirement based on 85 points, this employee would need approximately 30 years of service (age 54.5 with 30.5 years of service = 85 points).

From the foregoing, one may reasonably conclude that state and local government DB plans are specifically designed to encourage a true working lifetime of service with retirement occurring in the mid-50's to early 60's. Highly publicized stories of public employees leaving the workplace with full retirement benefits in their early 40's are not borne out by the Labor Department's own statistical evidence. Moreover, those 41% of plans utilizing service alone would be expected to have even older retirement ages than plans with a chronological age as the measure of "normal retirement eligibility."

If the purpose of the NRA regulation is to insure that employees are not being permitted to retire without having contributed a meaningful working lifetime, that result has already been accomplished without the need for the rule. State and local government plans utilizing service alone, with minimum service of 20 years or more, should be treated as having a compliant "normal retirement age."

SAMPLE LANGUAGE FROM PLANS PROVIDED TO THE IRS

1. **Combination of age plus years of service or service alone:**

A member may retire upon the earlier of the attainment of age 60 with 5 years of service; age 55 with 10 years of service; age 50 with 15 years of credited service; or 20 years of credited service regardless of age.

2. **Service alone:**

Any member of the Fire or Police Department who shall have served in such department for 20 years or more in the aggregate in any capacity or rank whatever, on his request, or by order of the Board, if it be deemed for the good of the department, shall be retired from further service in such department, and such member shall thereafter, during his lifetime, be paid in equal monthly installments a pension as follows:

- (a) **Twenty Years Service:** For 20 years aggregate service, 40% of the average monthly rate of salary assigned to the ranks or positions held by the member during the three years immediately preceding the date of his retirement;
- (b) **Twenty up to Twenty-Five Years Service:** And an additional 2% of the average rate of salary for each year over 20 and less than 25 years in the aggregate served by the member before retirement;
- (c) **Twenty-Five Years Service:** For 25 years aggregate service, 50% of the average monthly rate of salary assigned to the ranks or positions held by the member during the three years immediately preceding the date of his retirement;
- (d) **Twenty-Five up to Thirty-Five Years Service:** And an additional 1 2/3% of the average rate of salary for each year over 25 and less than 35 years in the aggregate served by the member before retirement;
- (e) **Thirty-Five or More Years Service:** For 35 years or more aggregate service, two-thirds of the average monthly rate of salary assigned to the ranks or positions held by the member during the three years immediately preceding the date of his retirement.

3. Point System

Rule of 64 or rule of 68 retirement.

- (1) *Any member in service who did not withdraw from active membership in the retirement system and retiring effective May 28, 1995, may elect service retirement on the basis of his or her combined age and creditable service equaling 64 or more provided that the member has reached minimum vesting requirements. Such election shall be made upon written application to the board no less than ten days nor more than 45 days from May 28, 1995.*
- (2) *Upon rule of 64 retirement, on or after May 28, 1995, a police officer member shall be entitled to receive a retirement allowance equal to 2.75 percent of the member's average final compensation multiplied by the years of creditable service for the first 15 years of such creditable service. Such member shall also be entitled to receive a retirement allowance equal to three percent of the member's final average compensation multiplied by the years of creditable service in excess of 15 years.*

Upon rule of 64 retirement, a firefighter member retiring on May 28, 1995, shall be entitled to receive a retirement allowance equal to three percent of the member's average final compensation multiplied by years of creditable service which amount shall be paid yearly in monthly installments.

A member eligible for rule of 64 or rule of 68 retirement may choose one of the optional allowances available to him or her on the date of retirement, as provided in subsection (m).

- (3) *Upon rule of 64 retirement, on or after October 1, 1998, or upon the Rule of 68 retirement on or after October 1, 2009, a member shall be entitled to receive a retirement allowance equal to three percent of the member's average final compensation multiplied by years of creditable service for the first 15 years of such creditable service. Such member shall also be entitled to receive a retirement allowance equal to three and one-half percent of member's final average compensation multiplied by the years of creditable service in excess of 15 years, which amount shall be paid yearly in monthly installments. A member eligible for rule of 64 or rule of 68 retirement may choose one of the optional allowances available to him or her on the date of retirement, as provided in subsection (m).*

STATE AND LOCAL GOVERNMENT PLANS CANNOT AMEND THEMSELVES

State and local government retirement plans may only be amended by state statute or local ordinance. Many states do not address such matters on an annual basis and some state legislatures, notably Texas, meet only every two years.

While plans have rule making authority, generally under state administrative procedures acts, such rules are generally limited to plan administration rather than the substantive terms of the plan. Retirement age is a substantive provision. Many municipal plans are embodied in city charters which may only be amended by a vote of the electors.

Approximately 38 states have some form of collective bargaining over wages, hours, and other terms and conditions of employment, including retirement. Changes in such contracts may be made unilaterally. Boards of trustees are not parties to such collective bargaining agreements, nor do they have any status in the bargaining process.

A dozen states have constitutional provisions making pension a contract. Inserting a retirement age where none currently exists would violate that state constitutional provision. In the remaining 38 states, constitutional protection attaches at some point in the employment process also prohibiting the insertion of additional requirements for retirement. The NCPERS website has a chart of the constitutional protections applicable in all 50 states.

THE PRE-ERISA VESTING RULES DO NOT REQUIRE A CHRONOLOGICAL RETIREMENT AGE

In *Fry v. Exelon Corp. Cash Balance Pension Plan*, 571 F.3d 644 (7th Cir.2009), the U.S. Court of Appeals, in a case of first impression, held that the “normal retirement age” in a retirement plan is defined by the plan document. It is whatever age one has achieved under the terms of the plan’s vesting and benefit distribution rules. All governmental defined benefit plans provide for vesting after a defined period of service and benefit distribution is uniform based on attained age, credited service or some combination of the two. No contrary authority currently exists; in fact, additional case authority support the *Exelon* rationale.

On August 25, 2010, the United States District Court for the Western District of North Carolina, reached the same conclusion in *Pender v. Bank of America Corp*, ___ F.Supp.2d ___, 2010 WL 3370058 (W.D.N.C. 8/25/2010). This represents the same conclusion being reached for the first time by a court outside of the 7th Circuit. The August, 2010 decision was amended in December. The amended order reached the same conclusion; that is, a normal retirement date is the functional equivalent of a normal retirement age. *Pender v. Bank of America*, ___ F.Supp.2d ___, 2010 WL 5071169 (W.D.N.C. 12/7/2010). This is consistent with an earlier decision of the United States Court of Appeal for the 4th Circuit in *Adams v. La-Pac*, 177 Fed. Appx. 335 (4th Cir. 2006).

WHERE DO WE GO FROM HERE

As of the date this outline was created (March 17th), the IRS had yet to reach a conclusion or to extend the deadline. Numerous meetings between representatives of the IRS and the Treasury Department have failed to yield a definitive conclusion. Given the absence of any jurisprudence supporting the government's theory and a growing body of law to the contrary, the matter can be resolved favorably to the retirement plans.

NCPERS SUBMITS COMMENTS TO SEC URGING MODIFICATION OF PROPOSED REGULATIONS GOVERNING APPOINTED TRUSTEES UNDER THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

In February of 2011, NCPERS submitted detailed written comments to the Securities and Exchange Commission ("SEC") in connection with the proposed adoption of new registration and related rules designed to implement the Dodd-Frank Wall Street Reform and Consumer Protection Act. The proposed rules would require "appointed" public pension trustees to register with the SEC and the Municipal Securities Rule Making Board ("MSRB") while exempting "elected" trustees. Pursuant to the SEC's request for comments from stakeholders, NCPERS and over one hundred and eighty other organizations filed comments which are aimed at assisting the SEC craft appropriate and effective regulations.

Section 15B of the Securities and Exchange Act of 1934, as recently amended by Dodd-Frank, would subject municipal advisors to new regulatory and registration requirements. The SEC has proposed to only exclude elected members of the governing body of a public retirement system from the new regulatory requirements. Based on the suggestions of SEC staff, appointed trustees would be subject to the new regulations and registration requirements.

In its letter, NCPERS urged that the SEC not adopt its proposal treating appointed trustees differently from elected trustees. NCPERS argued that all members of a governing body of a retirement system are properly included in the definition of "municipal entity" for the purposes of the exclusion from the term "municipal advisor" in 15 U.S.C. §78o-4(e)(4)(A). NCPERS respectfully suggested that the distinctions that the SEC has proposed are problematic from a statutory construction standpoint

and are inconsistent with the plan design of retirement systems across the nation. NCPERS respectfully urged the SEC to treat all governing bodies and all public pension trustees (either elected or appointed to serve on their governing boards), as part and parcel of the “municipal entity” for the purposes of 15 U.S.C. §78o-4(e)(4)(A).

At the heart of NCPERS’ comments is the argument that municipal public pension trustees *receive* advice in connection with their fiduciary duties, and should not be confused with or required to register as “municipal advisors.” As a general rule, public pension trustees do not make discrete tactical decisions to invest in any particular security. Rather public pension trustees make macro level decisions to hire and fire professional money managers, along with asset allocation and related administrative decisions. These decisions are made pursuant to pre-established investment policies/investment guidelines. Accordingly, public pension trustees are ordinarily not *providing* investment advice to their municipal entity or plan sponsor. To the contrary, public pension trustees are charged with *seeking, receiving and implementing* investment advice that they receive from registered investment advisors.

Moreover, public pension trustees serving on municipal boards of trustees are already covered by public records and open meeting laws, state conflict-of-interest laws, universally applied trust law principles, plan specific provisions and existing fiduciary duties explicitly enumerated under state laws.

From a statutory construction standpoint, NCPERS argued that public pension trustees properly fall within the definition of “municipal entity” in 15 U.S.C 78o-4(e)(8). Based on the plain meaning of the Dodd-Frank amendments, the governing body of a retirement system and all trustees are properly included in the definition of the term “municipal entity” in 15 U.S.C, 78o-4(e)(4)(A) and thus exempt from the registration requirements for “municipal advisors.”

NCPERS indicated a concern that a burdensome permanent federal registration regime which includes duplicative record-keeping requirements should not be imposed on state and local public pension trustees in their individual capacities. NCPERS further explained that public pension trustees can only act collectively. Individual public pension trustees have no authority apart from the official - and public - acts taken by the board of trustees as a whole. NCPERS believes that it is problematic and counterproductive to treat similarly situated and co-equal public

pension trustees differently when they serve in the same role and are subject to identical fiduciary duties.

The risk that public pension trustees would be deterred from service on their pension boards is particularly true for the many trustees who effectively participate as volunteers and are not compensated for their service on their respective pension boards. NCPERS otherwise welcomed the SEC's efforts to improve financial stability, accountability and transparency in the financial system. NCPERS is hopeful that the SEC will effectuate these objectives mindful of any unintended consequences on the hard working trustees who oversee retirement systems that are already faced with financial constraints on the budgets of their plan sponsors. NCPERS extends its thanks to the many retirement systems that have officially endorsed NCPERS' comments or otherwise filed their own comments with the SEC.

NCPERS FILES AMICUS CURIAE BRIEF IN MAJOR SHAREHOLDER RIGHTS CASE IN THE SUPREME COURT

On March 1, 2011, NCPERS filed an *amicus curiae* (friend of the court) brief in the United States Supreme Court in favor of the Petitioners in a major shareholder rights case. Last fall the Supreme Court granted review in the case of *Erica P. John Fund v. Halliburton*, Case No. 09-1403.

The case involves review of a decision by the United States Court of Appeals for the 5th Circuit which held that plaintiffs in a securities fraud case must prove that fraud caused the loss suffered by shareholders at the time the court considers whether to certify a case as a class action.

The 5th Circuit decision, if upheld, would substantially impair the ability of America's largest group of institutional investors, public pension funds, to protect plan assets from officer and director fraud and corporate misconduct. The NCPERS brief pointed out the important role that public pension plans play in the capital markets and the equally important role they have played since the 1995 Private Securities Litigation Reform Act in enforcing shareholder rights.

The challenged decision effectively creates a previously non-existent hurdle of proof which Congress did not include in the securities law. The 5th Circuit's decision is by no means the only word on the subject. The U.S. Court of Appeals for the 7th Circuit,

which includes Chicago, has harshly criticized the 5th Circuit decision. In addition, the U.S. Court of Appeals for the 2nd Circuit, which includes New York, has also disagreed with the 5th Circuit's reasoning. As a result of this apparent conflict among the various federal appeals courts, the Supreme Court will settle the law on the matter.

As the leading advocate for public employee retirement plans, NCPERS filed its brief with the Supreme Court urging the 5th Circuit case be overturned. Further, NCPERS argued that the purpose of the securities laws, which were designed to protect investors such as NCPERS' member funds, should not be frustrated by judicially created hurdles which enable those engaged in corporate misconduct to avoid being brought to account for the damage caused to investors. Such misconduct operates to the detriment of the financial security of retirement plans, their sponsors and their members.

The NCPERS brief was prepared by General Counsel Robert Klausner and Bill Ackerman. It may be viewed on the Supreme Court website or at www.robertdklausner.com.

EFFECT OF THE LOSS OF "PICK-UP" AND OTHER SHELTERED CONTRIBUTIONS ON BENEFIT ADMINISTRATION

Orange County, California has a defined benefit (DB) plan where gains and losses are shared between the sponsor and the participants. This means the employee contribution is not fixed and has risen at the same rate as the employer contribution. In response to this impact on the employees, a second tier was negotiated with a lower DB benefit and a fixed contribution.

The new plan is optional. New hires can elect the current plan or new plan. Current employees may opt for the new plan as well. Presumably, a dramatic shift from the current plan to the new plan will reduce projected future liabilities in the current plan, thereby improving its funded status and lowering employer costs. The lower benefit will also fit the political climate concerning what is viewed by many as "too generous" DB benefits. By making the choice voluntary, the employer avoids any constitutional

issue of diminution of benefits. It could also have the effect of hastening the closure of the current plan, leaving only a reduced DB retirement.

The “problem” arises from a request by a union (not the one involved in the negotiations) wanting to ask the IRS to disapprove continuing “pick up” contributions in the new plan for anyone who can elect participation. The theory is that the loss of the “pick up” will force the employer to back away from the second tier plan. The loss of the “pick up” will create a potential constitutional impediment to the plan.

The bigger issue is that the union requesting the IRS opinion has invited the IRS to apply ERISA regulations to governmental plans. This could seriously blur the line between IRS regulation of private and public sector plans. The following issues have been presented to the IRS in response to the interest in this issue:

1. Many states and cities have or are in the process of imposing benefit reductions for current and future employees. Because of state constitutional limitations, choice is being offered to current employees. The loss of the pick-up would create a state constitutional issue as the plans also require “tax qualification.” The case law says that loss of favorable tax status is a loss of a benefit and would create the question of whether benefit amounts need to be increased to make up the loss.
2. In further discussion of the above, the pressing economic necessity of second tiers of benefits depends in part on the election of current members to transfer plans for a meaningful cost impact to be felt immediately. The loss of the pick-up will have the effect of lowering the disposable income of plan members at the same time they are facing unilateral salary reductions. This will directly impact on thousands of collective bargaining agreements, creating the high risk of multiple lawsuits and state unfair labor practice proceedings. Litigation is already pending on related benefit reduction issues in Florida, Minnesota, South Dakota, Colorado, California, Maryland and Louisiana.
3. Pick-up contributions/tax sheltered contributions are widely used in portability of benefits. Numerous states (Maryland, California, Louisiana, Texas, for

example) require reciprocal service among plans. The loss of tax sheltered plan-to-plan transfers would effectively invalidate those provisions.

4. USERRA and comparable state veteran's preference laws permit the purchase of military time. Some states require the time to be granted. The inability to use sheltered contributions will effectively eliminate the ability of most returning veterans to receive the retirement benefits which Congress and the various state legislatures have mandated be made available.
5. In order to attract and retain employees, the ability to purchase prior governmental service is increasing. While many states have intra-state portability statutes, there is no inter-state portability. The use of sheltered contributions enables public employees to be able to purchase prior governmental service as permitted by law. The loss of the tax sheltered option would effectively place the cost of this statutory right beyond the financial reach of the intended beneficiaries of that legislation. Most public safety plans allow purchases of prior police or fire service, provided the service is not otherwise being used for a retirement in another jurisdiction for the same kind of service. A number of jurisdictions also have "time connections." This allows employees with broken service for government to connect the time for vesting purposes. This has been particularly important in jurisdictions suffering shortages of highly trained personnel such as educators. Again, costs are generally borne with sheltered contributions.
6. State and local government employers are increasingly looking to reduce payrolls by encouraging employees to buy "air time" to the extent permitted by law. This enables them to separate workers from governmental payrolls and allows orderly reductions in force without age discrimination exposure. At the same time, pension benefits will be lower than projected without material harm to the economic welfare of the retiring employees, thereby easing economic stress on retirement plans and plan sponsors.
7. Many of the benefits outlined above are committed to multiple payees as a result of various state court judgments of divorce or dissolution of marriage. Particularly in community property jurisdictions, the loss of sheltered contributions will affect the economic value of marital estates, many of which were settled years ago. This will result in the reopening of untold thousands

of domestic relations judgments and will create substantial chaos in personal property rights of both members and alternate payees.

8. There is great concern that a change in the treatment of contributions will affect involuntary transfers of accumulated leave to the purchase of service credit and deferred retirement option (DROP) accounts. In accordance with prior IRS rulings, accumulated leave is no longer "elective" in terms of cash payment. Instead, many jurisdictions, particularly those affected by the disallowance of the ICMA leave program, made distribution of accumulated, unused leave, a mandatory non-cash distribution. Again, settled retirement and collective bargaining rights will be at risk for substantial and irreconcilable chaos.
9. The effect of the loss of sheltered contributions will adversely affect the hundreds of DROP, Back DROP, and Partial Lump sum option (PLOS) arrangements. This will result in a substantial reduction in the value of retirement benefits placing the plan sponsors at odds with their constitutional obligations prohibiting impairment of contract.
10. The extent to which all of the above has the direct effect of invalidating state and local government retirement plan provisions, collective bargaining agreements governed solely by state public bargaining laws, and the resulting effect on state and local government budgets which are already under severe financial stress, unequivocally implicates federalism under the 10th Amendment of the United States Constitution.

WHAT EFFECT WILL LOSS OF A DEFINED BENEFIT PLAN HAVE ON JURISDICTIONS WHICH ARE EXEMPT FROM SOCIAL SECURITY?

Under the Social Security statute, a number of employers who have been exempt from OASDI are creating new tiers in their retirement programs, including DC plans.

The governing statutes require a retirement plan which is "comparable" with the OASDI benefit in order to retain the exemption. The law, however, is internally contradictory on what is comparable. A plan must provide at least a 7.5%

contribution which must be held in trust. The contributions, and a “reasonable” rate of interest can constitute the benefit.

The problem is that there is no true definition of “comparable,” particularly with a DC plan. In many of the new DC tiers, contributions are at risk to the market, meaning employees could be left with next to nothing at retirement. The IRS has authority to decide what a “retirement plan” is, but not whether the plan is “comparable.”

The potential issues are as follows:

1. If the IRS is asked to bless the minimal plans being created, will that lead to a loss of the Social security exemption and undermine the long standing DB exemption? If it does, and employers and employees pick up a Social Security contribution where one did not exist before, how will that affect cash-strapped employers and employees whose wages may be frozen or reduced? Will it hasten further closure or termination of DB plans?
2. If no challenge is made to these minimal plans, many employees will be left with no real pension AND no Social Security coverage. This is currently the case in Alaska for police and fire hired after the state closed its DB plan in 2006. Most of the DC participants lost a significant portion of their contributions and the employers’ contributions in the market downturn. At the same time, these employees are still deemed exempt from OASDI. We are studying whether there is a cause of action to force the state to reimburse the lost contributions and provide some guaranteed “reasonable” rate of interest. It is our view that the plan cannot be comparable if the employee and employer contributions are at risk to the market.

**THE PROPOSED PUBLIC EMPLOYEE PENSION TRANSPARENCY
ACT CONSTITUTES UNNECESSARY REGULATION OF STATE AND
LOCAL GOVERNMENT WHICH ALREADY PROVIDE OPEN
ACCESS TO PUBLIC INFORMATION UNDER EXISTING STATE LAW**

Across the nation, states have well developed and robust public records and open meetings laws which provide broad access to public records. As a general rule,

government information is presumed to be available to the public and the law is liberally construed in favor of granting access to information. In many cases, the right of access to public information and governmental records is enshrined in state constitutions. Public pensions fall squarely within such requirements and are independently regulated by state regulatory bodies and overseen by state legislatures. Set forth below are examples of statutory provisions taken from five representative states.

TEXAS OPEN MEETING LAW, PUBLIC INFORMATION ACT AND PENSION REVIEW BOARD

The Texas Attorney General, Open Records Division, is charged with ensuring that Texas government is open and accessible to all citizens. In Texas, an Open Government Hotline is available to provide answers to questions about the Public Information Act and Open Meetings Act. The Texas Pension Review Board monitors all state and local retirement systems in Texas.

- Texas Open Meeting Law, Texas Government Code, Chapter 551 (requires meetings of governmental bodies in Texas to be open to the public)
- Texas Public Information Act, Texas Government Code, Chapter 552 (provides for public access to governmental records)
- Texas Government Code, Chapter 800 (establishes the Texas Pension Review Board with a mandate to oversee all state and local Texas public retirement systems for actuarial soundness and compliance with state law)

LOUISIANA OPEN MEETING LAW, PUBLIC RECORDS ACT AND ACTUARIAL COMMITTEE

Article XII, Section 3 of the Louisiana Constitution grants any person a right to examine and copy public documents in the possession of the state and its political subdivisions. The Louisiana Attorney General, a District Attorney or a citizen may file a civil suit to enforce the open meeting laws. Citizens may bring civil suits to enforce the public records laws. The Louisiana Legislature's Public Retirement Systems Actuarial Committee monitors public retirement systems in Louisiana.

- Louisiana Open Meeting Law, Louisiana Revised Statutes, Section 42.4.1-13 (requires meetings of governmental bodies in Louisiana to be open to the public)
- Louisiana Public Records Act, Louisiana Revised Statutes, Section. 44:1-41 (provides for public access to governmental records)
- Public Retirement Systems' Actuarial Committee, Louisiana Revised Statutes, Section 11:122-11:127 (charged with reviewing actuarial assumptions, funding methods and actuarial liability with assistance of Legislative Actuary)

WASHINGTON OPEN PUBLIC MEETINGS ACT, PUBLIC RECORDS ACT, AND STATE DEPARTMENT OF RETIREMENT SYSTEMS

Washington's Open Public Meetings Act and Public Records Act establish a strong state policy of disclosure of public records and public access. The State's Ombudsman is available to assist citizens and agencies with Public Records Act and Open Meeting Act compliance issues. The Washington State Actuary and State Department of Retirement Systems provide for actuarial funding of public pension benefits.

- Washington Open Public Meetings Act, Chapter 42.30, Revised Code of Washington (requires meetings of governmental bodies to be open to the public)
- Washington Public Records Act, Chapter 42.56, Revised Code of Washington (provides for public access to governmental records)
- Washington Office of the State Actuary, Sections 41.45.060 & 44.44.040, Revised Code of Washington (establishes an independent and nonpartisan agency of the Washington State Legislature to work exclusively on funding and benefit issues of the State's public retirement systems)
- Washington State Department of Retirement Systems, Chapter 41.50, Revised Code of Washington

MINNESOTA OPEN MEETING LAW, DATA PRACTICES ACT AND LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

Minnesota's Open Meeting and Data Practices Acts require access to public records and governmental meetings. The Legislative Auditor and the Minnesota Legislative Commission on Pension and Retirement oversee pension funding and actuarial matters. Financial reports and actuarial information is required to be provided annually to the Minnesota Legislative Commission on Pensions and Retirement.

- Minnesota Open Meeting Law, Chapter 13 D, Minnesota Statutes (requires meetings of governmental bodies to be open to the public)
- Minnesota Government Data Practices Act, Chapter 13C, Minnesota Statutes (provides for public access to governmental records)
- Legislative Auditor, Section 3.971, Minnesota Statutes
- Minnesota Legislative Commission on Pensions and Retirement, Sections 3.85 & 356.20, Minnesota Statutes (requires public retirement systems to file financial reports and actuarial valuations for annual review by the Commission)

FLORIDA GOVERNMENT IN THE SUNSHINE LAW, PUBLIC RECORDS LAW AND DIVISION OF RETIREMENT

Florida has a long and proud history of broad public access through its Government in the Sunshine Law. Article I, Section 24 of the Florida Constitution establishes a right to inspect and copy public records and requires that public bodies conduct their meetings in the sunshine, in compliance with advance public notice requirements.

- Florida Constitution, Article I, Section 24 (establishes a right of access to government meetings and public records)
- Florida Public Records Act, Chapter 119, Florida Statutes (creates the right to inspect or copy public records)

- Florida Government in the Sunshine Law, Chapter 286, Florida Statutes establishes a basic right of access to meetings of boards, commissions and other governing bodies of state and local governmental agencies)
- Florida Division of Retirement, Chapter 112, Florida Statutes (establishes the Division of Retirement within the Department of Management Services, charged with reviewing actuarial valuations for compliance with Art. X, Section 14 of the Florida Constitution)

IF YOU HAVE ANY QUESTIONS OR COMMENTS CONCERNING THIS PRESENTATION, CONTACT KLAUSNER & KAUFMAN, P.A., 10059 NW 1ST COURT, PLANTATION, FLORIDA 33324, (954) 916-1202, FAX (954) 916-1232, WEBSITE, www.robertdklausner.com.