

Keeping up with Regulatory Changes

Mike Bailey

Public Funds Management Seminar

March 31, 2011

Topics

- Broad Policy Level View on:
 - Managing Public Funds
 - Managing Public Debt
 - Managing the Public Perception of Public Institutions
 - Future Prospects and Potential Consequences

Dodd-Frank Act

- **Regulating Financial Advisors** (more later)
- **Uniform Ratings** (more later)
- **Increased Oversight of Credit Rating Agencies** (ml)
- **Municipal Securities Studies** (more later)
- **GASB Funding** – new source of funds for GASB
- **Office of Municipal Securities** (more later)
- **Regulating Derivatives Market** (more later)
- **MSRB Changes** (more later)

Public Funds

- Dodd Frank
 - Financial Advisors
 - Proposed rule to determine who is financial advisor
 - Government employees and elected officials would be exempt
 - Appointed officials (pension boards, PDAs, etc) would not
 - Financial Advisors must register, disclose and pay fees to be registered
 - GFOA strongly opposes (as do very many others)
 - outcome not clear

Public Debt

- Access to market
 - Credit rating agencies changes
 - Uniform ratings
 - Increased oversight
(= increased paperwork and shifting of liabilities)
 - Deemphasize reliance on credit ratings by SEC
- Studies
 - Municipal securities studies
 - SEC “road show”

Public Debt

- SEC Activities
 - New Office of Municipal Securities
 - Decreased reliance on credit ratings by SEC
 - Study effectiveness of existing legal and regulatory standards
 - Concerns about financial disclosure
 - Continued calls for the repeal of the “Tower Amendment” (prohibiting the SEC from directly regulating issuers municipal debt)
 - Changes to Rule 15c2-12 (December 2010)

Public Debt

- **MSRB Activities** (Municipal Securities Rulemaking Board)
 - Self Regulatory Organization for broker-dealers, bank dealers and municipal advisors in the municipal market (no rulemaking authority over issuers)
 - Build America Bonds Guidance
 - Retail Order Periods and Priority of Orders
 - Pay-to-Play Prohibitions
 - EMMA
 - Primary and Secondary Market Disclosures
 - Price Transparency, including SHORT System
 - **Board Composition**
 - Must be at least 15 members (majority independent: not associated with broker, dealer, municipal securities dealer, or municipal advisor)

Public Debt

- Internal Revenue Service
 - Increased scrutiny
 - Audit rate on Build America Bonds
 - Letters of inquiry
 - Arbitrage rebate rules

Public Perception

“Public-Sector Pensions Not in Crisis”

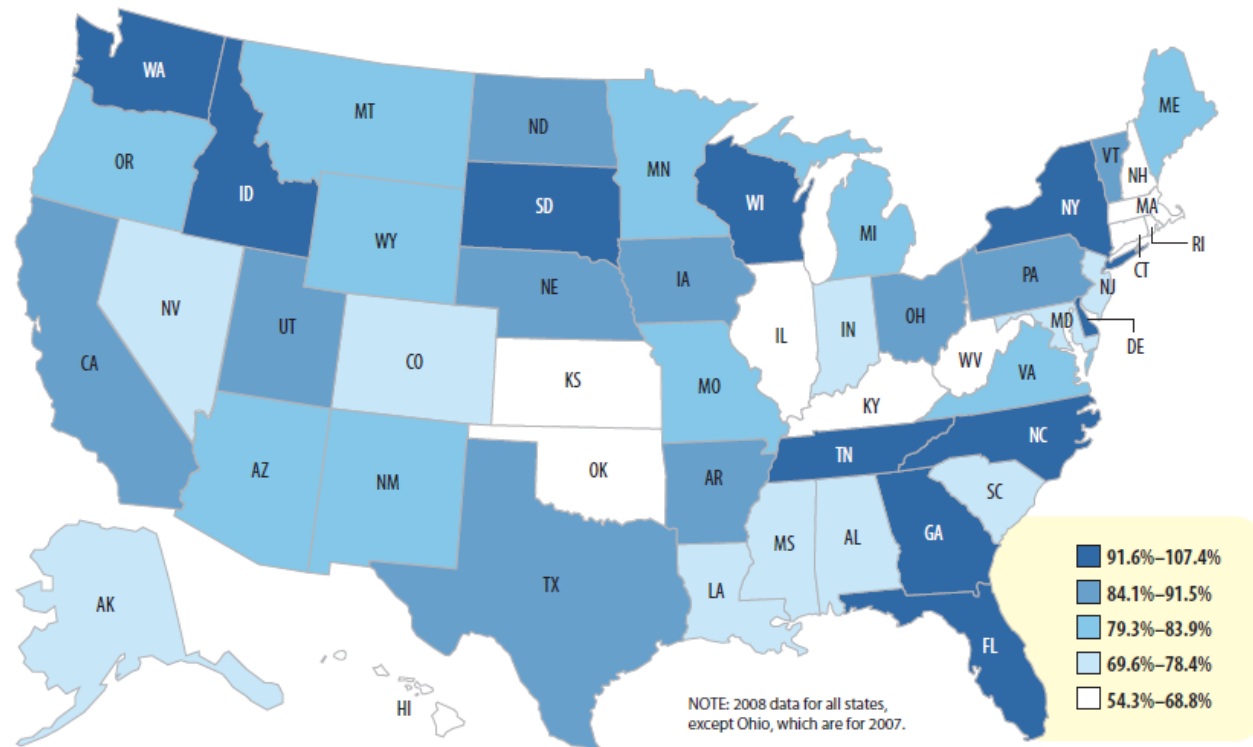
“Legislation Proposed Placing Federal Mandates on Public Pension Reporting”

“GFOA Executive Director Speaks Out Against Proposals Allowing States to Declare Bankruptcy”

“Center on Budget and Policy Priorities Release Report on Misunderstandings of Government Finance Issues”

Public-Sector Pensions Not in Crisis

Exhibit 1
STATE PENSION FUNDING LEVELS

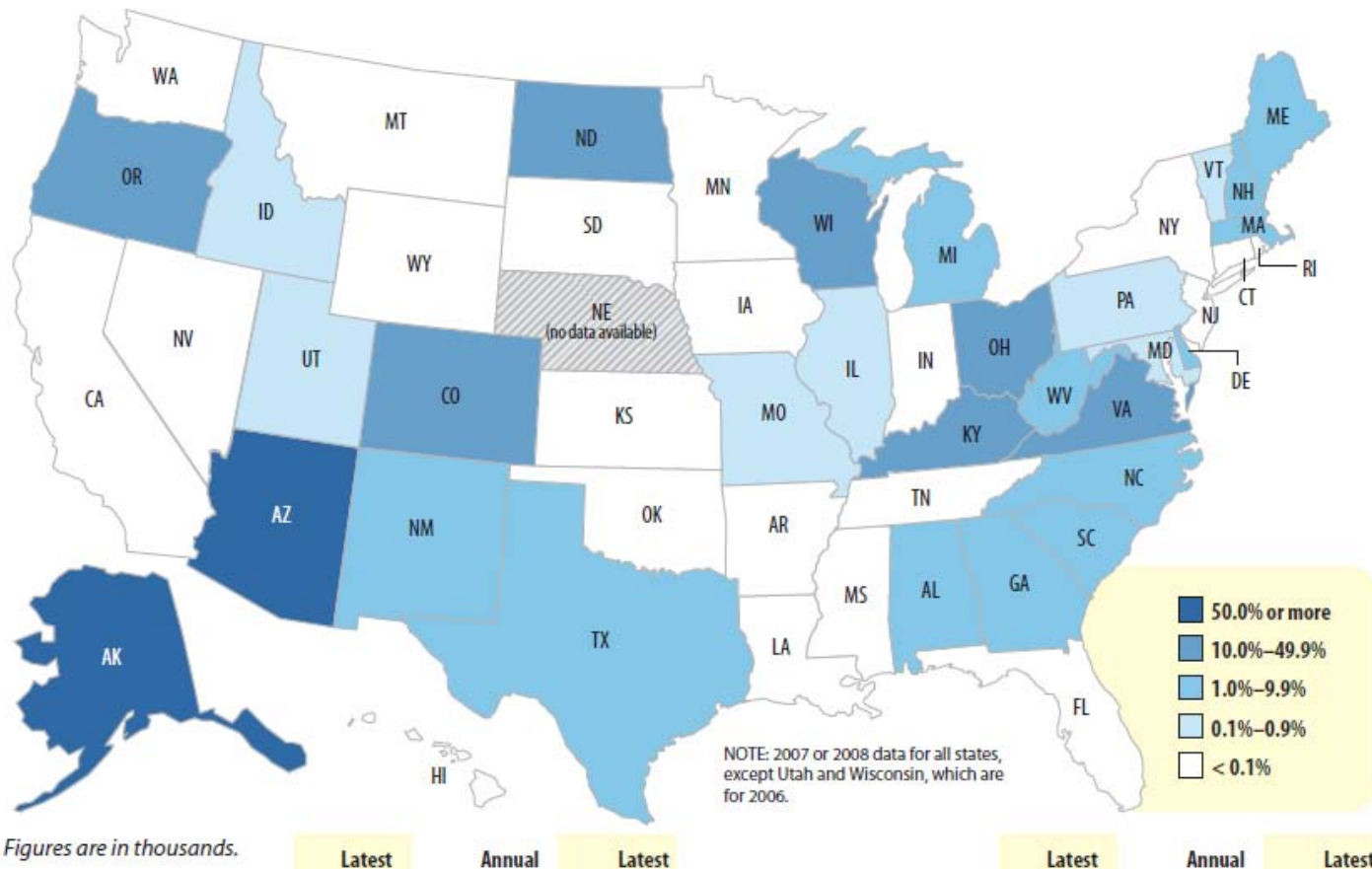


Figures are in thousands.

State	Latest liability	Latest unfunded liability	Annual required contribution	Latest actual contribution	State	Latest liability	Latest unfunded liability	Annual required contribution	Latest actual contribution
WA					VT				
OR					NH				
MT					MA				
ND					RI				
WY					CT				
ID					NJ				
CA					DE				
NV					MD				
UT					VA				
CO					NC				
KS					TN				
NE					MS				
IA					AL				
WI					GA				
MI					FL				
IL									
IN									
OH									
PA									
WV									
VA									
NC									
TN									
MS									
AL									
GA									
FL									
AK									
HI									

However – there is a real issue for “OPEB”

Exhibit 2 STATE RETIREE HEALTH CARE AND OTHER NON-PENSION BENEFITS



Public-Sector Pensions Not in Crisis



*Transmittal Letter – 2009 Report to Pension Funding Council
Page 4 of 8*

Today's Health Assessment			
Plan	Funded Status*	Min. Projected Funded Status**	Health
PERS 1	71.7%	47.0%	At-Risk
PERS 2/3	119.2%	88.0%	Healthy
TRS 1	77.3%	50.8%	At-Risk
TRS 2/3	125.8%	88.1%	Healthy
SERS 2/3	121.0%	88.1%	Healthy
PSERS 2	131.1%	103.9%	Healthy
LEOFF 1	128.6%	93.6%	Healthy***
WSPRS 1/2	121.4%	83.7%	Borderline Unhealthy

* Based on preliminary 2008 Actuarial Valuation Report.

** Based on current assumptions.

***Assumes reinstatement of prior funding policy and resumption of contributions.

From Washington State DRS Web site – current as of September 2009

“Legislation Proposed Placing Federal Mandates on Public Pension Reporting”

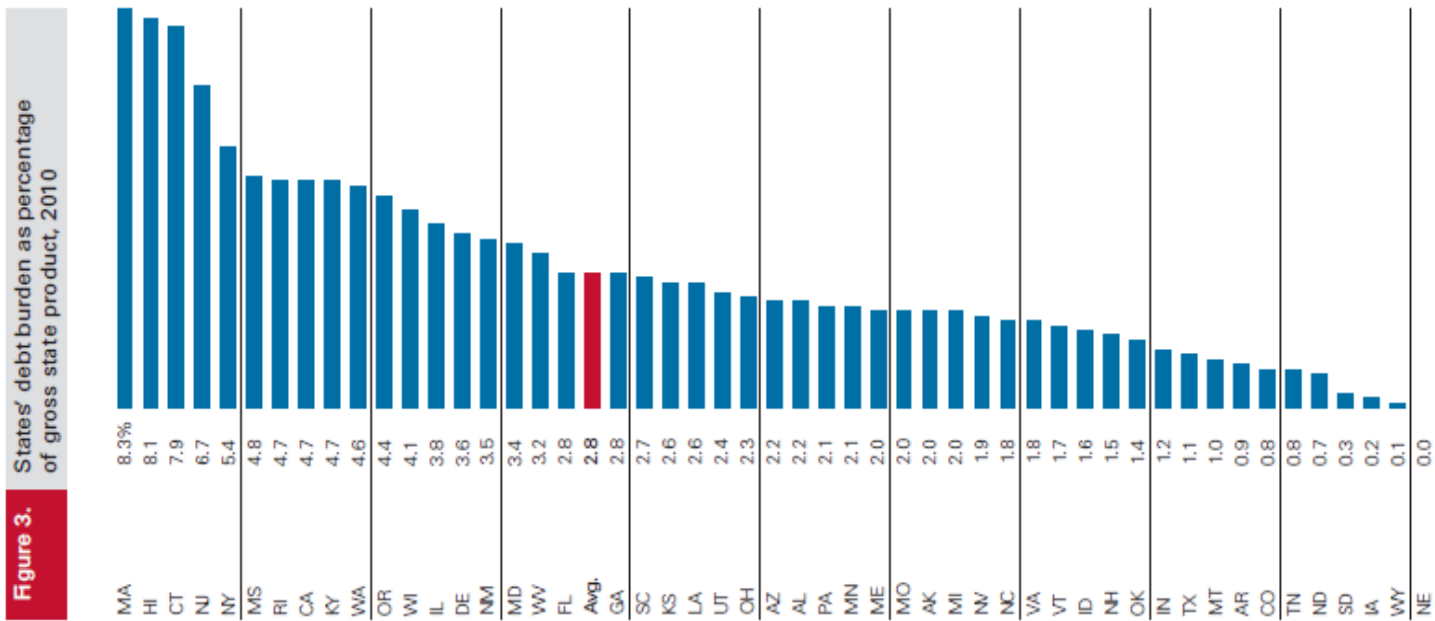
Representatives Devin Nunes (R-CA), Paul Ryan (R-WI) and Darrell Issa (R-CA) reintroduced legislation February 9th, which would impose onerous reporting requirements on state and local governments with regard to their defined benefit pension plans and challenges the validity of current state and local government accounting rules and practices



FACTS ON STATE AND LOCAL GOVERNMENT PENSIONS

Long-term investment returns of public funds continue to exceed expectations. Since 1985 – a period that has included three economic recessions and four years of negative median public fund investment returns – actual public pension investment returns have exceeded assumptions.⁷ For the 25-year period ended 12/31/09, the median public pension investment return was 9.25%.⁸ Moreover, for the year ended 6/30/10, this return was 12.8%.⁹ These actual returns exceed the 8% average public pension investment assumption, as well as the average assumed rate of return used by the largest corporate pension plans.¹⁰

Against Proposals Allowing States to Declare Bankruptcy



Note: Numbers for gross domestic product by state have a one-year lag.
Source: Moody's Investors Service.

States' debt burden as a percent of gross state product

Misunderstandings of Government Finance Issues



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MISUNDERSTANDINGS REGARDING STATE DEBT, PENSIONS, AND RETIREE HEALTH COSTS CREATE UNNECESSARY ALARM

Misconceptions Also Divert Attention from Needed Structural Reforms

By Iris J. Lav and Elizabeth McNichol

Summary

A spate of recent articles regarding the fiscal situation of states and localities have lumped together their *current* fiscal problems, stemming largely from the recession, with *longer-term* issues relating to debt, pension obligations, and retiree health costs, to create the mistaken impression that drastic and immediate measures are needed to avoid an imminent fiscal meltdown.

Borrowing
Costs Up
36%!

Future Prospects and Potential Consequences

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STRATEGIES
Opportunity in a Muni Maelstrom
By JEFF SOMMER
Published: March 5, 2011

PSST. Interested in some hot munis?

[Enlarge This Image](#)



No one has ever actually asked me that question, but I wish they had, and preferably several months ago. There have been some great deals in the muni market — including [bonds](#) issued by institutions with fine pedigrees and deep pockets, like [Cornell](#) and Harvard.

Admittedly, the muni market is not the most likely arena to make a killing these days. Until recently, munis have often been portrayed as boring [investments](#) — the ultimate Steady Eddies, providing reliable, tax-advantaged returns for wealthy coupon clippers and for not-so-wealthy retirees who have used the income to keep bread on the table.

But in the last several months, financial storms have heightened the muni market's volatility. Headlines about severe fiscal distress in American cities and states — plus a

James Rajotte for The New York Times
Cornell University bonds would have reaped a big profit for an investor in

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WIN WIN
MARCH 18

Headlines about severe fiscal distress in American cities and states — plus a series of dire statements by Wall Street seers predicting bigger troubles ahead — have led mom-and-pop investors to cut their muni holdings. Since November, a net \$38 billion has flowed out of muni funds, according to the Investment Company Institute. That's 7 percent of the market for tax-exempt bond [mutual funds](#) — the biggest four-month outflow since 1984, when the institute's data began, according to Brian Reid, its chief economist. On top of that, many investors have been selling individual bond holdings.

Future Prospects and Potential Consequences

About the Generational Change Task Force

The Government Finance Officers Association (GFOA) Generational Change Task Force was created in June 2009 in response to GFOA membership recognition of the pressures the profession is facing. The Task Force identified three main issues for consideration: recruiting, retention, and retirements. These three issues were then translated into the six objectives for the Task Force's specific recommendations (Exhibit 1 lists objectives; Chapter 5 identifies strategies and actions for achieving objectives). This issues/objectives list is not meant to be an exhaustive discussion of the challenges that public service/finance will face in the years ahead. Rather, it is intended to serve as a primer on the topic in a context for developing recommendations and action steps for state government agencies to follow.

Attracting the “best and the brightest” to help lead our governments in the future could be negatively impacted by the perception they have of their government.

(my sentiments)

Keeping up...

- Stay engaged
 - GFOA's web site is great resource
 - Help us by:
 - writing your representatives in congress
 - Staying informed (again the GFOA web site...)
 - Responding when we ask for examples, data, etc
 - Letting us know what help you need as well