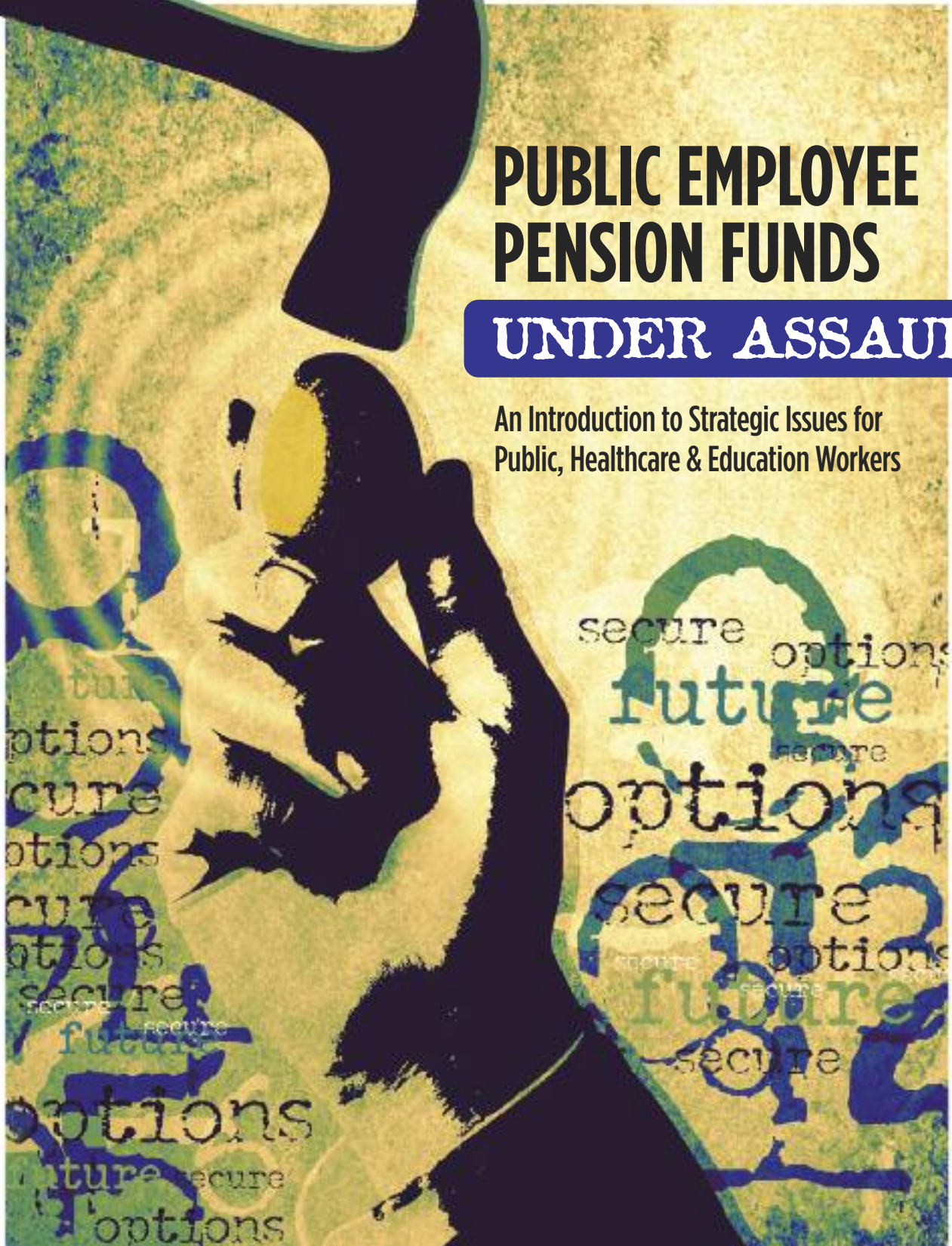


PUBLIC EMPLOYEE PENSION FUNDS

UNDER ASSAULT

An Introduction to Strategic Issues for
Public, Healthcare & Education Workers



Public, Healthcare and Education Workers Department
Communications Workers of America

Brooks Sunkett, Vice President • 2010

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EXECUTIVE SUMMARY

Public employee pension funds have been under siege since the current economic crisis began in 2008. Now that tax receipts at all levels of government are in decline and budget shortfalls are growing, legislators and conservative activists want public employees to pay the price. Workers are being asked to give back hard-won retirement security. But CWA's Public, Healthcare and Education Workers Locals (PHEW) are pushing back. Using a variety of strategies, we are determined to safeguard our **Defined Benefit** (DB) Plans, which provide the most secure frameworks for workers' retirement.

The first step is for local leaders to educate themselves about the problem and potential solutions. This document is designed to help PHEW affiliates share their collective knowledge and experience to build union strength and solidarity for this effort.

PENSION FUND BASICS

- Public employee pension funds serve as the retirement savings vehicles for more than 18 million state, county, and municipal employees.
- The vast majority of public employees — including CWA-member public employees — participate in employer-sponsored retirement plans. Most of these are DB Plans, which provide guaranteed, secure benefits — without shifting financial risk to workers as do other plans, known as **Defined Contribution** (DC) Plans.

DB Plans:

- **are less expensive** to maintain than DC plans.
- **earn higher returns** than DC plans.
- **are funded by both public employee and public employer contributions.** Employer contributions are, in effect, a form of compensation for workers' services, so they represent workers' deferred wages and, as such, belong to employees.
- **are overseen by boards of trustees** that commonly include employee and retiree members, who are often union representatives as well.
- **are backed by assets which are invested prudently and in the interest of participants and beneficiaries.**

To make sure DB Plans are sound, actuaries calculate funding ratios — the level of assets divided by current and future pension payments. Plans with ratios of 80% or more are considered to be adequately funded.



ASSAULTS ON WORKERS' SECURITY: WHY NOW?

The economic downturn has **lowered state and local tax revenues**, so there are fewer dollars available to contribute to pension funds. In addition, the **plummeting stock market** has hit pension fund portfolios hard — reducing the value of some funds by 30 percent and more. The economic downturn has **lowered state and local tax revenues**, so there are fewer dollars available to contribute to pension funds. In addition, the **recent stock market drop** hit pension fund portfolios hard — reducing the value of some funds by 30 percent and more. But many locales also responded by asking for changes in plan designs or for more contributions from employers, employees, or both.


Demands that workers make concessions that will erode their retirement benefits have been motivated not only by tough economic circumstances but also by other factors. Employers may have **avoided making required pension contributions** in the past or **manipulated actuarial values**. Now employees are being asked to reduce their benefits to pay for employers' funding lapses.

Another more political factor is the clout wielded by pension funds. Public employee DB Plans account for 7.7 percent of corporate shareholders in the United States. Public employee funds are often very active pension fund owners — demanding accountability from the corporations in which their funds are invested. Public pension shareholders often lead the charge challenging corporate management policies and high executive pay. Corporations and conservative anti-tax and anti-government interest groups — such as Americans for Tax Reform and the Club for Growth — have tried to eliminate DB Plans for many years — in part to diminish the power of public sector DB plans and the voices of their owners, union members.

DEFENDING AGAINST THE ASSAULTS: UNION STRATEGIES THAT WORK

Many PHEW Locals are creatively approaching the challenge of protecting members' pensions. Some of their most successful practices are summarized below.

- **Use research and experts** to find out whether an employer has legitimate claims or is simply using saber rattling to intimidate workers and reduce benefits. Find your own actuary and experts from local colleges and universities to assist in gathering data.
- **Identify and analyze hidden motives** of the employer.
- **Find political pressure points** — and press them. Make sure there are union representatives on the state pension board, and talk frequently to legislators.
- **Build strong coalitions** with like-minded community groups and other unions, and use their help in as many ways as possible.
- **Organize legal challenges when warranted.** Public pension benefits are usually defined as contractual agreements with employers and cannot be impaired.

- 
- **Create a strong message** geared toward gaining public support. Communicate that message as clearly and broadly as possible.
 - **Don't forget long-term strategies**, such as making sure there is an employee voice on pension fund boards, demanding responsible funding in good economic times, and advocating for a national retirement policy.

THE BIG PICTURE: RETIREMENT SECURITY FOR ALL

American workers suffer from inadequate retirement security. Experts say that retirement income should replace 70 to 85 percent of working income for middle- and upper-income workers. But in the United States, on average, a combination of Social Security and pensions (if available) replaces only about 45 percent. Unfortunately, few private-sector workers have the kinds of secure pensions — DB Plans — that public workers have. This enables detractors to drive a wedge between public- and private-sector employees, by labeling public pensions as luxuries. Until we have a meaningful national retirement policy, political opponents will continue to pressure public-sector workers to give up their benefits.



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INTRODUCTION

When the current economic downturn began in 2008, many state, county, and local employers targeted their workforce with aggressive cost-cutting demands. Front and center have been public campaigns calling for curbs on public employee pension funds. Employers, often strapped for revenue, have sought higher employee contributions and new benefit tiers for incoming workers. Public employees and their unions are under significant pressure to give back on hard-fought pension security. Adding to the pressure are media accounts portraying public employees as overpaid and unworthy of the retirement security they have earned and that they deserve. The result of these multipronged attacks was that, in 2009, legislatures across the country threatened pension benefit reductions.ⁱ

What has been the response of CWA Public, Healthcare & Education Worker (PHEW) affiliated locals to these attacks? What choices have they made in the face of demands for belt-tightening by their employers? What strategies should they consider as this heated environment continues into 2010? What is behind these negative media attacks? Must they concede retirement protections at the foundation of their members' long-term financial security? Can they stand tall against demands for givebacks, and, how? Broadly, how do unions measure the reality and rhetoric in this new economic environment?

The backdrop of this environment is the downturn in the U.S. economy. It is clear that today the nation is experiencing the worst recession since the Great Depression of the 1930s. In most regions of the country, corporate, property, sales, and income taxes have receded, causing the steepest declines in state tax receipts on record.ⁱⁱ Public employers are addressing budget shortfalls of as much as 20 percent, some reaching almost a billion dollars. Further, the stock market free-fall of 2008 eroded pension assets by 30 percent of their peak in October 2007. New contributions to the funds may be needed to shore up the shortfall. Saddled with lower revenues and rising expenditures, it is no surprise that public employers have looked to their workforce for concessions to shore up pension funds.

The fiscal crisis facing public employers is not the entire pension story, however. PHEW Locals are reporting that public employers are brazenly using the economic downturn as a convenient excuse to demand long-sought concessions. As they negotiate, be it in the state legislature, in collective bargaining, in arbitration, or informally, smart labor leaders are starting out with a healthy skepticism when the recession is used as an excuse to dismantle members' hard-fought pension security. Digging beyond employer excuses, for instance, PHEW Locals in New Jersey and at the University of California (UC) recognized that the roots of their employers' fiscal woes are buried in decades-old employer decisions to forgo required pension contributions. Elsewhere unions have discovered that under the rhetoric of "cost-cutting", conservative interest groups have acted covertly to influence legislators to eliminate secure Defined Benefit Pension Plans. Their goal is to downsize pension benefits, the public sector, and collective pension action in the capital markets.

To sift out fact from fiction, PHEW local leaders are educating themselves on basic pension fund concepts and strategies. This document is an attempt to summarize their experiences, share knowledge, and build solidarity among PHEW affiliates. This guide is divided into three sections: 1) a summary of basic



concepts for understanding public employee pension funds, 2) an outline of three key dynamics in the demand for pension concessions, and 3) descriptions of the experiences of CWA affiliates in four areas of the country — “PHEW Locals in Action.” The Appendices to this report contain a sample “messaging” flier from CWA Local 7076 in New Mexico, and PHEW Public Employee Pension Fund Principles.

After reading this report, PHEW officials seeking further ideas and participation on pension issues can look at the PHEW website for pension links. They are further encouraged to join the Department’s “Public, Healthcare & Education Action Resource Network” (PHEARN). Representing local leadership from around the country, PHEARN is directing the Department’s pension agenda. Contact PHEW President Brooks Sunkett to get involved.

I. BASICS OF PUBLIC EMPLOYEE PENSION FUNDS

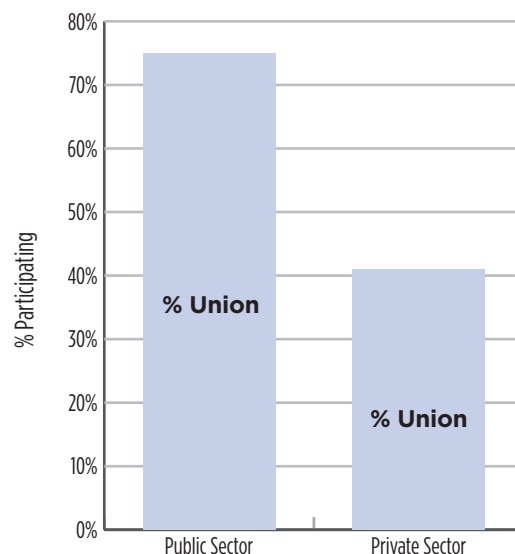
1. COVERAGE

Public employee pension funds serve as the retirement savings vehicles for an estimated 18.4 million state, county, and municipal employees.ⁱⁱⁱ Most, if not all CWA public employee members participate in a Defined Benefit Plan (DB Plan) as their primary retirement plan. DB Plans provide a guaranteed secure pension benefits when a worker retires, typically based on a formula factoring in years of service and final salary.^{iv} Roughly 75 percent of state and local public employees participate in an employer-sponsored pension plan, the vast majority of which are DB Plans. In contrast, only 43 percent of private sector workers participate in an employer-sponsored pension plan of any type,^v and only one in five in a DB Plan.^{vi} America's unions are largely responsible for higher levels of pension coverage, pension benefits, and participation in DB Plans where labor has a presence (see Box 1).

The other major retirement vehicle is a Defined Contribution Plan ("DC Plan"). In contrast to a DB Plan, a DC Plan provides a pension benefit upon retirement that is based on the investment earnings of the underlying fund assets. This is similar to a mutual fund or a bank account. DC Plans are not appropriate as a primary retirement vehicle because they shift investment risk onto workers. DC Plans are more expensive to run than DB Plans, and on average provide a significantly lower benefit. DC Plans are appropriate as supplemental pension plans, as they commonly are used in the public sector.

The private sector has seen a significant shift to DC Plans as the primary retirement vehicle. The replacement of DB Plans by DC Plans has not taken hold in the public sector, with only two states requiring new hires to enter into a DC Plan as the primary plan (Alaska and Michigan). Again, the higher level of union representation in the public sector has warded off efforts to eliminate DB Plans.

Box 1. Public v. Private Sector
U.S. Pension Participation and Unionization



Sources: Employee Benefit Research Institute (2007); U.S. Department of Labor (2008)

2. FUNDING FOR DB PLANS IN THE PUBLIC SECTOR

In the public sector, both employee and employer contributions typically fund DB Plans. Employees' direct contributions come out of their wages. This is in contrast to the private sector, where employers make the entire pension contribution to DB Plans. While public employers make pension contributions on behalf of public employees, those contributions are made as a benefit for workers' services. Therefore, the public employer contributions represent workers' deferred wages. As such, public employees directly and indirectly fund their pension funds in their entirety.

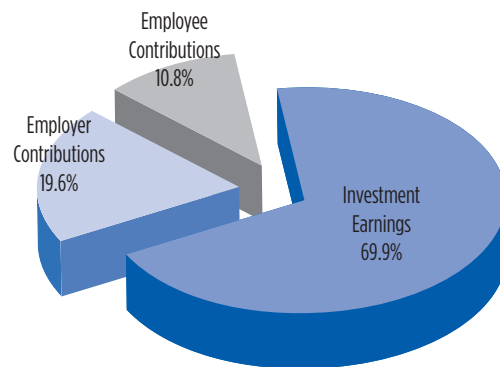
DB Plan assets are held in underlying pension funds. They are invested in various asset classes, and these investments generate earnings for the funds (see Box 2). By law, those investments must be "prudent," and made for the exclusive benefit of plan participants and beneficiaries.

The level of contributions to public employee DB Plans is based on various factors that may differ in each state, county, or city. The contribution is typically based on a percentage of salary.

However, this is not the only calculation. Each fund has one or more actuaries that evaluate the DB Plan and report back its "funding ratio" to the trustees. The "funding ratio" is the level of assets divided by the current and future pension payments, or liabilities. Arriving at a "funding ratio" involves a complex formula that factors in projections for future inflation, investment returns, and longevity of the workforce. When the "funding ratio" is too low, extra contributions may be necessary to make the fund "actuarially sound." While pension trustees often aim for a 100 percent "funded ratio" — assets equal to projected liabilities — experts believe that an 80 percent funding level is adequate for a public employee pension fund, given they are long-term liabilities.

The dry science of actuarial valuations may be remote for unions. However, slight changes to these actuarial assumptions can significantly alter whether a pension fund appears adequately funded or in jeopardy. Switching the actuarial method itself can change the "funding ratio." When an employer comes to a union claiming a pension fund is in financial trouble — that its "funded ratio" is too low — unions wisely seek their own actuarial adviser to determine the reality of that claim. It is an area ripe for manipulation to make a plan appear worse off, or, better off, depending on the goal of the employer.

Box 2. Public Employee Pension Funds
Where Does the Funding Originate?



Source: National Institute on Retirement Security, February 2009.

3. PUBLIC WORKERS TYPICALLY HAVE A VOICE

Public employee DB Plans are held in “trust.” A diverse board typically oversees that “trust”. That board often includes one or more employee or retiree representatives, which may be elected or appointed. Often, a union representative holds the employee position. For instance, CWA Local 6186 has secured seats on both the Texas Employees and the Texas Teachers retirement systems. At the other extreme, however, is the New York State Common Retirement System, which operates under the direction of a sole trustee, the state Comptroller. This sole trustee structure lacks the proper checks and balances, and has led to periodic corruption scandals involving kickbacks from pension vendors to state officials. Similarly, at the University of California, CWA Local 9119, the Union of Professional and Technical and Employees (UPTE) has no voice on its pension board. In its recent fight for a fair contract, UPTE has highlighted that significant flaw in its fund structure and the resulting pension management failures.

Employee and union oversight of workers’ pension funds is essential to sound long-term fiscal management. Democratically elected employee representatives are more effective than appointed representatives.



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The Attack on Public Employee Pension Funds: II. THREE KEY DYNAMICS

PHEW Locals have identified three key dynamics that may be at play when a public employer demands concessions from workers: past funding irresponsibility, an assault on the existence of DB Plans, and, of course, the current economic downturn.

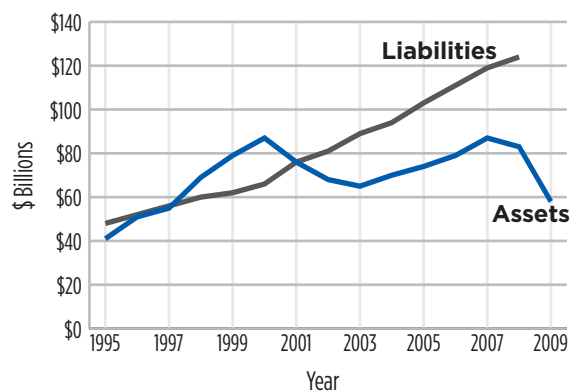
1. PAST FUNDING IRRESPONSIBILITY

When employers come to a union demanding pension concessions arguing that the current or projected “funded ratio” is too low, there may be more than the current recession to blame. Instead, past contribution shortfalls sometimes explain the funding problems in DB Plans today. A number of PHEW affiliates are well aware that their employers’ past funding decisions are the root cause of their members’ being asked to shoulder a low “funded ratio” now.

For instance, New Jersey CWA Locals are painfully aware that their state is the poster child in the pension community for past funding irresponsibility. See Box 3 for the impact of those funding shortfalls, and how they ballooned with the 2008 market downturn. Similarly, when the University of California demanded that CWA Local 9119-UPTE agree to new pension contributions in the current contract negotiations, the Local discovered that no contributions had been made to their DB Plan since 1991. UC was making no contributions, while UPTE members were still required to contribute a percentage of salary to a DC Plan. In Texas, CWA Local 6186 has fought the slow erosion of employer contributions, which historically had floated above a set employee rate. This year the employee contribution increased. (See “PHEW Locals in Action” in Part 4 below.)

When faced with demands for pension give-backs to shore up apparently low “funded ratios,” PHEW leaders must rightfully ask: Has my employer avoided making the required pension contributions in the past? Have they manipulated the actuarial valuation to make it look like they made the required contribution? What does my actuary have to say about this?

**Box 3. Long-Term Funding Manipulation:
New Jersey Employee Retirement System**



Source: New Jersey Treasury; Forbes Magazine.

2. CORPORATE ATTACK ON DEFINED BENEFIT PLANS

Another challenge CWA locals face in defending their members' pensions is completely political: conservative anti-tax anti-government interest groups. These groups, such as Americans for Tax Reform, the American Legislative Exchange Council (ALEC), the Club for Growth, and the Manhattan Institute, have for years orchestrated a plan to eliminate DB Plans and replace them with the inferior DC Plans.^{vii}

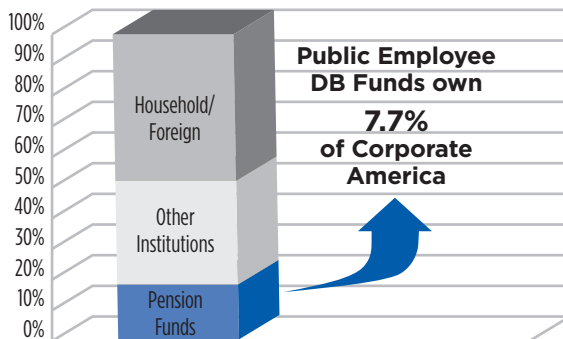
For more than a decade, these groups have worked behind the scenes with state legislators to destroy these plans. Why? There are several plausible explanations. First, Wall Street professionals favor DC Plans, because they generate higher fees for investment advisors. Corporate America, including financial firms, funds those conservative groups.^{viii} Secondly, those corporate funders resent their owners who are active shareholders — largely public employee and jointly trustee union pension funds. Those “active owners” raise a host of shareholder challenges to management practices at annual meetings or through direct communication. DC Plans, in contrast, do not collectively act as shareholders. As the leader of one of those conservative groups, Grover Norquist, infamously confessed, his view of public employee DB Plans is that: “just 115 people control \$1 trillion in these funds. We want to take that power and destroy it.”



“... just 115 people control \$1 trillion in these funds. We want to take that power and destroy it.”

– Grover Norquist of Americans for Tax Reform speaking on public DB plans

Box 4. U.S. Corporations: Ownership



Source: U.S. Federal Reserve

In fact, pension funds have significant clout at U.S. corporations. Public employee DB Plans make up 7.7 percent of corporate shareholders in the United States (see Box 4). CWA members participate in DB Plans that represent roughly 1.7 percent of Corporate America.

Tellingly, DB pension shareholders routinely raise exorbitant executive pay at U.S. corporations through the shareholder process. Corporate executives clearly resent those challenges. By bankrolling conservative interest groups to eliminate DB Plans, corporations are acting in their own interest

to eliminate pressures to curb executive pay. As an additional perk, eliminating DB Plans reduces pressure on U.S. corporations to raise pension coverage and benefits to levels commensurate with

those in the public sector. Consistent with this strategy, these conservative groups generate media attacks on public sector pension levels.

These calls to eliminate DB Plans have resonated with Republican lawmakers, who are most likely to introduce legislation to do just that.^{ix} They argue “economic efficiency” and “benefit mobility” to justify their efforts. In reality, they see the elimination of DB Plans as an appealing way to shift the investment risk of pensions from employers to employees, and to reduce the employers’ pension costs.

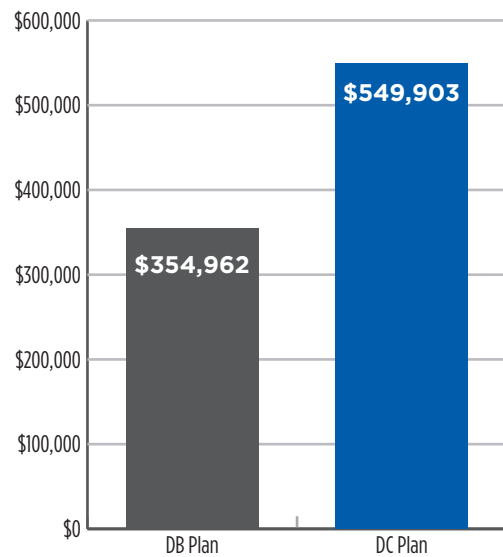
Advantages of DB Plans

Legislative efforts to eliminate DB Plans can be expected to continue. When faced with such campaigns, unions can rely on ample evidence that DB Plans are a better deal for both workers and employers.

DB Plans are less expensive to run and they earn higher investment returns than DC Plans. To illustrate, in 2007 the administrator of the City of San Diego’s Employee Retirement System reported that the city’s professionally managed DB Plan earned 169 percent over 10 years, but the DC plan earned just 86 percent over the same period. A recent examination of the cost savings of a DB Plan found that a pension for a 30 year-old teacher working 30 years was 55 percent more expensive in a DC Plan than in a DB Plan (\$354,962 vs. \$549,903, see Box 5).^x In addition to lower costs and better returns, DB Plans provide workers a more secure and predictable pension.

The effort by conservative groups and some elected officials to undermine DB Plans has had only modest results in the public sector. To date, only Michigan and Alaska require employees to enroll in a primary DC Plan. Interestingly, because of higher DC Plan costs, two states — Nebraska and West Virginia — actually moved away from primary DC Plans back to DB Plans.

Box 5. Per Employee Required at Age 62
DB Plan vs. DC Plan



Source: Graphic created by Natl. Institute on Retirement Security

3. ECONOMIC DOWNTURN

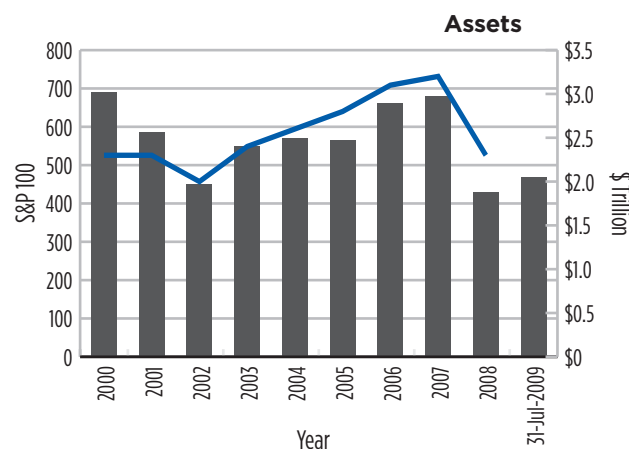
Finally, in addition to the past funding irresponsibility and political attacks on DB Plans, the economic downturn has clearly spurred public employer demands for pension givebacks. The worst recession since the Great Depression has had a two-fold impact on pensions. First, public revenues in the form of corporate, property, sales, and income taxes dropped, limiting the dollars available to make pension fund contributions.

Second, the U.S. stock market, after its high in October 2007, plummeted by a whopping 55 percent in 18 months. Public employee pension funds, which may invest anywhere from 20 to 60 percent of their portfolio in equities, took a serious financial hit (see Box 6). The impact of the market drop, for instance, reduced the “funded ratio” of state pension funds to an average of 80 percent. This is the tipping point, below which a public employee pension fund is considered generally underfunded.^{xi} Many funds dropped below this level and actuaries declared that DB Plans needed a serious financial boost.

Public employers have responded to low “funded ratios” in various ways. Those include:

- **Smoothing.** Spreading stock market gains and losses over several years, lessening the immediate financial impact.
- **Changing Actuarial Methods.** Masking the losses, as New Jersey did in 1994, by changing the way that contributions and minimum funding needs are calculated. This can result in serious negative consequences for employees down the road, as seen in the New Jersey Locals’ story in Part 4 of this report.
- **Redirecting funding** In 2009, the state of Texas moved federal stimulus dollars to its state pension fund as a temporary fix and Illinois issued a bond to fund its pension contribution. Redirecting funding offers a chance for Locals and state officials to work together toward solutions. CWA Local 7076 in Santa Fe, New Mexico has aggressively sought out savings elsewhere in the New Mexico state budget to offset pension contribution costs. This led to their working with building trades unions and the state to identify energy savings in public buildings, with the nod from the state that all savings will be dedicated to fund public employee-related expenditures.

Box 6. U.S. Stock Market
Public Employee Pension Assets



Sources: BigCharts; Investment Company Institute, June 2009.

■ **Waiting for stock market upswings to improve funding ratios.** The market can rebound and improve the “funding ratio” of DB Plans. This happened in 2009. From the market low point in March 2009 to year-end 2009, the S&P 100 has rallied to make up roughly 40 percent of the value lost during the entire preceding 18-month slide.

■ **Seek increased contributions to the DB Plan, from employees, employers, or both.**

In 2009 some public employers also created new benefit tiers with lower benefits for incoming workers, but this does nothing to address the shortfall in funding benefits for current workers. A public employer cannot seek outright pension benefit reductions except in extreme situations, because contract law generally bars such a contract “impairment.”

See Box 7 for a summary of state legislative action related to pensions in 2009, as reported by the National Conference of State Legislatures.

Public Employees in the Crosshairs

The pressure on CWA PHEW locals and other unions to give up pension security in this environment has been intense. Media reports have added to political pressures by casting public employees and their unions as the villains for fighting to protect pensions. For instance, a distorted February 2009 business publication article titled “Gilt-Edged Pensions” condemned public DB Plans, and decried the pension “millionaires” across the country who live high off public employee pension checks.

It is true that public employee union representation in the public sector strengthens employee negotiating power and secures better pension benefits. Unions have further warded off the switch to DC Plans that has plagued the private sector, which again leads to comparatively higher pensions in the public sector. It is also true that, as a result, the average public sector retiree receives a \$22,000 annual pension, compared with an average private sector worker who receives \$10,800 annually.^{xii}

Unfortunately, while some in the media focus on the disparity of public and private sector pension levels, they overlook the real crisis: the failure of the U.S. retirement system to provide adequate retirement security for all Americans.^{xiii} Pensions should replace 70-85 percent of working income for middle- and upper-income workers, according to the experts.^{xiv} In the United States, the median worker pension (including Social Security) replaces a mere 45 percent of working income.^{xv} The focus must be on raising pension coverage and benefit levels in the private sector, rather than chipping away at public sector pensions. The United States is woefully behind in this goal in comparison to other major industrialized nations, both in pension levels and public expenditures on pensions. The pension of the average worker in industrialized nations replaced 70 percent of working income.^{xvi}

Support of private sector union organizing, as well as passage of the Employee Free Choice Act, would move the nation in the direction of enhanced private sector pension coverage and pension levels. Unfortunately, until our country implements a meaningful national retirement policy, political opponents will continue their efforts to drive a wedge between private and public sector workers. Public sector workers and their unions can expect continued political pressure to give up their pension benefits.

Box 7. 2009 State Legislation

- **Benefits reduced** — principal theme nationally
New benefit tiers (e.g. NM)
- **Employee contributions rise**
(e.g. TX, NYC Teachers, NE, NM, FL)
- **Early retirement incentives** (e.g. CT, VT, ME)
- **Pensions of furloughed employees protected**
(e.g. IA, NJ, LA, NC, TN, VT WA, WI)
- **Avoid “double dipping”** (e.g. GA)
- **No new primary DC plans — for now**

Source: National Conference of State Legislatures, August 2009



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III. SUCCESSFUL UNION STRATEGIES

In 2009, many PHEW Locals creatively approached the challenges they face in protecting their members' pensions from the myriad of political and economic forces bombarding them. They weighed the facts and negotiated hard — be it at the bargaining table, informal negotiations, or in state and local governing bodies. They supplemented their strategies with political, legal, financial, and messaging tactics. Some of their essential practices are summarized below.

1. IDENTIFY THE FACTS

In facing any challenge, labor leaders recognize they must first learn all the pertinent facts. In dealing with pensions, one of their first questions is as follows: Is my employer saber rattling to scare my union into give-backs? PHEW Locals have found numerous public employers are using this economic downturn as a convenient excuse to exact long-sought concessions without justification. Recently, such a union challenge to unilateral job furloughs made it into federal court in Maryland. There, in a key ruling in 2009, the judge agreed with the union that Prince George's County's actions were not justified by its budget shortfalls. The "politically expedient" furloughs were reversed (see Box 8).^{xvii}

Box 8 Are public employees merely the scapegoats?

"although the County suggests to the Court that it faced dire circumstances and had no other reasonable alternatives, the record suggests otherwise and the County's actions resemble trappings of doing that which was "politically expedient"

Fraternal Order of Police et al v. Prince Georges County, MD August 18, 2009 federal court ruling rejecting public employee furloughs as violating the CBA and the U.S. Constitution

To get to the bottom of the true fiscal situation they are facing, PHEW Locals are undertaking diligent research, which sometimes requires securing experienced professionals. Unions analyze, interpret, and use budget data. They locate comparative benefit data from surrounding regions and states, which can help guide analyses of target benefit levels. Some unions secure an independent actuary to analyze pension projections. A pro-active research tactic PHEW locals have used is identifying cost savings to offset increased pension costs, as CWA Local 7076 in Santa Fe, New Mexico has pursued.

One source of experts for resource-limited unions may be local colleges and universities. PHEW and the CWA national union can also provide assistance on this research. Once the relevant information is identified and analyzed, the union can assess whether the employer has a true need, or if the employer is "crying wolf" so as to exact employee concessions.

2. NEGOTIATING STRATEGIES

Negotiations are always a challenge, but this economic climate they have been especially tough, contentious, and lengthy. This intensity will continue as long as the economy falters. Negotiating strategies for specific pension issues will differ depending on employees' legal rights and the political climate in their locale. Some general pension-related negotiating strategies that unions have used in recent negotiations have included:

- requiring that any concessions applied to union members must also apply to management staff
- entering multiyear agreements with back-loaded pension increases
- if furloughs are agreed upon, making pension contributions as if there were no furloughs
- obtaining a greater voice in the operation of employees' pension fund, especially given that it is at no cost to the employer, as a means to monitor administrative decisions and gain ongoing information

Unions are Fighting Back!

- Learn the Facts
- Identify Ulterior Motives
- Recognize Gimmicks
- Challenge Employer Assumptions
- Be Proactive



3. PRESSURE POINTS

In fighting to protect pensions, unions methodically identify the political pressure points in their campaign. For instance, CWA Local 6186 in Austin, Texas relies heavily on its Committee on Political Education (COPE) for legislative support on pension issues, given that it cannot bargain over pension benefits. Further, the Local takes the long view, securing union representation on its pension board so it can stay apprised of all administrative, regulatory, and legislative actions that affect its members' pensions. (See the Texas case study in Part 4 below.) "PHEW Locals In Action," Texas.

In California, UPTE took an aggressive stand when collective bargaining with the University of California stalled over issues that included demands for employee pension contribution increases. Local union representatives supplemented their negotiating strategy by raising outside pressure points. The Local called two strikes to protest employer intransigence at the bargaining table. UPTE worked with the state legislature to raise issues of governance both for UC and for its pension fund. It raised public awareness by challenging the pension fund board of regents for outsourcing investment services, which led to investments in Enron stock. Those investments cost the fund significantly when the company collapsed.

In 2010, CWA Locals in New Jersey fought valiantly as the state faced an \$8 billion deficit, a huge pension shortfall and incoming Governor Chris Christie who targeted public employees. In actuality, the pension underfunding resulted from more than a decade of employer funding lapses and manipulation. CWA locals formed a broad-based state-wide coalition to build solidarity and limit the impact of Christie's proposals to reduce pension security and balance the budget on the backs of workers.

4. COALITION BUILDING

PHEW locals across the country recognize that coalition-building is key to their success in protecting pension funds in this economic climate. In New Mexico, CWA Local 7076 joined with other state unions and community groups to form “Better Choices for a Stronger New Mexico.” It crafted a sophisticated campaign to identify cost savings, take legal action, communicate with the public, and defend its retirement funds.

In New York City, CWA Locals 1180, 1181, 1182, and 1183 work closely with larger city unions to obtain key information on their pension funds to stay apprised of pension fund administrative issues that affect their members. Similarly, New Jersey PHEW affiliates built a broad-based coalition in their battles to protect pension benefits and job security.

5. LEGAL CHALLENGES

In certain instances, when employers unilaterally take on public employee pensions, aggressive legal action is appropriate. Under the law, public employee pension benefits are considered a contractual arrangement for the employer. Under the Contracts Clause of the U.S. Constitution, public employers generally cannot “impair” such a contract. This provides significant legal protection against pension reductions. Many state constitutions contain a similar contract clause.

CWA Local 7076 in Santa Fe, New Mexico is relying on the contract clause in their state constitution in its 2009 suit challenging the state’s unilateral transfer of employers’ contribution obligations to workers. The state passed a law imposing a payroll tax of 1.5 percent on certain public employees for two years to be contributed to the state Employee Retirement Association and the Educational Retirement Board. The cost to employees will be roughly \$80 million. Employers were granted a “contribution holiday” for the same dollar amount. After aggressively fighting against the enactment of the law, Local 7076 joined with five other unions in its “Better Choices” coalition to file suit challenging the surcharge. The suit asserts the payroll tax violates the state constitution’s contract clause, its state pension and fiduciary requirements, that it is an improper tax, that it is an equal protection violation that improperly requires public employees to shoulder the state deficit, and that it is an improper “taking.” Interestingly, the suit stalled because most judges recused themselves with conflicts of interest.

However, while the contract clause protections are strong, they are not absolute. Courts have balanced the clause with a state’s police powers. Courts have ruled that in certain situations, an employer can “impair” a contract when it is “reasonable and necessary.” Another legal thicket for unions occurs when an employer files for municipal bankruptcy. A recent California state court decision held that the city of Vallejo, California could abrogate its collective bargaining agreements upon filing for Chapter 9 municipal bankruptcy. While municipal bankruptcy is rare, observers are concerned that it may be more attractive given the Vallejo decision.

6. MESSAGING

The message that a union sends to the public can be a key ingredient to building pressure on an employer and legislators in resolving a political pension fight. Messaging can be particularly effective in combating anti-government forces seeking to undermine public employees as “greedy” and responsible for fiscal woes.

In New Mexico, Local 7076 and its “Better Choices” coalition geared its public messaging to rightfully emphasize that the budget fight was not just about numbers, but also about the health of the state’s families and communities (see Box 9). As part of this campaign, the coalition unveiled an innovative campaign titled “20 Ways/20 Days” in which it distributed daily fact sheets for 20 consecutive days that described specific examples of how New Mexicans will be hurt by state budget cuts. As an example of effective messaging, see Local 7076’s information sheet supporting its upcoming legislative fight in Appendix I of this report.

Local 9119 UPTE, representing technical workers at the University of California, has used YouTube videos and sophisticated Internet presentations to communicate its message to its members and the public. (See the University of California case study in Part 4 of this report).

Box 9. Messaging: Better Choices for a Stronger New Mexico Coalition CWA Local 7076

DON'T Say	DO Say
“We need to raise taxes to fill the budget hole.”	“New Mexico is in the midst of a budget crisis that requires bold steps from state leaders.”
“We’ve already cut all we can from the budget. It’s time we got serious about raising revenues.”	“We need a balanced solution that protects the vulnerable and doesn’t shift the burden to the middle class.”
“We need to create new revenue streams to bring stability to our tax structure.”	“We need to avoid cuts to vital services that hurt the long-term health of our families and our communities.”

7. LONG-TERM STRATEGIES

While immediate pressures drive unions’ strategic considerations when protecting pension funds, they should not lose sight of their long-term strategic plan. Such a plan can include:

- Securing an employee voice on pension fund boards, not only to have a say, but also to obtain a steady stream of information about fund administration
- Responsible funding of pension plans, even in good times
- Development of a National Retirement policy, which would stop political enemies’ attempts to drive a wedge between public and private sector employees

PHEW LOCALS IN ACTION:


UNIVERSITY OF CALIFORNIA, NEW JERSEY, NEW YORK, AND TEXAS

Below are brief case studies of PHEW unions — in four regions of the countries with diverse legal and political settings — that addressed employer demands for givebacks on pensions in 2009. These summaries can be educational tools for other affiliates. Even if the situations are not directly analogous, union leaders reading through the case studies can familiarize themselves with basic pension concepts and dynamics. Further questions on these summaries can be directed to the union leadership contacts or to CWA staff at the national union. Interested PHEW officials are encouraged to join PHEW's Public, Healthcare & Education Action Resource Network (PHEARN). PHEARN is spearheading a new direction for the department on pension strategies.

1. UNIVERSITY OF CALIFORNIA

CWA	Fund
UPTe-CWA Local 9119 Jelger Kalmijn, President 11,000 UC members	University of California Retirement Plan
Union Trustee Representation	none
Type of Primary Plan	DB
Plan Assets	\$42 b**
Total Participants	229,000 active and retired employees
Change in Assets 9/07-9/08	-21% (both DB and DC)**
Contribution Rate	Contribution holiday will end in April 2010 — UC will contribute 4% and increase 2% per year; UC is asking that every dollar of employer contribution from UC be “matched” by two dollars from non-state employers; employees 2% / 4% from existing DC contributions. Negotiations between UPTe and UC for the employee contribution is the subject of stalled negotiations.
Collective Bargaining on Pensions	Yes
2009 Changes	Current proposal to divert DC contributions to DB Plan being negotiated — avoided larger proposed employee contribution

**Pension & Investment 2008 data



University of California (UC) employees participate in a DB Plan, and contribute 2 percent of salary into a supplemental DC Plan. Since 2006 the University of California has considered requiring employees to resume pension contributions to its DB Plan. At that time, UC asked that employees' 2 percent DC Plan contribution be diverted to the DB Plan, to be matched by UC. "No matter how you slice it, this would add up to a pay cut for ordinary UC workers," said Jelger Kalmijn, president of UPTE-CWA Local 9119, representing 11,000 UC employees. UPTE derailed efforts by the UC Board of Regents to vote for that proposal in 2007.

The total absence of employee trustees on the UC Retirement Fund is an abomination in the public pension community that must end. Only with representation can we monitor the plan, and especially sweetheart deals with vendors. We will fight until we secure a voice over our own funds.

– Jelger Kalmijn, President, UPTE-CWA Local 9119

Historically, beginning in 1991 no contributions — by employer or employee — had been made to the UC DB Plan. While the DB Plan was over 100 percent funded in 2007 (assets to liabilities), UC projected that would erode in the near future.

Following that 2007 victory, the UPTE contract for UC technicians and researchers was due to expire in June 2008. UPTE expected pension to top the bargaining agenda. Then the stock market drop of 2008 reduced the DB Plan's funded ratio to 95 percent funded, which is generally considered well-funded. However, UC told UPTE it expected the funded ratio to drop significantly by 2013 because no contributions were scheduled and payments would be made. Based on this outlook, in late 2008 UC demanded an employee contribution to the DB Plan of 4 percent of salary to be matched by a new employer contribution. UPTE countered that before any new employee contribution, UC must match the 2 percent contribution that employees had made for years to the DC Plan.

During the negotiations, UPTE has recognized that their DB Plan fund was affected by the 2008 stock market downturn, and that new contributions might be necessary. However, its research on UC's underlying pension funding prompted serious concerns. The investment of the fund was contracted out from the Treasurer's office in 2002, and since that time the \$42 billion pension fund's performance went from the top quartile to the bottom quartile of comparable funds. Also, the fund did not follow proper actuarial standards, was not properly measuring its performance, and was paying excessive management fees. Further, the Board of Regents made policy and investment decisions in secret, contrary to the state open records law. Some of the outside investment advisers had financial ties to the UC Investment Advisory Committee. The Board of Regents, which has ultimate authority over investment decisions, had refused to release rate of return information on the resulting private equity investments to plan participants until a 2003 lawsuit forced the disclosure.

UPTE asked: Why was the Board of Regents overseeing the fund operation without any input from plan participants? Most, if not all, other state retirement funds maintained worker representatives. Why should CWA members shoulder the financial impact of outside management fees, especially when they had no say in its operation? Where was the check against conflicts of interest in awarding those contracts to outside advisers? And finally, why were no employer contributions made to the pension fund since 1990, when employees were forced to contribute 2 percent to the DC Plan?

Since 2007, UPTE has followed a multi-pronged campaign to protect its members' benefits. It worked with California legislators to introduce bills to curb the power of UC's Board of Regents, to gain accountability on UC executive salaries, and to give workers a voice in the operation of their pension fund. A law was signed in 2008 requiring an open vote on UC executive pay packages. UPTE filed an unfair labor practice charge against the University for its failure to provide key information in the negotiations. UPTE developed a campaign to raise public awareness on the negotiation issues. UPTE's cry of "We won't pay without a say!" was heard on YouTube, and seen in a PowerPoint presentation on its website, on Campus, and in the state capitol.

In February 2009, the Board of Regents voted for new pension contributions to begin in April 2010. Backing down from its initial demand, the Regents voted to recommence UC's contributions at 4 percent, with an additional 2 percent projected for two to three years. UC further wants employees to contribute half of what the employer contributes — eventually arriving at 10 percent employer and 5 percent employee contributions, which matches the rate at the state pension fund (CalPERS). It is unclear whether the state will pay for the employer contributions.

Exacerbating the pressure on UPTE, the state fiscal crisis has prompted new unpaid furloughs and fee hikes for students. In July 2009, UC announced new executive hires at salary levels greater than their predecessors. UPTE President Jelger Kalmijn called the awards "unconscionable," especially since UPTE members make 20-30 percent less than their counterparts at other universities. In September 2009, after 19 months of unsuccessful bargaining, UPTE called a one day unfair labor practice strike. In November 2009, the fight continued, with UPTE calling an historic two-day unfair labor strike to protest UC's illegal negotiating tactics. They joined with thousands of students, faculty and others protesting UC budget cuts, layoffs, executive compensation, and tuition increases.

After months of negotiations, UPTE finally reached agreement with the University in March 2010. The settlement provides substantial wage increases and caps on health care cost increases. Workers will begin to make a 2 percent contribution to the pension plan, while the employer will contribute 4 percent of payroll. Employee contributions will increase to 4 percent over the next two years. Any other changes to the pension will be subject to negotiation.

2. NEW JERSEY

CWA	Fund	Fund
>20 CWA Locals President >40,000 state and >15,000 local public sector workers	New Jersey Public Employees Retirement System	New Jersey Teachers
Union Trustee Representation	AFL-CIO representative and former CWA local president on State Board of Investment; CWA Local 1033 representative on PERS Board of Trustees	Union
Type of Primary Plan	DB	DB
Plan Assets	\$63 b (June 30, 2009) (assets of 6 pension funds invested by the state collectively)	
Total Participants	523,749 active participants and 236,541 annuitants*	
Change in Assets 9/07-9/08**	-14.4%	-14.4%
Contribution Rate	5.5 % Employee/ 12.45% Employer*	5.5% Employee/ 7.3% Employer*
Collective Bargaining on Pensions	No — precluded as a proper subject for bargaining	
2009 Changes	Benefits preserved	

* National Association of State Retirement Administrators (NASRA) (6/30/08) data for employer contribution (though the employers have not made this level of contribution);

** Pension & Investment 2008 data

New Republican Governor Chris Christie came into office in 2009 pronouncing he would balance the New Jersey and cut taxes. State revenue dropped due to the recession from \$36 billion to approximately \$28 billion, leaving an enormous deficit. Even more problematic is the \$46 billion unfunded liability in the public worker pension plans. Because the State has failed to contribute to the pension plans in 12 out of the past 15 years, the payment to the plans this year would be \$3 billion. However, the State is in terrible financial shape and even without the pension payment, faces an \$8 billion deficit. Needless to say, Republican Governor Christie has no intention of making the pension payment. In fact, Christie is cutting over \$2.8 billion to municipal, school aid and to social services.

Christie blames the workers for the condition of the pension plan, and he, and Democratic Party leadership, allied themselves to push through changes to the plans that cut pension benefits for new workers by 11%. Instead, the roots of the underfunding lie squarely with the irresponsibility of elected officials to pay employer pension contributions over the past 18 years (see Box 3):

- In 1992, then-Democratic Governor Florio changed the asset valuation method and the assumed investment return for the pension system, causing it to appear better funded. This alone reduced the contribution for 1992-1993 by \$1.5 billion.

- In 1994 then-Republican Governor Christie Todd Whitman moved her agenda to cut state taxes by reducing pension fund contributions and changing the actuarial method. This reduced state contribution by another \$1.5 billion for 1994-95, and to permit the state to actually withdraw \$180 million from the funds and transfer it to the State's General Fund.
- In 1997, Governor Whitman continued manipulating the pension fund contributions, pushing through a law that allowed state and local contributions to be offset by surplus in the pension systems. It called for state bonds to be issued to fund pension liabilities as a means to save money, which in fact did not. As a result, state and local employers partially or completely deferred pension contributions through 2003. By 2006, this law was “much of the reason for the erosion in the pension systems’ fiscal health,” a state report found. A 2003 law required the resumption of the contributions, but only gradually. State and local contributions were reduced by \$3.9 billion from FY 2004 through FY 2006.

“New Jersey’s pension problems arose from the failures of public employers to fully fund their obligations in the past” says Jim Marketti, a former CWA local president who was nominated by the NJ AFL-CIO and appointed as its representative to the State Investment Council, overseeing fund investments. These actions caused a significant shortfall, which then increased by \$25 billion with the 2008 stock market crash, roughly 30 percent of value.

There isn’t a long-lasting impact in terms of savings. They targeted the lowest wage workers for the greatest cuts. That leaves a very bitter taste in our mouths. It really is just for a sound bite and political expediency.

– Hetty Rosenstein, NJ State Director, CWA

This year, despite the extraordinary mobilization by CWA and other state unions working in coalition, the Governor prevailed and signed into law pension reductions for new workers. CWA decries the law as not only anti-worker, but not fiscally sound. “There isn’t a long-lasting impact in terms of savings” said Hetty Rosenstein, state director for the Communications Worker of America. “They targeted the lowest-wage workers for the greatest cuts. That leaves a very bitter taste in our mouths. It really is just for a sound bite and political expediency.” The new law eliminates a promised 9 percent pension increase for new workers, and bases their pension benefits on the five highest paid years rather than three. Pension benefits for new workers will be “forfeitable,” which proponents argue will permit reduction or elimination of those promised benefits in the future. New part-time workers must now join a DC plan instead of the DB plan, reducing the security of the DB plan. CWA’s opposition helped derail an effort to impose this requirement on new full time workers.

The battle is not over. The Governor is now eyeing current workers for pension benefit reductions. He proposes withholding the entire \$3 billion 2010 pension contribution. In response, CWA is diligently seeking to identify other sources of revenue for the contribution — for instance, a \$1 billion tax on wealthy residents that recently expired. It is mobilizing and giving voice to the broad-based outcry: “Community advocates from every corner of New Jersey and representing people of all walks of life are seeing what a disaster Chris Christie is for them,” according to Rosenstein. To build solidarity, CWA members wear red every Thursday, and communicate through their Facebook page “Fight for NJ Public Services, Fight for NJ Public Workers.” CWA also takes the long view by staying apprised of and influencing pension decisions through worker representatives on pension bodies: Besides Jim Marketti’s role on the Investment Council, Peter Maurer, CWA Local 1033 was elected to the Public Employee Retirement System Board of Trustees.

3. NEW YORK CITY AND STATE

CWA	Fund	Fund	Fund
New York City Local 1180, 1181, 1182, 1183 Arthur Cheliotas, President, CWA Local 1180 >8,000 City workers	NYC Employee Retirement System	NYC Board of Education Retirement System	NY State and Local Common Retirement Fund
Union Trustee Representation	Union	Union	No — sole trustee is State Comptroller
Type of Primary Plan	DB	DB	DB
Plan Assets (NASRA)	\$38.3b	\$2b	\$121b
Total Participants	178,741 active participants and 128,863 annuitants*	23,095 active participants and 15,900 annuitants	621,917 active participants and 358,109 annuitants*
Change in Assets 9/07-9/08**	-17.7%		-15.7%
Contribution Rate	Employee: 3.0% for most members; some are required to contribute only during the first 10 years of service; Employer: 16.10%*	Employee: 3.0% for most members; some are required to contribute only during the first 10 years of service; Employer: unknown	Employee: 3% for most participants. Employer: 9.6% as a plan average*
Collective Bargaining on Pensions	No — prohibited as a subject for bargaining		
2009 Changes	Pressure for new benefit tier and increased employee contribution		Creation of new Tier V with age 62 retirement and 10 year minimum vesting requirement for new hires

*NASRA 6/30/08 data; **Pension & Investment 2008 data

The economic downturn has affected the five defined benefit pension funds of the City of New York (NYC). The city is exploiting the downturn to exact concessions from City workers. As is true in many states, the New York State constitution prevents the city from reducing pension benefits for existing workers.

Mayor Bloomberg has been pressuring municipal unions to agree to the creation of a fifth tier of reduced benefits for new city workers. NYC CWA Locals 1180, 1181, 1182 and 1183 are feeling pressure to agree to the deal that the city's teachers' union accepted to avoid the creation of a fifth benefit tier: a 3 percent contribution to the fund beyond the currently required 10 years of contributions. The city's public safety employees, who have a more generous benefit package, including no mini-

minimum age requirement, may be more the target of benefit concessions than the public employees represented by the CWA.

CWA members primarily participate in NYCERS, and also have some Local 1180 members participating in the NYC Board of Education pension fund. Other members of Local 1180 participate in the State of New York Common Retirement Fund.

New York State recently reached an agreement with two large state unions to avoid 8,700 state layoffs and elimination of planned wage increases. That agreement increases the retirement age from 55 years to 62 years (without a penalty) for a new tier of state employees. The new benefit tier was adopted by the state legislature December 2, 2009. In addition to raising the retirement age, it also increases from five to ten the number of years a new state employee must be employed before he or she vests for a pension.

Benefit decisions regarding the New York City and State pension funds are made in Albany by the State Legislature. The subject of pension benefits is excluded from state and municipal employees' existing right to collectively bargain. Practically, however, if New York City and the Union can agree to a benefit — the agreement will typically be adopted by Legislature.

The members of the NYC CWA Locals participate in operation of NYC's retirement funds through representation on the funds' boards of trustees. On NYCERS, the three largest City unions are represented in three of the seven votes on the fund. While CWA does not sit in one of those seats, Bill Henning, Second Vice President of CWA Local 1180 reports that his Local is kept apprised of fund activities. A Municipal Labor Committee regularly provides Local 1180 pension information on the two city funds. The New York City and State funds are leading shareholders demanding corporate accountability. They actively protect their rights as owners. For instance, the funds are lead plaintiffs in a federal securities fraud class action against mortgage lender Countrywide related to the mortgage meltdown of 2008.

Henning reports that the pressure to create a defined contribution plan was not a serious threat in New York City in 2009. However, a bill related to pension funds in the 2009 legislative session proposed the creation of a commission to study the idea for all New York State public employee retirement systems (Assembly Bill No. A02531). The bill, which failed, was introduced by Republican Assemblywoman Nancy Calhoun.

4. TEXAS

CWA	Fund	Fund
CWA Local 6186 Judy Lugo, President 12,000 members	Texas Employees Retirement System	Texas Teachers Retirement System
Union Trustee Representation	CWA	CWA
Type of Primary Plan	DB	DB
Plan Assets	\$23.5t*	\$110.2t*
Total Participants	135,171 active participants and 79,470 annuitants*	823,154 active participants and 275,228 annuitants*
Change in Assets 9/07-9/08	-17.8%**	-16.4%**
Contribution Rate	Employee: 6.5 %; Employer 6.95% (Employer to be reduced when the state stimulus funds run out; employee to be reduced to employer level)	Employee: 6.4 %; Employer 6.64% (employer contribution to be reduced when the state stimulus funds run out)
Collective Bargaining on Pensions	Public employees cannot bargain collectively on any issue with the exception of some police and sheriff's departments	
2009 Changes	Legislature enacted unilateral increase in employee contribution rates for ERS and TRS participants by the state legislature; allocation of stimulus funds for a temporary increase in employer contributions; ban on public employee pension contributions that are higher than employer contributions	

*NASRA data; **Pension & Investment 2008 data

CWA Local 6186 represents primarily Texas state agency employees and employees at all state institutions of higher learning, including the University of Texas and Texas A&M University. Local 6186 aggressively participates in CWA's Committee on Political Education (COPE) and lobbies directly to protect the security of members' pension benefits. The members have no right to collective bargaining and all benefit decisions are made in the Texas State Legislature. Several years ago, Local 6186 fought vigorously when there was talk of creating a primary defined contribution plan for new state workers, and rallied with other employee groups in Texas to defeat the effort.

In Texas, employees of state agencies get retirement benefits through the Employees Retirement System of Texas (ERS), while university employees are covered under the Teachers Retirement System of Texas (TRS). For at least three decades the employee contribution to the ERS fund was held at 6.0 percent while the state contribution floated above that as needed to maintain the fund. In 2009 the Texas Legislature overturned this tradition by increasing the employee contribution to a minimum of 6.45 percent. At the same time, the Legislature increased the state contribution by a tiny 0.05 percent, to 6.45 percent.

The Texas Legislature also used federal stimulus funds to pay down some of the unfunded liability that had built up in both funds over the past ten years. In a legislative shell game, the Legislature appropriated \$155 million in stimulus funds for an end-of-year bonus check (“13th pension check”) for ERS and TRS retirees. But Legislators knew that Texas statutes prohibit enhancements of state retirees’ benefits if the pension plans carry unfunded liabilities, and they stipulated that if the Texas Attorney General ruled against the bonus payments then the federal money would go into the pension funds. They added carefully crafted language that made it impossible to grant the 13th checks, so the stimulus money flows into the pension funds via a temporarily increased state contribution for both the ERS and TRS systems.

TSEU/ CWA Local 6186 opposed the increase in the employee contribution and supported the plan to fund retiree bonus checks with the \$155 million in federal stimulus dollars, recognizing funds should go into people’s pockets immediately to have the intended economic effect. However, the Texas Attorney General would not approve the allocation to retirees, after analyzing the payment on constitutional and statutory grounds.

At a time when state employees’ pay has fallen about 20% behind increases in the cost of living since 1988, when retirees have not had a cost of living adjustment since 2001, and when staff turnover is at high levels even during a recession, cutting benefits is a bad idea all the way around.

– Mike Gross, CWA Local 6186 VP and Organizing Coordinator

Local 6186 Vice President and Organizing Coordinator Michael Gross fears that new pressures are mounting for more cuts to state employee benefits in the coming year. It appears lawmakers will face a budget shortfall of \$10 to \$20 billion in the next session of the Texas Legislature starting in 2011. State employees usually are one of the first places legislators look when they want to cut spending, which is a huge mistake. “Historically, Texas state employees have been low-paid, with the pension and health care benefits making the difference that allows agencies and universities to attract and keep qualified staff,” Gross explains. “At a time when state employees’ pay has fallen about 20% behind increases in the cost of living since 1988, when retirees have not had a cost of living adjustment since 2001, and when staff turnover is at high levels even during a recession, cutting benefits is a bad idea all the way around.”

As to the operation of the primary defined benefit ERS and TRS, it is impressive that Local 6186 has secured elected CWA member representatives on the Board of Trustees for both ERS and TRS. Local 6186 reports that it works closely with the funds and is generally pleased with their operation. Because the funds are considered to be state agencies, they are precluded from lobbying on behalf of plan participant and retiree interests. This underlines the key role CWA political action plays in defending public employee pensions in Texas.

APPENDIX I:

CWA LOCAL 7076 MESSAGING:

A BETTER CHOICE FOR NEW MEXICO

The Balanced Approach to the State Budget Emergency

Message Summary	Tell the legislature: Don't jeopardize future prosperity, stall economic recovery, throw more people out of work, and pack more students into already overcrowded classrooms. There's a better choice for New Mexico's families — a balanced approach for opportunity and security.							
Context Frame: THE PROBLEM	Ask any New Mexico family struggling to make ends meet — the impact of the national economic recession has hit our state very hard.							
Framing the Threat and the Consequences	<p>Yet, many of the proposals being floated to address the state's declining revenues will reduce opportunity, increase economic insecurity and delay recovery.</p> <p>Scaling back investments in education, health care, public safety, infrastructure and transportation will severely undermine the foundations of New Mexico's future prosperity. This approach will make New Mexico an unattractive location for new business growth — a sure fire job killer.</p> <p>Placing more burdens on the middle class and working families, while letting CEOs and millionaires keep their generous tax breaks and corporate tax loopholes — it's not only unfair, but will also cripple recovery.</p> <p>Drastic reductions of critical services needed most by families, children and the elderly who are all struggling in tough economic times, will only make matters worse.</p> <p>Lay-offs and furloughs will have a reverse stimulus effect by reducing income streams to local businesses while contributing to rising unemployment, thus further depressing New Mexico's economy and stalling recovery.</p>							
Reframe: THE SOLUTION	<p>But there's a better choice. It's a balanced approach for tough times that strengthens the middle class by protecting investments in our future prosperity, promises new opportunity, and offers a helping hand for families faced with growing economic insecurity. Here are three examples the balanced approach:</p> <table border="1" data-bbox="444 1415 1383 1984"> <tr> <td data-bbox="444 1415 651 1549">■ Sunset tax cuts for rich</td> <td data-bbox="656 1415 1383 1549">It's time to sunset the massive 40 percent income tax cut the legislature lavished upon millionaires in 2003. These handouts to the rich failed to produce the promised trickle down of more jobs for everyday New Mexicans.</td> </tr> <tr> <td data-bbox="444 1558 651 1797">■ Close corporate loopholes</td> <td data-bbox="656 1558 1383 1797">It's time to close corporate tax loopholes, like the one that permits out-of-state companies, such as Wal-Mart, to evade paying New Mexico corporate income tax on profits earned in New Mexico. Few states allow this corporate tax ripoff — not even conservative western states such as Texas, Arizona, Utah and Alaska. Wake up New Mexico! This outrageous tax break places our local businesses at an unfair competitive advantage, while robbing us all of needed revenues.</td> </tr> <tr> <td data-bbox="444 1806 651 1984">■ Open the books: Create a Transparency Budget</td> <td data-bbox="656 1806 1383 1984">It's time to open the books and provide greater transparency by giving New Mexico an honest tax expenditure budget — a full accounting of all the money we lose when the legislature creates tax loopholes for corporations and tax deductions for the rich. Forty-three states have a transparency budget (also called a "tax expenditure budget"). We should too.</td> </tr> </table>		■ Sunset tax cuts for rich	It's time to sunset the massive 40 percent income tax cut the legislature lavished upon millionaires in 2003. These handouts to the rich failed to produce the promised trickle down of more jobs for everyday New Mexicans.	■ Close corporate loopholes	It's time to close corporate tax loopholes, like the one that permits out-of-state companies, such as Wal-Mart, to evade paying New Mexico corporate income tax on profits earned in New Mexico. Few states allow this corporate tax ripoff — not even conservative western states such as Texas, Arizona, Utah and Alaska. Wake up New Mexico! This outrageous tax break places our local businesses at an unfair competitive advantage, while robbing us all of needed revenues.	■ Open the books: Create a Transparency Budget	It's time to open the books and provide greater transparency by giving New Mexico an honest tax expenditure budget — a full accounting of all the money we lose when the legislature creates tax loopholes for corporations and tax deductions for the rich. Forty-three states have a transparency budget (also called a "tax expenditure budget"). We should too.
■ Sunset tax cuts for rich	It's time to sunset the massive 40 percent income tax cut the legislature lavished upon millionaires in 2003. These handouts to the rich failed to produce the promised trickle down of more jobs for everyday New Mexicans.							
■ Close corporate loopholes	It's time to close corporate tax loopholes, like the one that permits out-of-state companies, such as Wal-Mart, to evade paying New Mexico corporate income tax on profits earned in New Mexico. Few states allow this corporate tax ripoff — not even conservative western states such as Texas, Arizona, Utah and Alaska. Wake up New Mexico! This outrageous tax break places our local businesses at an unfair competitive advantage, while robbing us all of needed revenues.							
■ Open the books: Create a Transparency Budget	It's time to open the books and provide greater transparency by giving New Mexico an honest tax expenditure budget — a full accounting of all the money we lose when the legislature creates tax loopholes for corporations and tax deductions for the rich. Forty-three states have a transparency budget (also called a "tax expenditure budget"). We should too.							

APPENDIX II:

CWA PUBLIC, HEALTHCARE AND EDUCATION WORKERS

PRINCIPLES ON PUBLIC EMPLOYEE PENSIONS

Public, Healthcare and Education Workers

Communication Workers of America, AFL-CIO

Twenty million state, county and municipal workers earn retirement benefits through their employment. These benefits are generally provided through defined benefit pension plans which provide a secure framework within which retirement benefits are earned, funded and paid.

Recently public employee pension plans have been pressured by difficult economic conditions, worsened by inconsistent funding and investment policies; and targeted by certain opportunistic politicians and interest groups. Such groups are using current circumstances to bring about wholesale and irrevocable changes in the mechanisms by which the public sector has delivered effective retirement security to its employees for the last half century.

Retirement security has been a critical component of the model by which the public sector competes to attract and retain quality employees in a labor market dominated by greater remuneration from the private sector. If successful, demands for greater employee contributions, reduced benefits and restructured plans will reduce both the security and the value of public sector pensions.

The following **fifteen fundamental principles** will guide CWA in its effort to promote sound funding and protect retirement benefits for current and future public employees:

1. Defined Benefit (DB) Pension Plans must remain the primary form of retirement savings for public employees. DB Plans provide secure and predictable pension for retirees.
2. Defined Contribution (DC) Plans have been shown to be more expensive to run, tend to earn lower investment returns, cannot pool longevity risk, and shift investment risk from employers to employees. While DC Plans may be effective individual supplements to DB Plans, they cannot deliver income security as an employee's primary retirement savings vehicle.
3. Public employee pension funds receive contributions from both employees and employers and as such represent the accumulation of workers' own contributions and their deferred wages. Therefore, workers must be represented in any forum where decisions are made that will affect the present or future operation of their pension plans. CWA affiliates will seek meaningful elected representation on all pension fund boards. These representatives would be expected to participate in educational forums to improve their understanding of pension practices and concepts.
4. Retirement funds must have a long-term time horizon for funding and investment and realistically anticipate variations in investment returns over time. Public employee pension funds should be invested in the long-term interest of workers and their communities, and avoid short-term strategies that undermine long-term goals.

5. Public employee pension funds must operate transparently, with all vendors and fees charged to any fund made publicly available. CWA affiliates must be vigilant in ensuring that vendors provide services to their funds at arms-length and that no conflict of interest compromises the services.
6. Public employee pension funds represent a significant presence in the U.S. capital markets. They own almost 8 percent of Corporate America. These funds must be active shareholders to ensure that U.S. corporations act in the interest of shareholders and plan participants.
7. Private capital markets are often inefficient in allocating funds for investment in local communities. Public employee pension funds should seek to invest in their local regions when it is prudent to do so in order to generate economic development and tax revenues.
8. The funding levels of most public employee pension funds have been hard hit by the recent economic downturn and accompanying stock market decline. For some funds, the impact of this downturn has been exacerbated by past employer funding shortfalls. As a result, employers and employees may face tough choices, such as considering the creation of new pension benefit tiers and greater employee pension contributions to reduce unfunded liabilities. In the face of such demands, CWA affiliates must independently verify the true financial health of their pension fund. They must identify whether employers are improperly using the current fiscal troubles as an excuse to demand unnecessary concessions.
9. Unions can learn from each other to develop creative pension strategies, such as identifying alternative cost savings, launching legal challenges, negotiating solutions, seeking legislative relief, and media messaging
10. Experts advise that a worker's income in retirement — including both pension and Social Security payments — should replace 70 percent of his or her working salary. A failure to reach this threshold hurts not only workers, but also the economic engine that relies on retiree spending. Research shows that each pension dollar paid out supports \$2.36 in economic activity in the surrounding community. Public employees must support long-term efforts to increase retiree income to reach at least the 70 percent threshold, both in the public and private sectors.
11. Nearly 8 in 10 public sector workers are covered by a Defined Benefit Pension Plan, which is nearly four times the level of coverage among private sector employees. This is largely due to the comparatively high level of union representation among public workers. CWA endorses and supports all efforts to ensure universal, secure, and adequate pensions for all employees in the public and private sector.
12. CWA recognizes that workers are often poorly informed about their retirement benefits. Without an informed membership, our union will be unable to build effective campaigns to protect and improve those benefits. Therefore, at both the local and national levels, the union commits to the development of retirement education programs tailored to local needs and commits to the wide dissemination of such information among our members.

13. CWA also recognizes that many workers may not complete a full career in a single job, or with the same employer, so they will not participate in a single pension plan. Such work histories are more common now than they had been in the past and the trend continues to move in this direction. Nonetheless, these workers will eventually need dependable retirement income. Therefore, CWA supports the development of hybrid pension plans that can more effectively meet the needs of both career employees and those whose tenure is shorter. However, such plans must equitably reward both career employees and employees with shorter tenure. They should never compromise employees' long-term retirement income security or be part of a process of eliminating secure defined benefit pensions.
14. For more than a decade, coordinated efforts by national, conservative organizations such as Americans for Tax Reform and the American Legislative Exchange Council (ALEC) have pressured state legislatures to replace public employee DB Plans with DC Plans. If successful, these efforts would undermine workers' long-term retirement security and so must be identified and defeated. Unions must reveal and publicize the true underlying motives of these efforts, funded by Corporate America, as part of the effort to defeat them.
15. Recent attacks on benefit levels of public employees have appeared in the media, exaggerating benefits to pressure employees to make concessions. CWA affiliate unions must take strong action to correct false information and educate the public to stop using public workers as scapegoats for the economic downturn.

ENDNOTES

- ⁱ National Conference of State Legislatures, 2009.
- ⁱⁱ Center on Budget and Policy Priorities, 2009.
- ⁱⁱⁱ United States Government Accountability Office, 2008.
- ^{iv} See “PHEW Locals In Action” in this report for a list of key funds covering CWA members in four states: New York, New Jersey, Texas, and California.
- ^v Pension coverage data is for 2006. Center for Retirement Research, Boston College.
- ^{vi} Pension Rights Center, Washington, DC, 2009.
- ^{vii} Beth Almeida, Kelly Kenneally, and David Madland, The New Intersection on the Road to Retirement: Public Pensions, Economics, Perceptions, Politics, and Interest Groups, Pension Research Council Working Paper, Pension Research Council, The Wharton School, University of Pennsylvania, September 2008.
- ^{viii} Their backers include the American Nuclear Energy Council, the American Petroleum Institute, Amoco, Chevron, Coors Brewing Company, Shell, Texaco, Pharmaceutical Research & Manufacturers of America, Waste Management, Philip Morris Management Corporation, Bristol-Myers Squibb, Exxon Mobil, Chase Manhattan, Cigna, Sprint, Reliant Energy and Merrill Lynch.
- ^{ix} Alicia H. Munnell, Alex Golub-Sass, Kelly Haverstick, Mauricio Soto, and Gregory Wiles, Why Have Some States Introduced Defined Contribution Plans?, Center for Retirement Research at Boston College, January 2008.
- ^x A Better Bang for the Buck: The Economic Efficiencies of Defined Benefit Pension Plans, National Institute on Retirement, 2008. This report provides an excellent analysis of the efficiencies of DB Plans.
- ^{xi} United States Government Accountability Office, State and Local Government Pension Plans, Current Structure and Funded Status, July 10, 2008.
- ^{xii} Figures for 2006. Ken McDonnell, Employee Benefits Research Institute, January 2008.
- ^{xiii} See Retirement U.S.A., a new Washington, DC-based coalition addressing this failure, with a focus on private sector pension shortcomings. www.Retirement-USA.org
- ^{xiv} Retirement U.S.A. projects 70 percent or higher can be adequate for middle- and upper-income workers.
- ^{xv} Organization for Economic Co-operation and Development, 2009.
- ^{xvi} The average pension in the Netherlands replaced 103 percent, in Spain replaced 85 percent, and in France replaced 66 percent. The average OECD country spent 7.2 percent of gross domestic product on public pensions (2005). The U.S. spent 6 percent, while Italy spent 14 percent, France 12.4 percent, and Germany 11.4 percent. Statistics from OECD, 2009.
- ^{xvii} *Fraternal Order of Police et al v. Prince Georges County, MD* found the public employee furloughs as violated the collective bargaining agreement and the U.S. Constitution.



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