The County Connection

Inter Office Memo

To: Board of Directors | Date: February 15, 2013

From: Rick Ramacier | Reviewed by:

SUBJECT: AB160 – Alejo

Background

As expected, a bill has been introduced (AB160) to exempt public transit employees that are in unions from the recently enacted state pension reform (PEPRA). The unions maintain that PEPRA conflicts with section 13(c) of federal transportation law. Among other things, section 13(c) requires public transit operators that receive federal funds to negotiate with unions on pension benefits. The unions claim that PEPRA takes way the right to bargain over pension benefits.

The unions are filing 13(c) objections with the US Department of Labor (DOL) against the federal grants of applicable California transit operators and citing PEPRA as the reason. If AB160 were to be enacted, the unions would presumably drop these objections.

Many well respected labor attorneys have pointed out quite clearly how PEPRA in fact requires bargaining with public unions over pensions and over PEPRA implementation. To that end, I have invited all three of our unions to bargain with us over PEPRA. So far, none of our unions have asked to bargain about this.

This week, the Governor's office publically stated their view that PEPRA does not conflict with section 13(c). And, they are indicating they would likely veto AB160, should it reach their desk.

Action Requested

It remains to see if AB160 moves through the legislative process. The Governor has suggested he does not support such legislation. At this time, I recommend that County Connection remain neutral on AB160. I further recommend that we educate our state delegation on the facts surrounding these issues related to AB160.

The MP&L Committee agreed with the staff recommendation at their meeting earlier this month.

LexisNexis

California's Pension Redo

The Wall Street Journal
February 9, 2013 Saturday

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Body

Well, that didn't take long. The **pensionreforms** that **California**Governor Jerry Brown signed in September have been in effect for all of a month, and Democrats are already seeking a partial annulment. The Kim Kardashian-Kris Humphries marriage had more staying power.

State assemblyman Luis Alejo (D., Teamsters) wants to exempt some 20,000 mass transit workers on the pretext that the new **pension** law violates the 1964 Urban Mass Transportation Act, which five or six of our readers may remember. At the time private transit companies were going broke because of unwieldy labor agreements. So Congress offered money to municipalities to acquire the transit systems, though the capital came at a high price.

In return for the cash, the public transit agencies had to agree to honor existing labor agreements and preserve pay, benefits and jobs against a "worsening of their employment condition." These mandates still apply to most mass transit agencies that get a check from Uncle Sam.

In recent years unions have used the law to prevent public transit agencies from outsourcing work to the private sector. If private contractors cut worker pay, public agencies by law have to make up the difference between the old and new wages. They also have to pay six years of severance to laid-off employees.

Now the Teamsters and the Amalgamated Transit Union are trying to use the law to exempt their workers from **California**'s **pensionreforms**, which cap the salary on which the annuities of new workers are calculated at 120% of the Social Security wage base. The **reforms** also require new hires to pay half of the "normal cost" of their benefits.

The unions say the **reforms** violate the federal transit law by reducing benefits and abridging collective bargaining rights. But the **reforms** don't reduce existing benefits. They merely provide lower benefits for new workers. And if the **reforms** really impaired collective bargaining, they would also violate state law. The unions notably aren't suing on those grounds in state court.

Instead they've petitioned the federal Department of Labor to cut off **California** transit agencies for violating federal law. After spending millions to re-elect President Obama, unions expect some White House payback. The Labor Department has responded sympathetically by instructing the agencies and unions to talk out their differences. That's nice.

Meanwhile, transit systems are postponing maintenance and preparing to reduce services if the Labor Department decides to oblige the union request to choke off federal funds. The real union goal, however, is to impel state lawmakers to intervene.

CATHY HARDY

Enter Mr. Alejo. The Democratic assemblyman says legislating an exemption for transit unions is necessary to keep the federal spigot open. However, the Department of Labor is empowered to reject union complaints that are insubstantial. State lawmakers who aren't wholly owned union subsidiaries ought to demand that the Obama Administration do so.

Congress in the meantime can end the federal government's 50-year bailout of the transit unions by removing the pricey labor requirements on federally funded systems. Note to Democrats: This would help poor Americans who are public transit's heaviest users.

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Revoking the Federal Free Pass on Pensions

Congress can help fix the irresponsible fiscal promises of state and local governments.

By CARL DEMAIO

As if fiscal cliffs and debt ceilings weren't exciting enough, Congress today is ignoring a gathering financial tsunami—the unaffordable pension promises of state and local governments.

Consider California, where just 10 individual pensioners will cash $50 million in pension checks from state and local governments over the next 25 years. Already some 30,000 retired California government employees pull in pensions higher than $100,000 a year. One retired librarian in San Diego receives a $234,000 annual pension. Beach lifeguards in Orange County are retiring at age 51 with $108,000 annual pensions plus health-care benefits.

A 2011 study by the Congressional Research Service pegged the combined liabilities faced by state and local pension funds at over $3 trillion. That is more than all the bonded debt officially listed on state and local balance sheets combined. To put the issue in perspective, all the federal tax hikes approved by Congress on Jan. 1 would pay less than 20% of America's state and local pension debt over the next 10 years.

The good news: While the federal government isn't technically responsible for these pension debts, Congress could enact tough reform legislation to protect taxpayers and prevent further abuses.

Washington has tightly regulated private pension systems since the 1974 Employee Retirement Income Security Act, but that law exempted the pension systems of state and local governments. Four decades and $3 trillion in debt later, it is clear Congress made a mistake.

In the absence of federal rules, state and local pension systems have become governed by a confusing patchwork of state statutes, constitutional provisions, judicial rulings and local ordinances. While some government unions have argued that state and local pensions cannot be reformed by federal legislation because they are "vested," or owned by their intended beneficiaries, there are many changes that Congress could enact.

Lawmakers could begin by imposing tough financial-disclosure rules on state and local pension systems. Without tough Erisa standards for financial accounting and disclosure of costs, too many state and local pension boards have cooked their books. To mask true pension costs, some boards have inflated earnings via rosy economic forecasts, allowed states and localities to skip required contributions, and pushed debt repayment far into the future.

Scores of state and local governments are using "pension obligation bonds" to bail out troubled pension programs on the risky wager that they can beat Wall Street investment returns. There is $64 billion in such bond debt outstanding in the U.S., with more expected to flood the market this year.

Recent studies summarized by the Congressional Research Service have shown that the vast majority of pension obligation bonds are costing taxpayers billions in increased costs on the bonds themselves plus poor returns on the proceeds deposited in troubled pension systems. The city of Stockton, Calif., declared bankruptcy last year largely due to its misguided use of such bonds.

Congress's opportunity, then, is to tweak the Internal Revenue Code to discourage the use of pension obligation bonds—for example, by eliminating tax exemptions for any state or locality that issues them.

Lawmakers in Washington can also amend the tax code to make it easier for public employees to dump more expensive pensions—into which they will have to pay increasingly more over time—in favor of hybrid plans or 401(k) retirement accounts. Rep. Loretta Sanchez (D., Calif.) has proposed one such reform that could allow taxpayers and government workers to save billions.

Every dollar saved by such congressional action would reduce the need for tax increases and allow state and local authorities to restore vital services, improve schools, fix streets and invest in the future.

Mr. DeMaio, a senior fellow at the Reason Foundation, was the primary author of the San Diego Pension Reform Initiative that voters approved last June.

A version of this article appeared February 7, 2013, on page A13 in the U.S. edition of The Wall Street Journal, with the headline: Revoking the Federal Free Pass on Pensions.

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