

Trillion Dollar Dilemma



March 1, 2010

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The next issue of Capitol Journal will be available on March 8.

Top Story

States have for years lavished their public workers with generous pension and health care plans. But few have done even an adequate job of funding those long-term obligations, and now states are scrambling to reform their pension systems.

SNCJ Spotlight

Recession spurs new round of pension reform

States continue to run up the tab for their employees' pensions and other retirement benefits. But that bill is getting too big for some to ignore. According to a report released last week by the Pew Center on the States, states faced an aggregate long-term pension liability of \$2.8 trillion in 2008. They managed to save up \$2.3 trillion to cover those costs, the report said, but that still left an unfunded liability of nearly \$452 billion. The unpaid portion of the bill for non-pension related benefits, primarily retiree health care, was even bigger: \$555 billion of the \$587 billion total.



Now that the recession has decimated retirement system investment portfolios, saddling states with more of the costs, and choked revenues, threatening funding for education, public safety and other critical needs, states are starting to contest their burgeoning bills.

Fifteen states passed some sort of public employee retirement system reform legislation last year, three more than in 2008 and four more than in 2007. A similar trend occurred after the 2001 recession, with 18 states enacting reforms in 2003, compared to just five in 2002 and nine in 2001.

With most states barred by law from reducing pension benefits for current workers, the efforts over the last couple of years have been focused on new employee benefits. For instance, 10 states increased contribution levels for current and future employees, while 10 cut benefits or imposed longer service requirements or higher retirement ages.

Similar actions are in the works this year. NEW JERSEY Gov. Chris Christie (R), who declared a fiscal emergency this month in the face of an \$11 billion budget gap, urged lawmakers to make major cost-cutting changes to the state's public employee retirement system.

"Make no mistake about it, pensions and benefits are the major driver of our spending increases at all levels of government — state, county, municipal and school board," he said. "We cannot in good conscience fund a system that is out of control, bankrupting our state and its people, and making promises it cannot meet in the long term."

DELAWARE Gov. Jack Markell (D) called for a pension benefit cut for new hires in his state of the state address. And VIRGINIA's Gov. Robert McDonnell (R) has proposed the same in his state.

WYOMING is considering boosting the share of retirement benefits paid by current and future state employees. The state's governor, Dave Freudenthal (D), is also questioning the rationale for the retirement system's cost-of-living increases.

"We have had a habit of taking a fixed benefit plan and inserting cost of living increases," he said in his state of the state address. "We need to assess whether that makes sense."

"Make no mistake about it, pensions and benefits are the major driver of our spending increases at all levels of government — state, county, municipal and school board."

In the hopper

At any given time, State Net tracks tens of thousands of bills in all 50 states, the US Congress and the District of Columbia. Here's a snapshot of what's in the legislative works:

Number of Prefiles last week: 457

Number of Intros last week: 4,011

Number of Enacted/Adopted last week: 1,191

Number of 2010 Session Prefiles to date: 14,577

Number of 2010 Intros to date: 55,072

Number of 2010 Session Enacted/Adopted overall to date: 4,855

Number of 2009-10 bills currently in State Net Database: 162,826

— Compiled By JAMES ROSS
(measures current as of 2/25/2010)
Source: State Net database

Budget & taxes

WYOMING COULD BECOME FIRST STATE TO TAX WIND: With renewable energy one of the few bright spots in the U.S. economy, most states have been tripping over themselves to offer incentives that might lure projects and jobs. But WYOMING is taking a different tack, at least when it comes to wind energy.

Gov. Dave Freudenthal (D) is pushing a bill that would levy a \$1-per-megawatt-hour excise tax on wind energy production, the first such tax in the nation, according to energy experts. The measure, approved by the state's House of Representatives this month, would generate a projected \$4 million a year in revenue, which would be divided between the state and the counties where the wind projects are located.

"We want to make sure that wind developers pay their way in WYOMING and that the tax burden isn't shifted to the taxpayers," said the governor's chief of staff Ryan Lance. "These guys are making a lot of money, and we get all the impact — environmental and socioeconomic."

WYOMING is the eighth-windiest state and, according to the American Wind Energy Association (AWEA), ranks 12th in the nation in wind power installations. The state generated twice as much electricity from wind projects in 2009 as it did the year before. But wind energy leaders say the tax could cripple the developing industry.

"Putting a tax on the air really makes WYOMING an unfriendly state for wind energy," said Denise Bode, chief executive for AWEA. "We urge them to take some time to work with the industry to try and address any concerns. Being No. 1 in something is not necessarily the best way to go, particularly when it comes to increasing taxes in a promising new industry."

Cheryl Riley, executive director of the Wyoming Power Producers Coalition, a group of 15 wind and transmission developers, shares that view.

"I think there's great potential for wind energy development here, but until some of these issues, specifically that of taxation, are worked out, WYOMING won't see its full potential reached," she said.

On top of the proposed excise tax, the state just allowed its wind energy sales tax exemption to expire, and it offers no property tax exemption for the industry.

"We think this sends a negative message that WYOMING may not want wind development," said Riley.

But Sen. Jim Anderson (R), who chaired a state legislative task force on wind energy, said the tax should be imposed in the interest of fairness.

"We recognize that WYOMING has some of the best wind in the world," he said. "We feel in comparison with the way we've taxed the petroleum and extractive industries, the wind industry needs to pay its fair share." (NEW YORK TIMES)



BUDGETS IN BRIEF: Three dozen states will launch cash-for-clunkers-like programs for appliances this month and next. The \$300 million in federally funded programs, which will vary by state and appliance, are intended to improve energy efficiency and stimulate the economy, similar to last year's cash-for-clunkers auto rebates (USA TODAY). • State tax collections shrank at the end of 2009 for the fifth quarter in a row, the longest continuous stretch of state revenue declines since the Great Depression, according to a new report by the Nelson A. Rockefeller Institute of Government. Tax collections in the last quarter of 2009 fell to \$134.5 billion, a 4.1 percent drop from the \$140.2 billion collected the same period a year earlier (NEW YORK TIMES). • **CALIFORNIA**, the state with worst credit rating in the nation, plans to issue \$4 billion in bonds this month to finance infrastructure improvements, a spokesman for State Treasurer Bill Lockyer said last week (WALL STREET JOURNAL). • The **MINNESOTA** Legislature approved a \$1 billion public works bill (HB 2700) last week. But Gov. Tim Pawlenty (R) said he would veto the measure because of its size and "severely misguided" construction priorities (ST. PAUL PIONEER PRESS). • **COLORADO** Gov. Bill Ritter (D) signed nine bills (HB 1189 through HB1196 plus HB 1199) into law last week that suspend or eliminate various tax exemptions for business. Ritter said the tax changes — expected to generate \$15.6 million in revenue this fiscal year and \$132.6 million next fiscal year — were needed to help balance the state's badly strained budget (DENVER BUSINESS JOURNAL).

— *Compiled by KOREY CLARK*

Politics & leadership

S TATES UPDATE CAMPAIGN FINANCE LAWS: Less than a month after the U.S. Supreme Court lifted the federal ban on corporate and union political advertising — and eight months before the fall elections — states have begun revamping their own campaign finance laws.

ARIZONA Senate President Bob Burns (R) recently introduced legislation that would lift some of the state's existing restrictions on corporate and union political spending. Under SB 1444, corporations and unions would be permitted to spend as much as they choose on candidate races as long as they don't coordinate their efforts with the candidates' campaigns.

The bill would require public disclosure of such spending, something the high court said last month was permissible. Expenditures of at least \$5,000 in statewide races and \$2,500 in legislative races would have to be reported to the Secretary of State's Office within one business day. Political ads would also have to include a



disclaimer identifying who paid for them. The state’s existing prohibition against direct corporate and union giving to political candidates, which was not addressed in the Supreme Court decision, would be unaffected by the measure.

In COLORADO, it was the judicial branch that weighed in on the issue. In a 4-1 decision, the state’s high court rejected a measure approved by voters in 2008, barring holders of large, no-bid government contracts from making political contributions. The justices found Amendment 54 vague, overbroad and “so incomplete or riddled with omissions that it cannot be salvag(ed).”

They also disagreed with provisions defining labor unions as no-bid government contractors, limiting their political contributions, and prohibiting contractors and their families from making campaign donations for two years after receiving a no-bid contract.

“Boards and nonprofits won’t have to choose between civic service and being able to make political contributions,” said Doug Friednash, a lawyer for one group of plaintiffs.

Tom Lucero, former head of the Amendment 54 campaign and current congressional candidate, on the other hand, called the decision “very disappointing.”

“Back (in 2008), everybody was talking about the need for transparency and trying to get pay-to-play out of politics,” he said. “We thought Amendment 54 would have been a perfect solution.”

And while dissenting Justice Alex Martinez agreed with many of the problems outlined by the majority, he argued that with a few key edits, the amendment could be preserved on a smaller scale.

But even the state lawyers who defended the amendment in court said it faced an uphill battle from the start.

“When we took up this case, we knew it was going to be a tough case to make. Clearly, Amendment 54 had some constitutional issues from the get-go,” said Mike Saccone, a spokesman for the Attorney General’s Office. “The Supreme Court decision today was not unanticipated.” (ARIZONA DAILY SUN [FLAGSTAFF], DENVER POST)

POLITICS IN BRIEF: Former FLORIDA House Speaker Ray Sansom (R) resigned from the House of Representatives last week, on the eve of an ethics trial

The week in session

States in Regular Session: AK, AL, AR, AZ, CA, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, MA, MD, ME, MI, MN, MO, MS, NE, NH, NJ, NM, OH, OK, PR, RI, SC, SD, TN, US, UT, VA, VT, WA, WI, WV, WY

States in Regular Session: AK, AL, AR, AZ, CA, CO, CT, DC, FL, HI, IA, ID, IL, IN, KS, KY, MA, MD, ME, MI, MN, MO, MS, NE, NH, NJ, NY, OH, OK, PR, RI, SC, SD, TN, US, UT, VA, WA, WI, WV, WY

States in Recess: GA, VT

States in Special Session: CA “f”, CA “h”, NM “a”, NV “b”, WI “b”

States in Budget Hearings: DE, PA

States Currently Prefiling or Drafting for 2010: LA, MT, ND

States Projected to Adjourn: WY

States in Special Session Projected to Adjourn: CA “f”, CA “h”, WI “b”

States Adjourned in 2010: NM

State Special Sessions Adjourned in 2010: AZ “a”, CA “e”, OR “a”, TN “a”

Letters indicate special/extraordinary sessions

— Compiled By JAMES ROSS
(session information current as of 2/26/2010)
Source: State Net database



over his dealings with a Panhandle college. Sansom had stepped down from his leadership post in January after it was revealed that he took a job at Northwest Florida State College the same day in November 2008 that he was sworn in as speaker (MIAMI HERALD).

— *Compiled by KOREY CLARK*

Governors

GOVNS PUSH FOR BOEING IN TANKER BID: A bipartisan collection of nine governors urged the Pentagon last week to award U.S. plane manufacturer Boeing a \$35 billion contract to build a new Air Force tanker. The governors also announced the formation of a new coalition called “U.S. Tanker 2010,” intended to separate Boeing from its rival, a partnership between Northrop Grumman and EADS, parent company of the European consortium Airbus. The coalition is comprised of governors from WASHINGTON, KANSAS, ILLINOIS, CONNECTICUT, IOWA, MAINE, MISSOURI, OREGON and UTAH. Boeing has significant operations in all of those states.

Speaking to the National Press Club in Washington D.C., WASHINGTON Gov. Christine Gregoire (D), who chairs the group, said Boeing was superior on national security, value for taxpayers and the military’s needs.

“The last time my state needed jobs this badly, Boeing was building the propeller-driven 247 [airliner (in the 1930s)]. It’s time for that tanker to be built in America.”

“There is only one competitor that has the capability to build this tanker now,” she said.

Several of the governors noted the impact the contract could have on jobs, indicating it would serve in the same capacity as another federal stimulus.

“It’s important that we keep Americans at work. Awarding Boeing the contract to supply our next fleet of tankers will ensure work for 40,000 to 50,000 people across the country,” Gregoire said, adding, “The last time my state needed jobs this badly,

Boeing was building the propeller-driven 247 [airliner (in the 1930s)]. It’s time for that tanker to be built in America.”

The governors’ efforts mark the latest round in what has been a long and at times tortured effort to get the new tanker underway. Boeing was originally awarded the contract in 2003, only to lose it a year later after it was revealed that a former key Air Force procurement officer had colluded with the company’s chief financial officer. Both served prison time. The contract then moved to Northrop-EADS (European Aeronautic Defence & Space) in February 2008, but that deal was also voided after government auditors determined the procurement assessments had unfairly penalized Boeing.



Although the process has since in theory been revamped to completely remove any subjectivity, it has not been immune from controversy. U.S. Sen. Richard Shelby (R-ALABAMA) recently sparked an uproar in Congress by blocking approximately 70 of President Barack Obama’s federal appointees in an effort to steer the contract to Northrop, which has said it will build the tanker in the Heart of Dixie. Shelby eventually released most of the holds, though he contends the process is still distinctly slanted to favor Boeing.

“The final RFP [Request for Proposal] discredits the integrity of the entire process,” Shelby says. “It is an illusion of a fair competition in which the warfighter and the taxpayer lose.”

Northrop did not offer a comment when the RFP was released last week, though the company has intimated previously that if the process remains unchanged, it would not submit a final bid on the project, leaving the government with only a single bid on one of the richest contracts in military history.

Deputy Defense Secretary Bill Lynn defended the process, saying, “We think we’ve put forward a balanced and fair competition.” He also declined to speculate what officials may do should Northrop back out.

“When we get to that point we’ll address that question,” he told reporters. “I don’t want to go beyond the statement that we have...We are hoping that we don’t have to.” (WASHINGTON POST, SEATTLE TIMES, WASHINGTON GOVERNOR’S OFFICE, DAILY TECH.COM)

GOVS DEFEND, REVILE FEDERAL STIMULUS: With Congress weighing further efforts to help financially struggling states, several governors weighed in last week on the merits of last year’s American Recovery and Reinvestment Act, or ARRA. Some of the strongest feelings against the stimulus plan came from Republican Gov. Tim Pawlenty of MINNESOTA, an anticipated presidential candidate in 2012, who called it “a waste of money that is now sustaining government at a time when we need to be shrinking government.” MISSISSIPPI Gov. Haley Barbour (R) also criticized ARRA, saying it mostly benefited state governments and did not create enough private sector jobs.

But PENNSYLVANIA Gov. Ed Rendell (D) had the opposite view. “We could fill every baseball stadium in the country with people who got jobs or whose job was saved by the stimulus,” he said. The strongest support, however, came from

Upcoming elections

2/25/2010 - 3/18/2010

03/02/2010

Connecticut Special Election

House District 120

Texas Primary Election

House (All)

Senate Districts 1, 2, 3, 5, 7, 8, 12, 13, 14, 15, 17, 18, 19, 22, 25, 29

Constitutional Officers:

Governor, Lieutenant Governor, Attorney General, Comptroller of Public Accounts
US House (All)

Virginia Special Election

House District 41

03/09/2010

Mississippi Special Runoff

Senate District 36

New Hampshire Special Election

House Coos County District 2

03/16/2010

New York Special Election

Senate District 13

Hot issues

B **USINESS:** The **OREGON** Senate approves SB 1045a, which would bar most Beaver State employers from factoring a job applicant's credit history into their pre-employment screening. The measure would exempt banks, law enforcement agencies and other businesses that can show credit checks are necessary to evaluate candidates for specific positions. The bill moves to Gov. Ted Kulongoski (D) for review (**OREGONIAN [PORTLAND]**). • The **ALABAMA** House endorses HB 260, a bill that would give Heart of Dixie employers a tax deduction if they hire a person who currently is unemployed and keep that person working for at least a year. The deduction would be equal to 50 percent of the employee's salary. The bill has moved to the Senate (**MONTGOMERY ADVERTISER**). • The **IOWA** Senate endorses HF 2280, a bill that requires commercial breeders of dogs and cats to provide those animals with adequate feed, water, housing, sanitary control, grooming practices and veterinary care. It moves to Gov. Chet Culver (D) for review (**DES MOINES REGISTER**).

CRIME & PUNISHMENT: The **SOUTH DAKOTA** House approves HB 1187, a measure that makes it a felony to kill an on-duty police dog. The bill, which now moves to the Senate, would also make it a misdemeanor to injure, strike or torment a law enforcement support animal (**RAPID CITY JOURNAL**). • The **ALABAMA** House approves HB 528, a bill that requires stores selling cold medicines containing ephedrine and pseudoephedrine — which can also be used to make methamphetamine — to keep those products stored behind the counter. The measure also limits customers to buying no more than six grams of any such product in a 30-day period. It moves to the Senate (**MOBILE PRESS-REGISTER**). • The **KANSAS** Senate falls one vote short of approving SB 375, which would have abolished capital punishment in the Sunflower State (**LAWRENCE JOURNAL-WORLD**).

EDUCATION: The **NEW JERSEY** Senate and Assembly approve SB 826, a bill that requires Garden State teachers seeking tuition assistance or higher pay related to earning an advanced degree to obtain their education from an accredited academic institution. The degree must also be in a subject related to the teacher's current or future job. It moves to Gov. Chris Christie (R) for review (**STAR-LEDGER [NEWARK]**). • The **OREGON** House and Senate give final approval to HB 3686a, a bill that lifts the state's 87-year-old ban on teachers wearing religious garb in the classroom. It moves to Gov. Ted Kulongoski (D) for review (**OREGONIAN [PORTLAND]**). • Still in **OREGON**, lawmakers approve HB 3660a, which requires virtual charter schools to use the same accounting systems as other public schools. The bill also mandates that teachers and administrators hold appropriate licenses and requires teachers and students



to meet regularly. It is now with Gov. Kulongoski (STATESMAN-JOURNAL [SALEM]). • **WISCONSIN** Gov. Jim Doyle (D) signs AB 458, which requires Badger State public schools that teach sex education to include information on birth control and the prevention of sexually transmitted diseases (MILWAUKEE JOURNAL-SENTINEL).

In case you missed it

In our latest one-on-one conversation, SNCJ talks with MASSACHUSETTS Sen. Richard Moore (D) about his state's historic health care reform program and the surprising election of Scott Brown.

In case you missed it, the article can be found on our Web site at http://www.statenet.com/capitol_journal/02-15-2010/html

ENVIRONMENT: The **OREGON** Senate and House endorse SB 1059a, which would require state officials to develop a transportation strategy on greenhouse gases and educate the public about “the need to reduce greenhouse gas emissions from motor vehicles” and the costs and benefits of doing so. The proposal would also mandate vehicle greenhouse gas reduction targets for the state’s five largest metropolitan areas. It moves to Gov. Ted Kulongoski (D) for review (OREGONIAN [PORTLAND]). • Citing recent radiation leaks and other problems, the **VERMONT** Senate votes to block the operation of the Vermont Yankee nuclear power plant when its license expires in 2012. The bill (SB 289) marks the first time in more than two decades that a nuclear plant has been closed by the public or lawmakers (NEW YORK TIMES).

HEALTH & SCIENCE: The **COLORADO** House approves HB 1008, which bars health insurers from using gender to set rates on individual health policies. It is now with the Senate (COLORADO INDEPENDENT). • Still in **COLORADO**, the House approves HB 1021, a bill that would require insurance companies to include prenatal care and birth control in all plans offered to women on the individual health care market (COLORADO INDEPENDENT). • The **OREGON** Legislature approves SB 1046a, which would allow Beaver State psychologists to prescribe certain medications. It moves to the House (OREGONIAN [PORTLAND]). • Still in **OREGON**, the Senate endorses HB 3663a, a measure that would allow teens aging out of foster care to retain health care coverage from the Oregon Health Plan until they turn 21. It moves to the House (OREGONIAN [PORTLAND]). • The **MISSOURI** Senate approves SB 636, which would fine insurers that don’t pay a health insurance claim within 45 days. The measure also allows insurance companies to delay interest payments to hospitals until the insurer owes \$100. It moves to the House (INSURANCE NEWS NET). • **IOWA** Gov. Chet Culver (D) signs HF 2075, legislation that forces health insurance companies to extend coverage to people who participate in clinical health trials for cancer (QUAD CITY TIMES [DAVENPORT]). • The **WEST VIRGINIA** Senate approves SB 230, which allows optometrists to perform certain specified surgical procedures. It is now in the House (CHARLESTON GAZETTE).

SOCIAL POLICY: The **OKLAHOMA** House rejects HB 2543, a bill that would have required married couples to receive at least one hour of counseling



that he has no intention of repeating last year’s marathon negotiating sessions, many of which culminated in lawmakers sacked out on the Legislature’s floor. Sleep-addled lawmakers ultimately passed several bills in the wee hours of the morning, drawing torrents of criticism from political observers and jibes from the equally-addled reporters forced to stay up all night covering them. Steinberg vowed to conduct all of the Senate’s battles in the light of day this time, saying, “I had more sleepovers last year than my 15-year-old daughter.”

MAYBE THEY WERE JUST TIRED: Speaking of CALIFORNIA’s ongoing budget squabble, someone might want to see if Assembly pols need a quick nap. As the *Los Angeles Times* reports, GOP lawmakers recently became cranky over a package of bills designed to close some of the state’s budget gap, saying those measures were being rushed along too fast. Dems, who control the chamber by a large margin, countered that Reeps needed to get with it as they were “in the big leagues now.” Reeps grumbled, but voting did ensue. Alas, so did confusion. After a host of the bills had their tally taken, Dems realized they had posted the wrong set of measures, requiring the previous votes to be expunged for a “do-over.” The gaffe prompted one GOP lawmaker to ask the obvious: “Is this the big leagues?”

SOMETHING FISHY GOING ON: If you run a barber shop in TENNESSEE, make sure any fish you have on the premises comes with tartar sauce and a side of fries. That’s because, as the *Nashville Tennessean* reports, the Volunteer State outlaws fish — as well as birds and other animals, save from service pets — from setting fin, foot or feather inside a haircutting establishment. And why is this? Well, since nobody really knows for sure, one fish-friendly lawmaker introduced a bill to overturn the law. State officials objected, however, saying the broadly-worded measure might allow controversial “fish pedicures,” an odd process in which fish nibble away dead foot flesh, noting that such procedures are banned in most states. The bill was subsequently amended to ensure any future barber shop fish tanks are for decorative purposes only.

LAW BY DEGREE: It is an age-old question: does book smarts trump common sense? As the *Charleston Gazette* reports, WEST VIRGINIA lawmakers moved a step closer last week to coming down on the side of the former by endorsing HB 4292, a bill that would require future judicial magistrates to have a college degree. Under current Mountain State law, magistrates need only to have a high school diploma and a clean criminal record. But the bill’s supporters argue that the complexity of the modern world requires magistrates with more education than in previous times. Opponents disagree, arguing that the bill would freeze out hordes of people whose common sense more than makes up for the lack of a sheepskin. They could have a point. Only about 17 percent of WEST VIRGINIA residents have a college degree, compared to 27 percent for the rest of the country.

— By RICH EHISEN

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Editor: Rich Ehsen — capj@statenet.com
Associate Editor: Korey Clark — capj@statenet.com
Contributing Editors: Virginia Nelson, Art Zimmerman
Editorial Advisor: Lou Cannon
Correspondents: Richard Cox (CA), Steve Karas (CA),
Bruce McKeeman (CA), James Ross (CA), Linda Mendenhall (IL),
Lauren King (MA) and Ben Livingood (PA)
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