Pension Review Board
May 5, 2016

The Public Employee Pension Transparency Act
Pension Review Board

On March 21, 2016, H.R. 4822 was introduced in the House of Representatives of the 114th Congress by Rep. Nunes (CA).The bill is titled the Public Employee Pension Transparency Act (PEPTA) and has been referred to the House Committee on Ways and Means.

A similar bill, H.R. 6484, was filed by Rep. Nunes in the 111th Congress. It was re-introduced by him as H.R. 567 in the 112th Congress and as H.R. 1628 in the 113th Congress.[1]

The current version of the bill amends the Internal Revenue Code to create a federal reporting structure for state and local public retirement systems. Among the requirements for filing, sponsors of state and local government employee pension plans must report specific financial information to the U.S. Treasury Secretary (Secretary). A state or political subdivision that is noncompliant with specified reporting requirements would be denied federal tax benefits relating to any bond issued by it until it complies with the reporting requirements.

The bill would explicitly exempt the United States from liability for any current or future shortfall in any state or local government employee pension plan.

Annual Reporting Requirements

The proposed legislation requires a plan sponsor of a state or local government pension plan to file an annual report with the Secretary for plan years beginning on or after January 1, 2017. The annual report would have to be filed no later than 210 days after the end of the plan year (or as otherwise determined by the Secretary) setting forth:

A. **Funding status** - Schedule of funding status, including the current liability of the plan, amount of plan assets, net unfunded liability, and plan's funding percentage. Current liability is defined as the present value of all benefits accrued or earned under the plan as of the end of the plan year.
B. **Contribution schedule** - Schedule of contributions by the plan sponsor for the plan year, indicating contributions which are or are not taken into account in the schedule of funding status.
C. **Alternative projections of cash flow** – Alternative projections related to the annual contributions, fair market value of assets, current liability, and plan funding status for each of the next 60 plan years. This would also include a statement of assumptions and methods used in the projections and those related to the plan's funding policy, benefit changes, future workforce projections, and future plan returns. The Secretary would issue regulations to achieve comparability across plans regarding the assumptions and methods used in the projections.
D. **Statement of actuarial assumptions -** Statement of actuarial assumptions, including the assumed rate of return on invested plan assets for the plan year, and other assumptions as determined by the Secretary.

[1] *For information on bill status and progress, please see:* https://www.govtrack.us/congress/bills/114/hr4822

E. **Membership information** - Statement of plan participants, including the number of active, retired, and vested deferred members.
F. **Investment Returns** - Statement of the plan investment returns, including the actual rate of return for the plan year and 5 preceding plan years.
G. **Unfunded liability** - Statement of the degree and manner in which the plan sponsor expects to eliminate any unfunded current liability, as well as the extent to which the plan sponsor has followed the plan's funding policy for the 5 preceding plan years.
H. **Pension obligation bonds** - Statement of outstanding pension obligation bonds, including the total amount outstanding.
I. **Plan cost** - A statement of the current cost of the plan for the plan year.

The bill directs the Secretary to develop model reporting statements and create and maintain a public website, with searchable capabilities, for purposes of posting plan information required by the bill.

Supplementary Reporting Requirements

Supplementary reports would be required if the annual report does not measure assets at fair market value or if liabilities are not discounted using U.S. Treasury bond yields. The supplementary reports would re-measure reported items in A, F, G, and I above, using assets at fair market value and liabilities discounted using the "U.S. Treasury Obligation Yield Curve Rate." This yield curve rate would be developed by the Secretary and would consist of three rates, based on U.S. Treasury bond yields of different maturities:
(1) Over the next 5 years;
(2) Between 6 and 20 years; and
(3) Over 20 years.

The rates would be determined on a monthly basis and reflect average monthly yields over the preceding 24 month period.

Conclusion

The potential impact of the legislation is significant for both Texas public retirement systems and their sponsoring governmental entities. The Pension Review Board (PRB) was created in large part as a response to the federal government's interest in pursuing ERISA-style legislation for state and local public retirement systems. Although some of the proposed reporting requirements are similar to PRB reporting requirements in Texas Government Code, Chapter 802, certain elements of the proposal differ greatly from existing PRB reporting requirements, and some are vastly different from current actuarial standards of practice.