

# GUARDIANS OF THE FINANCE GALAXY

THE 2019 CSMFO ANNUAL CONFERENCE

## Important Developments and Trends Affecting Public Sector Pensions, OPEB, and Other Benefits

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# The Pension "Saga" Continues...

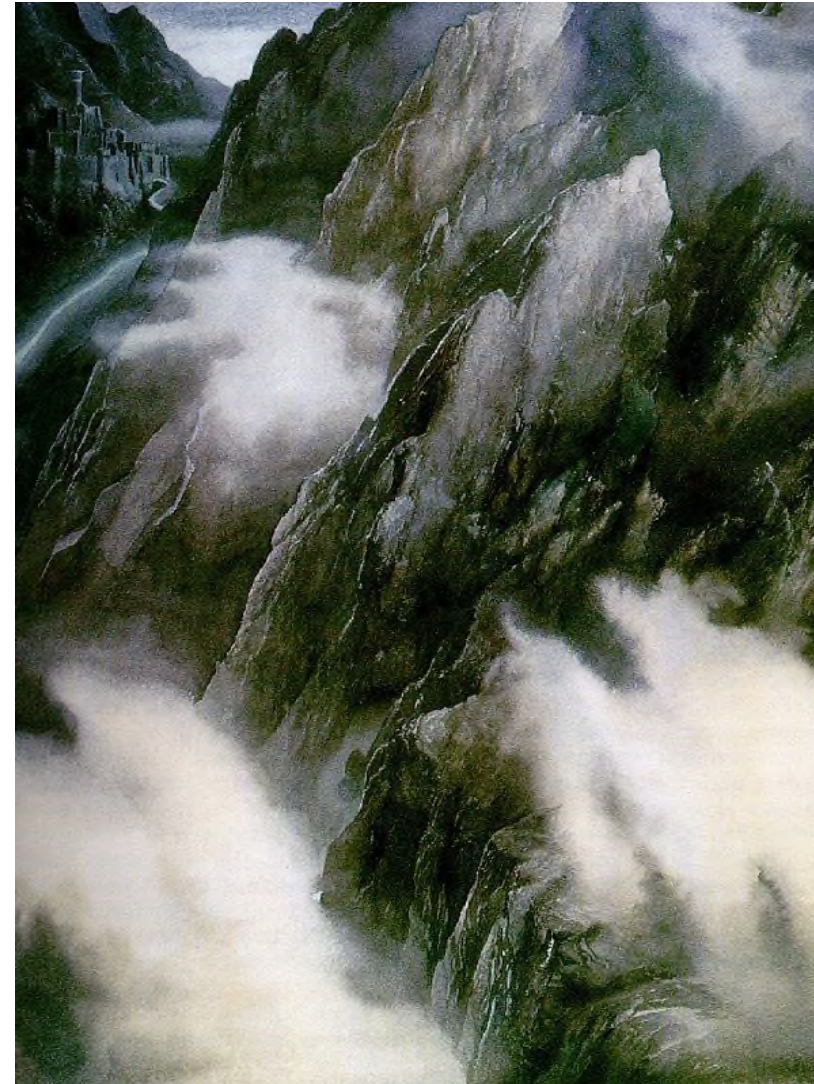
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## When we last spoke...

- LOCC/Bartel report had just come out (suggesting "dark times" ahead):
  - City pension costs will increase by FY 2024-25 by > 50%
  - Increases would almost double their % of General Fund \$ paid to CalPERS
  - Cities (and districts) had few options to deal with these coming increases





# The situation may be worse than expected

- The Bartel report uses CalPERS' own earnings assumption of 7%
- Based on its 2017 ALM study, CalPERS is "investing for the long term" to obtain 7% rate – using a 70/30 portfolio weighted towards private equity
- However, CalPERS acknowledges it is not likely to get 7% in the next 10 yrs





## What happens if $< 7\%$ return?

- If CalPERS "long-term" investment strategy does not yield 7%, in the short-term, look for more volatile/increased employer contribution rates...
- Check your "asset-volatility ratio." If yours is 10, then your contributions as a % of payroll will increase by that % for each 1% of fund underperformance!
- What is "unsustainable"?





## Meanwhile, we have had the benefit of a wise and strong leader

- Governor Brown has pushed his legal team, and the Cal. Supreme Ct. to deal with the cases dealing with "vested pension rights"
  - Shuffled legal team representing the State
  - Wrote letter to Ct. urging immediate action
  - Made numerous public statements suggesting that the "California Rule" had to be changed





# What, if anything, do the Cal. Fire arguments tell us? Is there a way forward?

- Ct. seemed to focus on:
  - What is the nature/origin of the "promise"?
  - How is it expressed?
  - What is the consideration given by employees? On day one?
- My view is that Ct. will rule to allow agencies to make "reasonable" changes to pension formulas/plans affecting actives



Unfortunately, our leader was "lost" to us (due to term limits)

- Governor-elect Newsom has gone on record stating he would not "enforce a change in the California Rule." What does this mean?
- Even assuming that the Court provides a pro-employer ruling, real change will require legislative action and resolution of any further or related litigation





## So..., what must be done now?

- Some of you (in the worst shape) will have to "go it alone" and try to deal with the short-term situation without relief from the Rule
- This will be a huge quest/task/undertaking because it involves getting "help" from those you may not have gotten along with in the past





## How can you succeed in your quest?

- You need to analyze/evaluate the coming situation now – how bad might it be
- You need buy-in from all stakeholders – so involve and educate them now
- If this task/process is "beyond your pay grade," get help
- There are a significant number of cities looking at this now





## Meanwhile, ... back in the Shire

Other things are happening:

- A.B. 1912 – JPA members responsible for certain pension liabilities
- A.B. 1124 (not enacted) – imposes "pension liabilities" on agencies with respect to "mistakes." Worth keeping an eye on.





# LEGISLATIVE/SACRAMENTO UPDATE



- Very little in pensions and OPEBs
- Pension/OPEB changes will occur in courts, on ballot, if any
- November elections resulted in 9 new Senators & 10 Assembly Members – Dems, super super majority
- New Governor, Lieutenant Gov, Treasurer, SPI, Insurance Commissioner



# The Political & Policy Ramifications of Janus vs. AFSCME



- Agency Shop fees – not anymore
- Opt-in vs. Opt-out
- What about free riders?
- State Controller – stopped collecting agency shop fees 47k workers (\$1k/year savings)
- 23k CA State workers
- Union members – given a window to opt out



# The Political & Policy Ramifications of Janus vs. AFSCME



- CTA – 23,000 member loss - \$20m (\$7.7m per year)
- - 325,000 members (28,000 agency shop members)
- - Set to increase dues \$5 to \$10
- AFSCME - 10% agency shop workers
- SEIU – 96k total union members, > 30k agency shop
- Public safety – 90% participation rate



# California Reacts



- **Budget Trailer Bill** – June negotiations
  - Employers must provide unions with employees info
    - Every 120 days
  - Regular union orientation meetings – 10 days' notice
- **AB 83** – Allows judicial employees to join a union
- **SB 201** – Allows student employees of UC and CSU to join a union
- **SB 285** – Employers cannot discourage employees from joining union
- **SB 550** – Make employers pay legal fees if they lose a labor dispute



# California Reacts



- **Possible legislation next year**

- Unions to institute specific time periods when a member can leave
- Give unions 5 days to review a request to cancel
- Require workers to contact the union, not employer, to cancel
- Expand union membership to transit supervisors
- Reaffirm the requirement of employers to engage in payroll deductions when employees request them



# AB 1912 – SEIU Sponsored Bill

- **AB 1912 (Rodriguez)** – Joint Powers Authority
- ***Prior to deal being struck ~***
  - Required debts, liabilities, obligations of a JPA to be those of participating agencies
  - Jointly & severally liable – RETROACTIVE
  - Prohibited CalPERS from contracting with JPA unless contract specifies the above.
  - Required CalPERS to reopen any existing contract to include it
  - Refuse? Find another means for providing employee retiree benefits
  - Lien rights of assets



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# AB 1912 – SEIU Sponsored Bill



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- AB 1912 (Rodriguez) – Joint Powers Authority  
*Why did SEIU agree to negotiate?*

- League of Cities, CSAC, CSDA, Urban Counties, CAJPA oppose
- Constitutional issues?
- Effect GASB, credit ratings
- Passed Assembly Floor with 49 Votes
- Failed passage in Sen PE&R Committee – Sen Portantino stayed off



# AB 1912 – SEIU Sponsored Bill

- AB 1912 (Rodriguez) – Joint Powers Authority
- *The Deal ~*
  - Eliminated the joint and several liability provisions (retroactively and prospectively) in favor of a more equitable apportionment scheme
  - The apportionment and financial reporting of liability only applies when a JPA dissolves, ceases operations, or has its contract with the retirement system terminated
  - Additional flexibility to negotiate
  - Lien rights of assets removed





# ACA 31 – A Behind the Scenes

- **Caps ALL public employee salaries:**

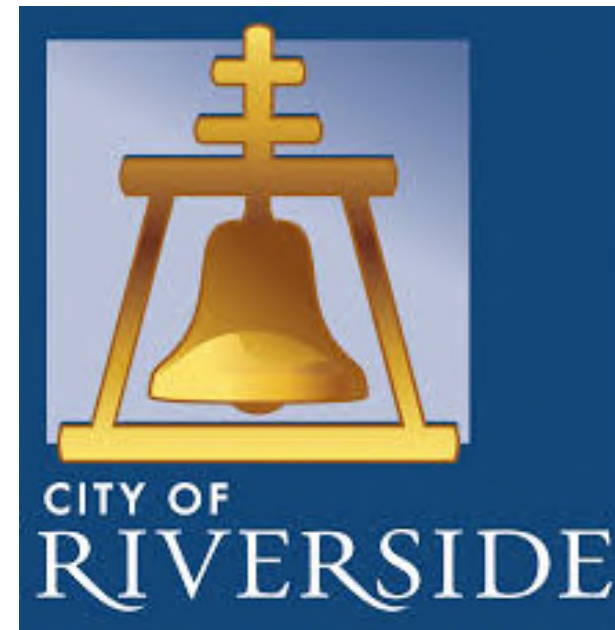
- At or below Governor
- Includes base pay & pay rate
- Current contracts would be in effect
- Applies to renewals

- **Governor makes \$190,100**

- This would effect: UC, CSU, Public Hospitals, Cities, Counties, State Engineers, Charter Cities/Counties, Public Schools, Teaching/Medical Hospitals, Boards, Commissions, CalPERS, CalSTRS, 37 Act Systems

- **Uh, how did this happen????**

- It's a story about Riverside, the City Manager, the Mayor & Assembly Member Cervantes



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# Other Bills of Interest - Signed

- **SB 1270** – Allows CERAs to appoint:
  - Assistant Administrator and CIO to serve Board
  - Must adopt reso w/majority vote
- **Failed passage:**
  - DC plans for state workers,
  - equity pay in private equity funds,
  - OPEB report requirements –
    - targeting prefunding contributions,
    - using an irrevocable trust,
    - diversified portfolio requirements,
    - using a targeted and realistic discount rate.







## QUESTIONS? MORE INFORMATION?

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