LABOR NEGOTIATIONS UPDATE
2018

JONATHAN HOLTZMAN ● STUART SCHILLINGER

December 13, 2018
MUNICIPAL FINANCE INSTITUTE 2018

AGENDA

- The Big Picture
  - CalPERS
  - Healthcare
  - Janus and the State’s Reaction
  - Vesting
  - Business Cycle
  - CPI and Wage Growth
  - Pent Up Employee Demand
  - Public Pressures Across the Spectrum
  - Head Count Reductions
  - Declining Infrastructure

- 2018 Bargaining Strategy
- What is Your Labor Strategy?
THE BIG PICTURE

CALPERS: HOW WE GOT HERE

- Investment Losses & Volatility
- CalPERS Contribution Policy
  - No asset smoothing
  - No rolling amortization
- Enhanced Benefits
  - Inclusion of prior service
- Demographics
  - Declining active population vs. retirees
- Assumption Changes
  - Anticipate future mortality improvement
  - Discount rate reduction from 7.5 % – 7.0 %
- Risk Mitigation Strategy
  - More conservative investments over time
- New Amortization Policy (2018)
  - 20 years vs 30 years
  - 5 year ramp up for gains (not losses)

<table>
<thead>
<tr>
<th>Year</th>
<th>Gain</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>0.1 %</td>
</tr>
<tr>
<td>2013</td>
<td>13.2 %</td>
</tr>
<tr>
<td>2014</td>
<td>18.4%</td>
</tr>
<tr>
<td>2015</td>
<td>2.4%</td>
</tr>
<tr>
<td>2016</td>
<td>0.6%</td>
</tr>
<tr>
<td>2017</td>
<td>11.2 %</td>
</tr>
<tr>
<td>6-year Average</td>
<td>7.65 %</td>
</tr>
</tbody>
</table>
CALPERS: CONTRIBUTION PROJECTION

CALPERS: PROJECTED BUDGET IMPACT

Source: League of California Cities, "Retirement System Sustainability Study and Findings," January 2018
CALPERS: PROJECTED BUDGET IMPACT

CALPERS CITY
2017/18
CONTRIBUTIONS
AS % GENERAL
FUND_budget
BY COUNTY

Source: League of California Cities, "Retirement System Sustainability Study and Findings," January 2018

CALPERS: PROJECTED BUDGET IMPACT

CALPERS CITY
2024/25
CONTRIBUTIONS
AS % GENERAL
FUND budget
BY COUNTY

Source: League of California Cities, "Retirement System Sustainability Study and Findings," January 2018
HEALTHCARE COSTS

Average Annual Worker and Employer Premium Contributions and Total Premiums for Family Coverage, 2008, 2013, and 2018

- Employer Contribution
- Worker Contribution

- $12,660
- $9,325
- $3,354

- $16,351
- $11,706
- $4,965

- $19,618
- $14,060
- $5,547

NOTE: Since 2008, the average family premium has increased 55% and the average worker contribution toward the premium has increased 65%.

JANUS

- No public employer can permit a union to require non-members to pay a fee for the costs of representation without the clear and affirmative consent of the non-member.

- Any “agency fee” or “fair share” provisions in collective bargaining agreements or other agency fee arrangements are unconstitutional and immediately null and void.
RESPONSES TO JANUS

SB 866
Requires that employees wishing to make or withdraw dues authorization go through their union; union not required to provide copy to employer unless there is a dispute. Employers must honor employees' union dues requests and are indemnified against claims regarding propriety of dues deductions.

AB 119
Employers must provide contact information, including home addresses, to exclusive representatives for all new employees within 30 days of hire. Provide unions 10 day notice of new employee orientations.

SB 285
“[A] public employer shall not deter or discourage public employees from becoming or remaining members of an employee organization.”

SB 1085
Requires employer to grant “reasonable” leaves of absence, without loss of pay, to employees serving as union stewards or union officers.

KEY PENDING CASES

1. *Marin Assn. of Public Employees v. Marin County Employees Retirement Sys.* (2016) 2 Cal. App. 5th 674 (Supreme Court Case No. S237460): largely dispensed with the “comparable new advantage” requirement and takes an expansive view on what constitutes “reasonable changes” to vested pension benefits.

2. *Cal. Fire Local 2881 v. CalPERS* (2016) 7 Cal. App. 5th 11 (Supreme Court Case No. S239958): applied REAOC standard to find no vested right to “airtime”; adopted reasoning in *Marin* and held that pension benefits may be modified prospectively, before retirement, so long as reasonable or substantial pension remains.

ISSUES IN PENSION VESTING CASES BEFORE THE CALIFORNIA SUPREME COURT

- “Unmistakability Doctrine”
- When does a benefit become vested?
- What aspects of benefits are vested?
- Are future unearned benefits vested?
- Do changes to vested benefits require a “comparable new advantage.”

BUSINESS CYCLE: 114 MONTHS SINCE THE LAST RECESSION

Since 1945, the average expansionary period lasted **58.4 months** across 11 business cycles. The current expansion has lasted **114 months** as of December 2018

Source: National Bureau of Economic Research
CONSUMER PRICE INDEX (CPI)

- In November 2018, the Federal Reserve Bank of Philadelphia stated that “over the next 10 years, 2018 to 2027, the forecasters expect headline CPI inflation to average 2.21 percent at an annual rate.”

- Specifically, the Federal Reserve's forecast is as follows:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>CPI</td>
<td>2.40%</td>
<td>2.30%</td>
<td>2.30%</td>
<td>2.25%</td>
<td>2.21%</td>
</tr>
</tbody>
</table>

- Meanwhile, the most recent statewide CPI inflation (from the California Department of Labor) averaged 3.9% from August 2017 to August 2018 (4.3 %Bay Area).

WAGE GROWTH

<table>
<thead>
<tr>
<th>Year</th>
<th>Government Wage Growth (Q4 Annualized)</th>
<th>Private Industry Wage Growth (Q4 Annualized)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>3.0 %</td>
<td>2.4 %</td>
</tr>
<tr>
<td>2009</td>
<td>2.3 %</td>
<td>1.2 %</td>
</tr>
<tr>
<td>2010</td>
<td>1.8 %</td>
<td>2.1 %</td>
</tr>
<tr>
<td>2011</td>
<td>1.3 %</td>
<td>2.2 %</td>
</tr>
<tr>
<td>2012</td>
<td>1.9 %</td>
<td>1.8 %</td>
</tr>
<tr>
<td>2013</td>
<td>1.9 %</td>
<td>2.0 %</td>
</tr>
<tr>
<td>2014</td>
<td>2.0 %</td>
<td>2.3 %</td>
</tr>
<tr>
<td>2015</td>
<td>2.5 %</td>
<td>1.9 %</td>
</tr>
<tr>
<td>2016</td>
<td>2.4 %</td>
<td>2.2 %</td>
</tr>
<tr>
<td>2017</td>
<td>2.5 %</td>
<td>2.6 %</td>
</tr>
<tr>
<td>2018</td>
<td>2.5 % (Q3)</td>
<td>2.9 % (Q3)</td>
</tr>
</tbody>
</table>

Source: US Bureau of Labor Statistics, Employment Cost Index, 2018
“I know these reforms will not be popular with everyone. I also know that failure to follow through with dramatic pension reform will imperil the system for everyone, and that failure to control and share costs of health care benefits will continue to eat away at our state and local budgets. We must reverse the damage caused by fairy tale promises that have fattened benefits and pensions to unsustainable levels while ballooning unfunded liabilities to breathtaking levels.”

- New Jersey Governor Chris Christie, September 14, 2010

“I don’t know about a more important progressive issue than pension reform. There is no discretion left in our budgets to advance our progressive values of investing in people and investing in place if that discretion is taken up to meet our (pension) obligations.”

- California Lieutenant Governor, and former San Francisco Mayor Gavin Newsom, May 22, 2010
**HEADCOUNT REDUCTIONS**

- **City Service Levels Remain Substantially Below Pre-Recessionary Levels.**
- City X’s FTE of 401 in FY2015 is more than 21% below peak staffing levels achieved pre-recession (510 FTE in FY2006).

![City X Full-Time Equivalent Employees](chart1.png)

**DECLINING INFRASTRUCTURE: PAVEMENT CONDITION INDEX**

![Resultant PCI by Budget Scenario 15-Year Program](chart2.png)

**PCI Decision Matrix**

- **TIME OF IMPROVEMENT**
  - Adequate: >85
  - 6 to 10 years: 76 to 85
  - 1 to 5 years: 66 to 75
  - NOW Rehabilitate: <60
  - NOW Reconstruct: <50
- **FREeway**
  - 6 to 10 years: >85
  - 1 to 5 years: >75
  - NOW Rehabilitate: >60
  - NOW Reconstruct: >50
- **ARTeral**
  - 6 to 10 years: >85
  - 1 to 5 years: >75
  - NOW Rehabilitate: >60
  - NOW Reconstruct: >50
- **COLLECTOR**
  - 6 to 10 years: >85
  - 1 to 5 years: >75
  - NOW Rehabilitate: >60
  - NOW Reconstruct: >50
- **LOCAL**
  - 6 to 10 years: >85
  - 1 to 5 years: >75
  - NOW Rehabilitate: >60
  - NOW Reconstruct: >50

**Legend**
- $5.48/ft² - Eliminate Backlog (PCI 70)
- $4.48/ft² - Maintain Current (PCI of 70)
- $2.56/ft² - Budget Impact (PCI 61)
- $1.16/ft² - Budget Impact (PCI 50)
- No Funding Impact (PCI 39)
### 2018 BARGAINING SUMMARY

### MISCELLANEOUS WAGE GROWTH

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Los Angeles (City)</td>
<td>2.25%</td>
<td>2.25%</td>
<td>NA</td>
</tr>
<tr>
<td>Los Angeles (County)</td>
<td>2%</td>
<td>2%</td>
<td>NA</td>
</tr>
<tr>
<td>San Diego (City)</td>
<td>0%</td>
<td>3.30%</td>
<td>3.30%</td>
</tr>
<tr>
<td>Fresno (City)</td>
<td>2.50%</td>
<td>2.50%</td>
<td>2.50%</td>
</tr>
<tr>
<td>Fresno (County)</td>
<td>---</td>
<td>3%</td>
<td>3%</td>
</tr>
<tr>
<td>San Francisco (City and County)</td>
<td>3%</td>
<td>3%</td>
<td>NA</td>
</tr>
<tr>
<td>Oakland</td>
<td>4%</td>
<td>1-2% (trigger)</td>
<td>NA</td>
</tr>
<tr>
<td>San Jose</td>
<td>3%</td>
<td>5%</td>
<td>3%</td>
</tr>
<tr>
<td>Bakersfield</td>
<td>0%</td>
<td>0%</td>
<td>NA</td>
</tr>
<tr>
<td>Santa Rosa</td>
<td>3%</td>
<td>3%</td>
<td>2.50%</td>
</tr>
<tr>
<td>Long Beach</td>
<td>2%</td>
<td>2%</td>
<td>NA</td>
</tr>
<tr>
<td>Sacramento (City)</td>
<td>2%</td>
<td>2%</td>
<td>NA</td>
</tr>
<tr>
<td>Sacramento (County)</td>
<td>2-5% (CPI)</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>
POLICE WAGE GROWTH

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Los Angeles (City)</td>
<td>4%</td>
<td>4.5-5%</td>
<td>NA</td>
</tr>
<tr>
<td>Los Angeles (County)</td>
<td>3-4%</td>
<td>2%</td>
<td>2.5%</td>
</tr>
<tr>
<td>San Diego (City)</td>
<td>0</td>
<td>3.3%</td>
<td>3.3%</td>
</tr>
<tr>
<td>Fresno (City)</td>
<td>5% (step)</td>
<td>3%</td>
<td>NA</td>
</tr>
<tr>
<td>Fresno (County)</td>
<td>5%</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>San Francisco (City and County)</td>
<td>2%</td>
<td>3%</td>
<td>3%</td>
</tr>
<tr>
<td>Oakland</td>
<td>3.5%</td>
<td>4%</td>
<td>2.5%</td>
</tr>
<tr>
<td>San Jose</td>
<td>10%</td>
<td>3.25%</td>
<td>3%</td>
</tr>
<tr>
<td>Bakersfield</td>
<td>0%</td>
<td>0%</td>
<td>NA</td>
</tr>
<tr>
<td>Santa Rosa</td>
<td>3.5%</td>
<td>3.5%</td>
<td>NA</td>
</tr>
<tr>
<td>Long Beach</td>
<td>3%</td>
<td>3%</td>
<td>NA</td>
</tr>
<tr>
<td>Sacramento (City)</td>
<td>3%</td>
<td>2%</td>
<td>NA</td>
</tr>
<tr>
<td>Sacramento (County)</td>
<td>2-5% (CPI)</td>
<td>4%</td>
<td>3%</td>
</tr>
</tbody>
</table>

BARGAINING SUMMARY

- Not much progress on reform proposals
- Additional employee contributions to pensions
- Limiting healthcare cashouts (*Flores v. San Gabriel*)
- Employees believe they are still “catching up”
WHAT IS YOUR LABOR STRATEGY?

OPTION 1: REDUCE BENEFITS

1. Waiting for Cal Fire
2. Increase employee contribution to pension, health and OPEB
3. Adopt cafeteria plan, reduce retiree medical benefit
4. Second/third tier medical retiree benefits
5. WC carve-outs
OPTION 2: LIMIT PENSIONABLE WAGE

1. Can be in tension with option 1 (e.g. medical benefits)
2. Offer non-pensionable compensation

DEFERRED PAYMENTS
- Pension
- Future Health Care
- 457
- HAS
- VEBA

CURRENT PAYMENTS
- Insurance
  - Health
  - Dental
  - Vision
  - Disability
- Training/Education
- Reimbursements
- Time Off
  - Vacation
  - Holidays (Fixed and Floating)
- Sick
- Longevity
- Administrative

NON – PAY ORIENTED
- Work Schedule
  - City-Wide
  - Alternate (ie. 9/80)
  - 35 hour work week
  - Individual
  - Flexible Work from Home

OPTION 2: REFINING SALARY SURVEYS - MEDIAN HOUSEHOLD INCOME/MEDIAN HOME VALUE

<table>
<thead>
<tr>
<th>Metropolitan Statistical Area (MSA)</th>
<th>Median Household Income</th>
<th>Median Home Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Modesto MSA</td>
<td>$59,514</td>
<td>$288,200</td>
</tr>
<tr>
<td>Salinas MSA</td>
<td>$71,274</td>
<td>$411,700</td>
</tr>
<tr>
<td>Vallejo-Fairfield MSA</td>
<td>$77,133</td>
<td>$517,200</td>
</tr>
<tr>
<td>Santa Rosa MSA</td>
<td>$80,409</td>
<td>$628,400</td>
</tr>
<tr>
<td>San Francisco-Oakland-Hayward MSA</td>
<td>$101,714</td>
<td>$849,500</td>
</tr>
<tr>
<td>San Jose-Sunnyvale-Santa Clara MSA</td>
<td>$117,474</td>
<td>$957,700</td>
</tr>
</tbody>
</table>

**OPTION 3: INCREASE TRANSPARENCY**

1. Make actuarial studies readily accessible
2. Produce summaries of pay and benefits

###OPTION 3: AVERAGE PAY AND BENEFITS COST

<table>
<thead>
<tr>
<th></th>
<th>Firefighter</th>
<th>All Ranks in Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Salary</td>
<td>$91,932</td>
<td>$105,973</td>
</tr>
<tr>
<td>Longevity</td>
<td>$31</td>
<td>$582</td>
</tr>
<tr>
<td>Overtime</td>
<td>$28,967</td>
<td>$36,973</td>
</tr>
<tr>
<td>Timecard Special Pay</td>
<td>$7,200</td>
<td>$7,433</td>
</tr>
<tr>
<td>Education Pay</td>
<td>$652</td>
<td>$3,563</td>
</tr>
<tr>
<td>Paramedic Pay</td>
<td>$5,171</td>
<td>$2,948</td>
</tr>
<tr>
<td>Other Compensation</td>
<td>$1,078</td>
<td>$1,450</td>
</tr>
<tr>
<td>Uniform Allowance</td>
<td>$120</td>
<td>$219</td>
</tr>
<tr>
<td><strong>Total Cash</strong></td>
<td><strong>$135,151</strong></td>
<td><strong>$159,142</strong></td>
</tr>
<tr>
<td>Active Health</td>
<td>$22,527</td>
<td>$24,324</td>
</tr>
<tr>
<td>Retiree Health</td>
<td>$5,729</td>
<td>$6,603</td>
</tr>
<tr>
<td>Pension</td>
<td>$29,983</td>
<td>$33,587</td>
</tr>
<tr>
<td>Medicare</td>
<td>$1,960</td>
<td>$1,960</td>
</tr>
<tr>
<td>Life Insurance</td>
<td>$17</td>
<td>$17</td>
</tr>
<tr>
<td>Workers' Compensation</td>
<td>$8,053</td>
<td>$9,528</td>
</tr>
<tr>
<td>Unemployment Compensation</td>
<td>$121</td>
<td>$143</td>
</tr>
<tr>
<td><strong>Total Benefits</strong></td>
<td><strong>$68,389</strong></td>
<td><strong>$76,460</strong></td>
</tr>
<tr>
<td><strong>Total Employment Cost</strong></td>
<td><strong>$203,540</strong></td>
<td><strong>$235,602</strong></td>
</tr>
</tbody>
</table>

*How does this compare to the Median Household Income in the community?*
OPTION 3: INCREASE TRANSPARENCY

3. Roll “gimme” premiums into bases or eliminate
4. Overtime controls
5. Eliminate cashouts

OPTION 4: FUND LIABILITIES

1. Pension
2. OPEB
3. 115 Plans
OPTION 5: HOLD THE LINE

1. Is 3% the right number?
2. Your role with policymakers

You have to draw the line somewhere

OPTION 5: YOUR ROLE WITH POLICYMAKERS

1. The most important work of finance professionals is convincing policymakers regarding fiscal constraints.
2. Get involved in negotiation planning early:
   i. Provide a comprehensive financial overview to Council before bargaining goals set
   ii. Get a thorough actuarial study of PERS and OPEB liabilities
   iii. Review the comparability data – does it make sense?
3. Show the trade-offs with service
OPTION 5: YOUR ROLE WITH POLICYMAKERS

4. Better 5-year plans
5. Provide bargaining team with user friendly costing that can be adjusted on the fly
6. Finance staff need to give Council the tools to be effective, including:
   i. Non-static finance reporting system.
   ii. Frequent reports to track personnel costs.
   iii. Access to detailed benefit information (health and pension), projected costs, and long-term risks.
7. Ultimately, politics can outweigh affordability concerns if those concerns are not presented clearly & credibly.

The most effective finance professionals are persuasive with both labor and policymakers.
THANK YOU!

QUESTIONS?

Jonathan V. Holtzman  
Partner  
Renne Public Law Group  
jholtzman@publiclawgroup.com  
415.810.9447

Stuart Schillinger  
Administrative Services Director  
City of Brisbane  
schillinger@ci.brisbane.ca.us  
415.508.2151