

Summary of 2011 Enacted State Pension Legislation: Most Public Pension Plans Withstand Wholesale Attacks; Many States Diminish Benefits

The economic and political landscape for public pensions continues to be a harsh one. During the 2011 sessions, state legislators across the nation introduced and, in many instances, passed legislation to reduce pension benefits. The impetus for this legislation was both economic and political. States are still recovering from the lingering effects of the 2008 recession, and some took steps to reduce the cost of their pension funds. Further, the 2010 political elections resulted in a fundamental shift toward anti-public employee positions in many state legislatures, fueling the growing and false perception that public worker pensions are a threat to the taxpayer and to state economies. Notably, however, despite dozens of proposals to close public education pension plans, only one state significantly altered its pension plan structure.

In 2011, 25 states passed legislation affecting public employee pension benefits by eliminating or restricting cost-of-living adjustments, increasing the length of service and age requirements for retirement, changing vesting requirements, increasing employee contributions, decreasing benefit formulas, and in one case, eliminating the traditional pension plan. Although all of these changes represent diminished retirement security for educators, only Rhode Island made a sweeping structural change to its retirement plan. Rhode Island passed a bill closing its pension system to current employees and forcing all employees into a combination plan comprised of a defined contribution plan (401(k)-style accounts) combined with a smaller pension benefit. There were numerous other proposals to eliminate pensions in favor of defined contribution and combination plans that were defeated. Several states established commissions to study pension issues, and it is important to watch developments in these states closely to see if proposed legislation emerges as a result of the commissions' work.

Faced with significant challenges, NEA affiliates and their public pension allies successfully defended their pension plans from the worst attacks. By activating their membership and campaigning vigorously, NEA affiliates were key players in labor coalitions in numerous states that fought back proposals to eliminate pension plans for new public employees.

2011 Enacted Pension Changes

The majority of enacted changes affect new employees. These changes mean that public employees will have to work longer to earn the same retirement benefits, contribute more toward their plans, and/or receive smaller pensions. In addition, an ominous development emerged this year—proposals to limit public worker representation on public pension plan boards, despite research showing that employee trustees outperform those who are chosen as trustees because of their expertise or receive political appointments.

The following enacted bills affect public education employees:

- ❖ Increase employee contributions to the retirement plan:

- All employees (Alabama, Arizona, Colorado, Florida, Maryland, Nebraska, New Hampshire, New Jersey, New Mexico, North Dakota, Wisconsin)
- Certain current employees and new hires (Kansas¹, Rhode Island²)
- New hires only (Delaware, Hawaii, Montana)
- ❖ Increase the length of service required for vesting:
 - New hires only (Delaware, Florida, Hawaii, Maryland, North Carolina, Wisconsin)
- ❖ Increase the minimum length of service and/or age requirements for full retirement benefits:
 - New hires only (Arizona, Delaware, Florida, Hawaii, Maryland, Massachusetts, Mississippi, Montana, New Hampshire, New Jersey, Oklahoma)
 - All non-vested employees (Maine)
 - Certain vested employees and new hires (North Dakota³)
 - All employees (Rhode Island⁴)
- ❖ Reduce the multiplier in the benefit formula:
 - New hires only (Hawaii, Kansas¹, Maryland, Mississippi, Montana)
 - All employees (Rhode Island)
- ❖ Increase the period used to calculate Final Average Salary in the benefit formula:
 - New hires only (Florida, Hawaii, Maryland, Massachusetts, Montana)
 - All non-vested employees and new hires (New Hampshire)
 - All employees (Rhode Island)
- ❖ Decrease, restrict, or eliminate post-retirement cost-of-living adjustments:
 - All employees and retirees (Maine, New Jersey, Oklahoma, Rhode Island)
 - Certain retirees (Washington)
 - Current employees and new hires (Florida, Maryland)
 - New hires only (Hawaii, Mississippi)
 - Certain current employees and new hires (Kansas¹)
- ❖ Assess a new tax on retirement income (Michigan for persons born in 1946 or later)
- ❖ Eliminate public employee positions on trustee boards (Indiana, New Hampshire, Tennessee)
- ❖ Eliminate the defined benefit plan and institute a combination plan (Rhode Island)

Pension Study Commissions

Several states have established pension study commissions through legislation or other mechanisms to produce recommendations and/or inform potential future pension legislation. The members appointed to these commissions can have a significant impact on the types of recommendations the commission makes. Study commissions with public employee representation tend to be more balanced, while those consisting of “experts” or political appointees are more likely to be skewed by political agendas.

¹ For changes enacted in 2011 affecting the Kansas Public Employee Retirement System, further action at the state and federal level is necessary.

² Current and newly hired teachers in Rhode Island not participating in Social Security will have a contribution increase. Those participating in Social Security will have a contribution decrease.

³ Legislation that changed eligibility for retirement benefits affects current and new members of the North Dakota Teachers’ Fund for Retirement (TFFR) who are in Tier 2 and Tier 1 who are more than 10 years from retirement eligibility. The legislation did not affect members of the North Dakota Public Employees Retirement System (PERS).

⁴ Rhode Island teachers with at least 10 years of service on June 30, 2012, may elect to retire at their current retirement age with only the benefits accrued as of June 30, 2012. They must work until their modified retirement age in order to have any service credits earned after June 30, 2012, included in final retirement benefit calculation.

States that undertook pension study commissions in 2011 are Arizona, Indiana, Kansas, Maine, Mississippi, Nebraska, Nevada, New Hampshire, Ohio, Oklahoma, and Rhode Island.

Defending Public Pensions

The retirement security of educators and other public employees is under attack and further legislative proposals to change pension benefits are expected in 2012. But there are steps we can take now to minimize the potential for assaults on public employee pensions and maximize our ability to respond to challenges, attacks, and misinformation.

- Start early and be proactive. Now is the time to inoculate your pension plan against future attack.
- Educate and involve members. NEA members are powerful advocates. *Promoting Public Pensions: An NEA Toolkit* is an interactive guide designed to help educate and prepare members to speak out and advocate for retirement security⁵. The toolkit provides tips and useful resources for understanding the challenges to retirement security, responding to critics, and getting your messages out effectively.
- Build coalitions and alliances. Identify and develop partnerships with other organizations that share our goal to defend public pensions. A coalition of organizations can increase available resources and amplify the impact of each organization's efforts.
- Monitor the retirement system closely and continuously. Attend retirement board meetings and be alert for potential challenges and emerging issues. Member trustees may be a valuable resource because of their technical knowledge of the pension plan.
- Engage in pension study commissions if one is working in your state. Commissions make recommendations to the legislature based on the information they receive, review, and study. It is imperative to educate commission members with the real facts and provide them with an understanding of the impact of the changes they are considering. If pension plan participants are not represented on a commission, you can provide effective information through witnesses, testimony, and appropriate research.

For more information, please contact the NEA Collective Bargaining and Member Advocacy Department at (202) 822-7080 or CollectiveBargaining@nea.org.

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⁵[https://insidenea.nea.org/Departments/CBMA/CBC/HealthcareandRetirementBenefits/Documents/Promoting%20Public%20Pensions%20-%20An%20NEA%20Toolkit%20\(NEA%20CBMA,%202010\).pdf](https://insidenea.nea.org/Departments/CBMA/CBC/HealthcareandRetirementBenefits/Documents/Promoting%20Public%20Pensions%20-%20An%20NEA%20Toolkit%20(NEA%20CBMA,%202010).pdf).