

PERS AND TRS UNFUNDED LIABILITIES: WHAT, WHY, AND WHERE NOW?

CLIFF GROH OCTOBER 11, 2019

INTRODUCTION

Cliff Groh's presentation is on the size, causes, and options regarding the unfunded liabilities of Alaska's public employee retirement systems, a topic on which he has published a paper on the ISER website. Cliff Groh is a lawyer and writer who has lived in Alaska all his life. He was an assistant district attorney for the Alaska Department of Law, and he worked as in-house or outside counsel for more than a half-dozen local governments. He has served as Special Assistant to the Alaska Commissioner of Revenue and a staff member for the Alaska Legislature, and he has taught a course he designed at the University of Alaska on Alaska's fiscal and economic challenges. He is also a Tier I PERS beneficiary who has drawn a pension since 2006.

HOW BIG ARE THE COMBINED UNFUNDED LIABILITIES? IT DEPENDS....

American Legislative Exchange Council

(ALEC)

\$33.9 Billion

State's consulting actuaries

\$ 8.1 Billion

(total payments from FY21-FY39

in officially adopted pay-off plan)

ALASKA'S CONSTITUTIONAL PROTECTION OF PUBLIC EMPLOYEE RETIREMENT SYSTEMS

“Membership in employee retirement systems of the State or its political subdivisions shall constitute a contractual relationship. Accrued benefits of these systems shall not be diminished or impaired.”

--Alaska Constitution, Article XII, Section 7

FUNDING RATIOS BASED ON VALUATION ASSETS

	FY2002	FY2017	FY2018
PERS	75.2%	76.7%	76.9%
TRS	68.2%	82.0%	

CAUSES OF UNFUNDED LIABILITIES

Inaccurate actuarial assumptions

Bearish periods in financial markets

Declining interest rates

“Artificially low contributions in good times”

Rising costs of health care

“Unfavorable demographic changes”

ALASKA HEALTH CARE COSTS SKYROCKETED

Monthly premiums per PERS retiree/pensioner for health coverage

FY1978	\$ 57.64
FY2004	\$ 806.00
FY2014	\$1,223.00
FY2016	\$1,154.00

“UNFAVORABLE DEMOGRAPHIC CHANGES” =

**Beneficiaries of retirement systems are
retiring earlier and
dying later
than actuaries had predicted.**

OPTIONS ALREADY SELECTED

- A. State Added Tiers (Each Less Generous than the Last)—
Now Four in PERS and Three in TRS**
 - B. State Moved from Defined-Benefit Plan to Defined-
Contribution Plan for New Employees Effective in 2006**
 - C. State Sued and Received \$500 Million in Settlement with
Former Actuary**
 - D. State Has Already Paid Approximately \$7 Billion in
Additional State Contributions/State Assistance from
FY2006 Through FY2019, with \$3 Billion in FY2015 Alone**
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CURRENT AMORTIZATION (PAY-OFF) PLAN

Pay off unfunded liabilities in 25-year schedule running from FY2015 through FY2039

There are 18 more years of payments left on this schedule, and the State's actuary projects that the State will pay \$8.1 billion in those 18 years in "Additional State Contributions" / "State Assistance" for PERS and TRS combined (FY20-39)

This \$8.1 billion is above the dollars paid by the State in the normal course of making contributions as an employer to PERS and TRS

TOP FY20 OUTLAYS (UGF)

- **K-12 Education** **\$1.280 Billion**
 - **Dividends** **\$1.069 Billion**
 - **Medicaid** **\$0.516 Billion**
 - **PERS/TRS Unfunded
Liabilities** **\$0.308 Billion**
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PAYMENTS KEEP GOING UP

FY21 **\$345 million**

FY29 **\$386 million**

FY 39 **\$546 million**

(Total PERS and TRS “State Assistance”/Unfunded Liabilities Payments)

OPTIONS

- **Pay As You Go (Either from General Fund or Permanent Fund Earnings Reserve Account)**
 - **Death Acceleration**
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OPTIONS

- **Pension Obligation Bonds**
 - **Collective Bargaining to Produce Reductions in Benefits**
 - **Lump-Sum Payments to Buy Out Government Obligations**
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OPTIONS

- **Transfer Some Obligations to Non-State Employers**
 - **Federal Bailout**
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OPTIONS

- **Bankruptcy (Legal Issues for State)**
 - **Constitutional Amendments**
 - **Judicial Re-interpretation**
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POTENTIAL CONSTITUTIONAL AMENDMENTS

- **Straight repeal of Article XII, Section 7 of Alaska Constitution**
 - **Amendment narrowing definition of “accrued benefits”**
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HURDLES FOR CONSTITUTIONAL AMENDMENTS

- **An amendment repealing or narrowing Article XII, Section 7 might be interpreted to apply only to benefits earned after the amendment's effective date**
 - **Passage of either amendment would still leave in place other legal doctrines that could be asserted to protect benefits, including the Contracts Clauses of the Alaska and U.S. Constitutions**
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OTHER FACTORS RELEVANT TO FUTURE JUDICIAL DECISIONS

- **Depth of State's fiscal problems**
 - **Lack of Social Security participation by most beneficiaries**
 - **State taxation rates**
 - **Existence of Permanent Fund**
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ISSUES IN JUDICIAL RE-INTERPRETATION

- **Alaska Supreme Court has interpreted “accrued benefits” to mean that right to benefits vests when employee enrolls in retirement system**
 - **California has multiple lawsuits percolating regarding the scope and definition of retirement system benefits for public employees**
 - **California has no constitutional provision explicitly protecting public retirement system benefits**
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MANY CHALLENGES FOR STATE OF ALASKA

- **Oil production**
 - **Oil prices**
 - **Dependence on oil**
 - **Pressures for more spending, including on deferred maintenance**
 - **High health care costs**
 - **Unfunded liabilities for PERS and TRS**
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