Dear Colleagues:

During the past year, new assaults on public pension plans and the financial well-being of our beneficiaries have arisen. NCPERS and its leadership have devoted significant time and resources to addressing those challenges.

The assaults came from a variety of places, including the U.S. Senate, a federal bankruptcy court, state legislatures, and even well-known foundations with positive public personas, but with dark and – until recently – hidden agendas. The political drumbeat for so-called reform – which is really an organized campaign to demonize and discredit our defined benefit (DB) plans and replace them with defined contribution plans, or worse – was injected with new energy by these high-profile actors. But NCPERS, trading on its status as the spokesperson for our sector and as an information source trusted by the media, has risen to the challenge, with positive results.

The year’s biggest legislative surprise was Senator Orrin Hatch’s entry into the public pension debate, proposing a bill that would turn public pension plans over to private life insurance companies. The state legislators who would be responsible for regulating the fixed-income life annuities created by the Hatch bill – as well as the state-based associations that would guarantee them – invited NCPERS to testify before the Legislative Committee of the National Conference of Insurance Legislators. Executive director and counsel Hank Kim, Esq., characterized Hatch’s SAFE Act as “a solution desperately in search of a problem.” Kim underscored that there is no public pension debt crisis; that contracting out a nonprofit enterprise to a for-profit insurance company would either raise the costs of benefits provided or force a reduction in benefits to maintain predictable, lower costs; and that Hatch’s plan would put pension benefits at unnecessary risk, because private insurance companies sometimes fail and state insurance guarantee associations offer only limited protection. Senator Hatch is still trying to create some traction for his bill.

NCPERS has also helped beat back efforts to remove protections for public pension plans from the constitutions of two states – Arizona and California. NCPERS filed an amicus brief in Arizona, countering the state’s argument that benefit reductions are financially necessary and that the traditional federal impairment-of-contract test – balancing the contract against public necessity – should apply. The justices of the Arizona Supreme Court unanimously agreed with our argument that the pension clause of the Arizona Constitution was intended to add an additional measure of protection to benefits.

In California, San Jose mayor Chuck Reed and several of his political allies proposed a ballot measure that they publicly hailed as an effort to eliminate the constitutional provisions known as the “California Rule.” Their reasoning was that state and local elected leaders could then reduce public employees’ future retirement accruals, which court decisions have ruled are vested. When California attorney general Kamala Harris wrote a summary for the ballot proposition, saying it “eliminates constitutional protections for vested pension and retiree health care benefits for current employees, including teachers, nurses, and peace officers, for future work performed,” Reed and his allies cried foul, alleging that Harris was attempting to prejudice voters against the measure. They then filed a lawsuit against her. NCPERS filed an amicus brief in Sacramento County’s superior court, arguing that Harris’s summary was fair and accurate and pointing out that Reed and company only objected to her language – originally their own language – after polls found that voters reacted negatively to that language. NCPERS noted in its brief that Reed and his fellow petitioners are free to propose constitutional amendments that would eliminate protections for public pensions, but they are not free to “propose such a significant change in the state constitution, then shield the voters from knowing the truth about what it is the Petitioners seek to accomplish.” The court ruled in Harris’s favor.
Perhaps the most troubling public pension detractors who rose to prominence over the last year are the Laura and John Arnold Foundation and its ally, the Pew Charitable Trusts. Separately and in partnership, they have been preaching the gospel of radical public pension reform in states across the country. Their efforts are arousing policymakers’ passions over a public pension crisis that does not exist and pushing for immediate pension system changes that advance their conservative agenda – but that threaten public employees’ retirement security. It seems now that new revelations about their activities arise almost every week, such as John Arnold’s funding of a PBS series demonizing public pensions (PBS was so embarrassed that it gave Arnold his money back and suspended the series); Arnold’s multimillion-dollar funding of his Pew allies; and Arnold’s pumping cash into a number of 501(c)4 organizations that masquerade as local citizen interest groups that encourage state and local governments to reduce benefits to workers and invest in riskier assets (such as hedge funds).

Arnold, by the way, is a 39-year-old former star Enron executive who launched a successful hedge fund that made him a billionaire several times over.

NCPERS has pushed back, educating the media about the real reasons behind the Pew-Arnold campaign, pointing out the flaws in the research and reasoning, and helping uncover the money trail that links Arnold’s agenda and funding to what appear to be innocent local groups of concerned citizens. NCPERS also recently partnered with a coalition of public pension advocates to mount a sustained policy and information campaign to derail the Pew-Arnold assault.

Finally, while NCPERS has been defending public pensions and their DB plans, we have also continued our campaign to promote retirement security and DB plans in the private sector through our Secure Choice Pension proposal. Executive Director and Counsel Kim testified before legislative committees in Maryland and Washington state, where proposals for public-private partnerships to make affordable, easy-to-administer retirement plans available to private-sector employers are under active consideration. NCPERS has also been involved in policy discussions in other states, including Minnesota, Vermont, Ohio, and Wisconsin, where legislators are concerned about their local private-sector retirement savings deficits and the eventual economic impact. These legislators are seeking information and guidance about how a public-private partnership can be constructed.

There is no shortage of challenges ahead. But with your help, NCPERS will continue to counter the campaign against public pensions at every possible turn and to provide member plans with the resources they need to do so. NCPERS is committed to promoting retirement security for all Americans – in the public and private sectors alike. All of our futures depend on it.

Melvyn Aaronson
NCPERS President