



# BOOM OR BUST

By Jim Mosman, NCTR Executive Director



It is often said that California serves as a laboratory for various social and economic experiments. At the same time, swings in the state's economy are probably more dramatic than in most states due, in part, to its reliance on the technology industry. Even agriculture, also vital to California's economy, is highly vulnerable to varying climatic conditions.

When the economy is spinning in full gear, the state is a direct recipient of increased capital gains revenues, higher property and sales tax revenues, and more personal income tax revenues. The inevitable consequence, however, is that during an economic recession, these tax revenues either

dramatically decline or disappear. This, of course, forces the Governor and State Legislature to make very painful reductions in various social programs and education. In California, there currently is serious talk of releasing thousands of prisoners to provide budget relief.

Pension funds, unfortunately, are also directly impacted by the economic recession as investment portfolios suffer from losses in both public and private investments. At the same time, it is more difficult for government employers to make necessary contributions to the pension funds. The double-digit investment gains in late 1990's had very positive impacts on funding levels of pension plans. It was common for many funds to be fully funded at the end of the last decade. And, of course, everyone acted like it would go on forever. The positive funding levels resulted in the enhancement of benefit formulas. In 2000, California's Governor

and Legislature approved enhanced formulas for state employees. This, in turn, triggered a round of benefits enhancements for local pension fund members around the state.

In California, pension benefits—once granted—are viewed as property rights; and it is extremely difficult to modify them. Thus, as the state suffers through a difficult recession with huge budget deficits, the cost to state and local governments for pension and health benefits becomes a matter of major concern.

In fact, many governmental employers will likely face contribution increases to the pension fund and, meanwhile, health benefits costs continue to spiral. But unlike other governmental services, it is almost impossible to reduce current benefits for existing employees. Rather, the concept of "new tiers" for incoming

*"...it is almost impossible to reduce current benefits for existing employees."*

## CAPITOL COMMENTARY

# SEC TAKES NEW LOOK AT PUBLIC PENSIONS

By Leigh Snell, NCTR Federal Relations Director



From public pension plans' perspective as institutional investors, things have definitely looked up since Mary Shapiro (D) took over as President Obama's pick to chair the Securities and Exchange Commission (SEC). She told the Council of Institutional Investors that there is a sign taped to her office door, for all to read as they enter to present a proposal or an idea, which says, "How does it help investors?" Indeed, in the last six months, the SEC has:

- Proposed a new proxy access rule that would require companies to place shareowner board nominees on company proxy ballots;
- Offered rule changes to improve the disclosure provided shareholders regarding compensation and corporate governance matters; and
- Eliminated so-called "broker voting," which allowed brokers to vote shares if the beneficial owners had not provided voting instructions.

All these steps have been warmly welcomed by investor advocates.

Recently, however, the SEC has been looking at public pensions in a different light. For example, in July, the SEC promulgated a new "Pay-to-Play" rule designed to prevent an investment adviser from making political contributions to improve its chances of being hired by a pension plan. This proposed new rule would also ban the use of so-called "third party" marketers to solicit public plans for business on behalf of an investment adviser.

Now, the SEC is pursuing an "informal inquiry" into certain other public pension fund activities. It has contacted several NCTR member systems to ask a wide range of questions, some dealing with the disclosure of unfunded or underfunded liabilities. And most recently, the SEC has created a new "Municipal Securities and Public Pensions Unit" because, in the words of the head of the SEC's Enforcement Division, a number of areas, including the funding of plan liabilities, "appear ripe for scrutiny."

The SEC's new interest in public plans is surely shaped, in part, by its experience with the City of San Diego and its violations of Federal securities laws' antifraud provi-

sions. In that case, the SEC found that San Diego's disclosure documents for its 2002 and 2003 bond offerings failed to disclose material information regarding liabilities for its pension plan, as well as its ability to pay those obligations in the future.

As with private sector pension issues, over which it has more direct jurisdiction, the SEC essentially viewed the plan and its sponsor as one and the same in the San Diego case. It

now appears to be ready to use that same ERISA lens, colored by its experience with San Diego, to examine public plans.

The SEC already thinks that private companies may reverse-engineer their pension plans' discount rates to get to a certain financial result. We hope the SEC does not follow the same thinking with public plans. NCTR intends to give the SEC a better understanding of the differences between private pensions and public plans before their inquiries and the work of their new unit goes any further. Accuracy in disclosures related to bond issuances must not become a "back door" for SEC regulation of public plan accounting.

*"It now appears to be ready to use that same ERISA lens...to examine public plans."*



Continued from page 1...

## BOOM OR BUST

employees is seen as the only option. Indeed, the Governor has now once again raised the notion of “pension reform.” He would like to see a new tier for state employees that rolls back pension benefits to 1999 levels. Several local government jurisdictions are also considering new tiers.

So the pendulum is clearly swinging in the opposite direction from the Boom years. Only an improved economy will provide relief. Will legislative bodies recall this experience a decade or more from now?



## 9<sup>TH</sup> ANNUAL TRUSTEE WORKSHOP

*“This was the best for me!”*

By Don Miller, NCTR Consultant

**M**ore than 50 trustees, representing 25-plus member systems gathered in Newport, Rhode Island, at the end of July for NCTR’s 9th Annual Trustee Workshop. Both new and seasoned trustees elected to gear up by attending this year’s Trustee Institute, which focused on Plan Governance issues.

With a roster of experts in their respective fields as speakers, topics ranged from Fiduciary Responsibilities to Basic Plan Governance. The sessions were intense and well-received. Trustees commented that it was “a fine Institute,” the speakers were “dynamic,” “knowledgeable and practical,” and overall, it was “a great job as usual.” A majority of the attendees stated that they are looking forward to next year’s Institute. Each Institute attendee received a well-earned Certificate of Completion.

The Institute was followed by

NCTR’s Trustee Workshop, an intensive two days of study, focusing on many of the current challenges facing public pension plan trustees in these difficult times. A group of well-known speakers tackled such topics as dealing with a volatile market, actuarial issues, and other matters of equal concern. As a change of pace, attendees also enjoyed participating in a skills building module. Each session was followed by lively Q&A and discussion.

“The workshop was very balanced,” stated one participant. “Great work.”

Workshop attendees always find NCTR’s Trustee Workshop a valuable opportunity to network with and learn from fellow trustees from throughout the nation. Overall, the Workshop received high marks. As one attendee summarized, “I have attended four or five of these conferences. This was the best for me!”



*NCTR looks forward to having all Trustees participate in next year’s Institute and Workshop, in Portland, Oregon, in late July.*



### SNAPSHOTS



When the workday ended, Trustees took a trolley tour of Newport.



## UPDATING YOUR CONVENTION REGISTRATION

Need to amend your registration for the NCTR 2009 Annual Convention? Add another representative? Sign up your guest for a tour? Reserve a spot on the airport/hotel shuttle?

Simply revisit [www.nctr.org](http://www.nctr.org) and, although you are already registered, follow the "Register Now" links. You'll find the first one under "Highlights" on the home page. At the jump, click on the "Register Now" button. Enter your email address and your relationship to NCTR, then continue to the next page where you have options to streamline your update:

Click **Agenda** to reserve:

- The shuttle NCTR has arranged to/from the Palm Springs Airport and the Renaissance Esmeralda
- Tours for your registered guest
- A spot in Sunday's Golf

Click **Make a Substitution** to: Enter the information of the person who will be replacing you.

Click **Add another person** to: Add someone to your existing registration. Fees for anyone added to an existing registration will be charged to the first person registered in the group. If your representatives are to pay individually, you must create separate registrations for each.

Click **Personal Information** to: Change your contact information.

Optional default: Call Robyn Gonzales or NCTR at 916-394-2075 for help.

**Register for convention and reserve hotel at [www.nctr.org](http://www.nctr.org)**

## FEDERAL E-NEWS



NCTR's 2009 Federal E-News offers "Snapshots," providing a brief summary of an issue, event, or publication, and including links to appropriate back-up materials. This is not intended to replace the more in-depth analysis of issues, which will continue to be the primary focus of the E-News, but allows coverage of a larger number of issues in which NCTR members are interested. From [www.nctr.org](http://www.nctr.org), follow this path:

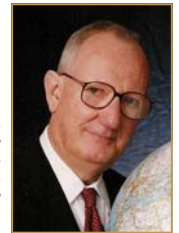
*Federal Governmental Relations* → *Federal E-News* → *2009 Federal E-News*, where you'll find a "Snapshots" link under each section.

## SPEAKER HIGHLIGHTS



Our First General Session gets underway with the welcome return of BBC's refreshing Washington Correspondent Katty Kay, who'll share her observations of Obama's first year.

The Second General Session kicks off with geographer and author, Professor Harm de Blij and a mind-expanding look at the role of geopolitics in the upcoming decade.



At a dinner in his honor, 2009 Teacher of the Year, Anthony Mullen, will share what inspired him to teach special education after serving 20 years as a New York City police officer.

2009 Annual Convention agenda available at [www.nctr.org](http://www.nctr.org)

### Note These Dates

**87<sup>th</sup> Annual Convention  
October 10-15**

Renaissance Esmeralda  
Indian Wells, California

**REGISTER BY 9/10 TO AVOID LATE FEE  
RESERVE ROOM BY 9/17 FOR GROUP RATE**

Visit [www.nctr.org](http://www.nctr.org) to register, and for agenda and additional information.

**NCTR Resolutions  
ACCEPTED THROUGH AUGUST 31**

**Nominations for NCTR  
Executive Committee  
ACCEPTED THROUGH SEPTEMBER 10**



National Council on Teacher Retirement

7600 Greenhaven Dr., Ste. 302  
Sacramento, CA 95831

Phone: 916.394.2075  
Fax: 916.392.0295

Visit us at: [www.nctr.org](http://www.nctr.org)