

114TH CONGRESS
2D SESSION

H. R. 4822

To amend the Internal Revenue Code of 1986 to provide for reporting and disclosure by State and local public employee retirement pension plans.

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 2016

Mr. NUNES (for himself, Mr. STEWART, Mr. DUNCAN of South Carolina, Mr. ROSS, Mr. ROKITA, Mr. MARCHANT, and Mr. BUCSHON) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide for reporting and disclosure by State and local public employee retirement pension plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Employee Pen-
5 sion Transparency Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Pursuant to clauses 1 and 3 of section 8 of
9 article I of the Constitution of the United States,

1 the Congress has the authority to condition the con-
2 tinuation of certain specified Federal tax benefits
3 upon State or local government employee pension
4 benefit plans on the provision of meaningful disclo-
5 sure under section 4980J of the Internal Revenue
6 Code of 1986, as added by this Act.

7 (2) State and local government employee pen-
8 sion benefit plans have promised pension benefits to
9 approximately 20,000,000 Americans who are active
10 employees of these entities. An additional 7,000,000
11 retirees and their dependents currently receive bene-
12 fits from State or local government employee pen-
13 sion benefit plans. The interests of participants in
14 many of such plans are in the nature of property
15 rights under State law.

16 (3) State and local government employee pen-
17 sion benefit plans are substantially facilitated by the
18 favorable tax treatment of participants and bene-
19 ficiaries, investment earnings, and employee con-
20 tributions with respect to such plans provided by the
21 Federal Government under the Internal Revenue
22 Code of 1986.

23 (4) The investment of State or local govern-
24 ment employee pension benefit plan assets, the dis-
25 tribution of benefits under such plans, and other re-

1 lated financial activities are facilitated through the
2 use of instrumentalities of, and substantially affect,
3 interstate commerce. These activities, which are
4 interstate in nature and have a substantial impact
5 on the national economy, affect capital formation,
6 regional growth and decline, the national markets
7 for insurance, and the markets for securities and the
8 trading of securities of State and local governments.

9 (5) The financial status of State or local gov-
10 ernment employee pension benefit plans also has a
11 direct impact on the national markets for insurance
12 and trading of securities of State and local govern-
13 ments.

14 (6) State or local government employee pension
15 benefit plans additionally have a substantial impact
16 on interstate commerce as a consequence of the
17 interstate movement of participants.

18 (7) State or local government employee pension
19 benefit plans are becoming a large financial burden
20 on certain State and local governments and have al-
21 ready resulted in tax increases and the reduction of
22 services.

23 (8) In fact, a soon to be published study has
24 determined that as of 2014, the present value of the
25 already promised pension liabilities of the 50 States

1 and major municipalities, calculated using the meth-
2 odology prescribed by this bill, is
3 \$7,019,627,000,000 with unfunded liabilities at
4 \$3,412,587,000,000. These amounts are substan-
5 tially higher than those reported by pension funds
6 using the Governmental Accounting Standards
7 Board's (GASB) revised standards (total liabilities
8 of \$4,798,075,000,000 and unfunded liabilities of
9 \$1,191,035,000,000).

10 (9) Some economists and observers have stated
11 that the extent to which State or local government
12 employee pension benefit plans are underfunded is
13 obscured by governmental accounting rules and
14 practices, particularly as they relate to the valuation
15 of plan assets and liabilities. This results in a
16 misstatement of the value of plan assets and an un-
17 derstatement of plan liabilities, a situation that
18 poses a significant threat to the soundness of State
19 and local budgets.

20 (10) There currently is a lack of meaningful
21 disclosure regarding the value of State or local gov-
22 ernment employee pension benefit plan assets and li-
23 abilities. This lack of meaningful disclosure poses a
24 direct and serious threat to the financial stability of
25 such plans and their sponsoring governments, im-

1 pairs the ability of State and local government tax-
2 payers and officials to understand the financial obli-
3 gations of their government, and reduces the likeli-
4 hood that State and local government processes will
5 be effective in assuring the prudent management of
6 their plans. The status quo also constitutes a serious
7 threat to the future economic health of the Nation
8 and places an undue burden upon State and local
9 government taxpayers, who will be called upon to
10 fully fund existing, and future, pension promises.

11 (11) State or local government employee pen-
12 sion benefit plans affect the national public interest
13 and meaningful disclosure of the value of their as-
14 sets and liabilities is necessary and desirable in
15 order to adequately protect plan participants and
16 their beneficiaries and the general public. Meaning-
17 ful disclosure would also further efforts to provide
18 for the general welfare and the free flow of com-
19 merce.

1 **SEC. 3. REPORTING OF INFORMATION WITH RESPECT TO**
2 **STATE OR LOCAL GOVERNMENT EMPLOYEE**
3 **PENSION BENEFIT PLANS TREATED AS A TAX**
4 **EXEMPTION, ETC., REQUIREMENT FOR STATE**
5 **AND LOCAL BONDS.**

6 (a) IN GENERAL.—Subpart B of part IV of sub-
7 chapter B of chapter 1 of the Internal Revenue Code of
8 1986 is amended by adding at the end the following new
9 section:

10 **“SEC. 149A. REPORTING WITH RESPECT TO STATE OR**
11 **LOCAL GOVERNMENT EMPLOYEE PENSION**
12 **BENEFIT PLANS.**

13 “(a) IN GENERAL.—In the case of a failure to satisfy
14 any requirement of subsection (a) or (b) of section 4980J
15 with respect to any plan maintained with respect to em-
16 ployees of one or more States or political subdivisions of
17 one or more States, no specified Federal tax benefit shall
18 be allowed or made with respect to any specified bond
19 issued by any such State or political subdivision (or by
20 any bonding authority acting on behalf, or for the benefit,
21 of such State or political subdivision) during the non-
22 compliance period.

23 “(b) NONCOMPLIANCE PERIOD.—For purposes of
24 this section, the term ‘noncompliance period’ means, with
25 respect to any State or political subdivision in connection
26 with any failure described in subsection (a), the period be-

1 ginning on the date that the Secretary notifies such State
2 or political subdivision of such failure and ending on the
3 date that such failure is cured (as determined by the Sec-
4 retary).

5 “(c) SPECIFIED BOND.—For purposes of this section,
6 the term ‘specified bond’ means—

7 “(1) any State or local bond within the meaning
8 of section 103,

9 “(2) any qualified tax credit bond within the
10 meaning of section 54A, and

11 “(3) any build America bond within the mean-
12 ing of section 54AA.

13 “(d) SPECIFIED FEDERAL TAX BENEFIT.—For pur-
14 poses of this section, the term ‘specified Federal tax ben-
15 efit’ means—

16 “(1) any exemption from gross income allowed
17 under section 103 (relating to interest on State and
18 local bonds),

19 “(2) any credit allowed under section 54A (re-
20 lating to credit to holders of qualified tax credit
21 bonds),

22 “(3) any credit allowed under section 54AA (re-
23 lating to build America bonds), and

1 “(4) any credit or payment allowed or made
2 under section 6431 (relating to credit for qualified
3 bonds allowed to issuer).”.

4 (b) REPORTING REQUIREMENTS.—Chapter 43 of
5 such Code is amended by adding at the end the following
6 new section:

7 **“SEC. 4980J. FAILURE OF STATE OR LOCAL GOVERNMENT**
8 **EMPLOYEE PENSION BENEFIT PLANS TO**
9 **MEET REPORTING REQUIREMENTS.**

10 “(a) ANNUAL REPORT.—For purposes of section
11 149A, the requirements of this subsection are as follows:

12 “(1) IN GENERAL.—The plan sponsor of a
13 State or local government employee pension benefit
14 plan shall file with the Secretary, in such form and
15 manner as shall be prescribed by the Secretary, a re-
16 port for each plan year beginning on or after Janu-
17 ary 1, 2017, setting forth the following information
18 with respect to the plan, as determined by the plan
19 sponsor as of the end of such plan year:

20 “(A) A schedule of funding status, which
21 shall include a statement as to the current li-
22 ability of the plan, the amount of plan assets
23 available to meet that liability, the amount of
24 the net unfunded liability (if any), and the
25 funding percentage of the plan.

1 “(B) A schedule of contributions by the
2 plan sponsor for the plan year, indicating which
3 are or are not taken into account under sub-
4 paragraph (A).

5 “(C) Alternative projections which shall be
6 specified in regulations of the Secretary for
7 each of the next 60 plan years following the
8 plan year of the cash flows associated with the
9 current liability, together with a statement of
10 the assumptions used in connection with such
11 projections. The Secretary shall specify in such
12 regulations the projection assumptions to be
13 used as necessary to achieve comparability
14 across plans.

15 “(D) A statement of the actuarial assump-
16 tions used for the plan year, including the rate
17 of return on investment of plan assets and as-
18 sumptions as to such other matters as the Sec-
19 retary may prescribe by regulation.

20 “(E) A statement of the number of partici-
21 pants who are each of the following—

22 “(i) those who are retired or sepa-
23 rated from service and are receiving bene-
24 fits,

1 “(ii) those who are retired or sepa-
2 rated and are entitled to future benefits,
3 and

4 “(iii) those who are active under the
5 plan.

6 “(F) A statement of the plan’s investment
7 returns, including the rate of return, for the
8 plan year and the 5 preceding plan years.

9 “(G) A statement of the degree to which,
10 and manner in which, the plan sponsor expects
11 to eliminate any unfunded current liability that
12 may exist for the plan year and the extent to
13 which the plan sponsor has followed the plan’s
14 funding policy for each of the preceding 5 plan
15 years. The Secretary shall prescribe by regula-
16 tion the specific criteria to be used for meeting
17 the requirements of this paragraph.

18 “(H) A statement of the amount of pen-
19 sion obligation bonds outstanding.

20 “(I) A statement of the current cost of the
21 plan for the plan year.

22 “(2) TIMING OF REPORT.—The plan sponsor of
23 a State or local government employee pension ben-
24 efit plan shall make the filing required under para-
25 graph (1) for each plan year not later than 210 days

1 after the end of such plan year (or within such time
2 as may be required by regulations prescribed by the
3 Secretary in order to reduce duplicative filing).

4 “(b) ADDITIONAL REPORTING REQUIREMENTS.—
5 For purposes of section 149A, the requirements of this
6 subsection are as follows:

7 “(1) SUPPLEMENTARY REPORTS.—In any case
8 in which, in determining the information filed in the
9 annual report for a plan year under subsection (a)—

10 “(A) the value of plan assets is determined
11 using a standard other than fair market value,
12 or

13 “(B) the interest rate or rates used to de-
14 termine the value of liabilities or as the dis-
15 count value for liabilities are not the interest
16 rates described in paragraph (3), the plan spon-
17 sor shall include in the annual report filed for
18 such plan year pursuant to subsection (a) the
19 supplementary report for such plan year de-
20 scribed in paragraph (2) of this subsection.

21 “(2) USE OF PRESCRIBED VALUATION METHOD
22 AND INTEREST RATES.—A supplementary report for
23 a plan year filed for a plan year pursuant to this
24 subsection shall include the information specified as
25 required in the annual report under subparagraphs

1 (A), (F), (G) and (I) of subsection (a)(1), deter-
2 mined as of the end of such plan year by valuing
3 plan assets at fair market value and by using the in-
4 terest rates described in paragraph (3) to value li-
5 abilities and as the discount value for liabilities.

6 “(3) INTEREST RATES BASED ON U.S. TREAS-
7 URY OBLIGATION YIELD CURVE RATE.—

8 “(A) IN GENERAL.—The interest rates de-
9 scribed in this subsection are, with respect to
10 any day, the rates of interest which shall be de-
11 termined by the Secretary for such day on the
12 basis of the U.S. Treasury obligation yield
13 curve for such day.

14 “(B) U.S. TREASURY OBLIGATION YIELD
15 CURVE.—For purposes of this subsection, the
16 term ‘U.S. Treasury obligation yield curve’
17 means, with respect to any day, a yield curve
18 which shall be prescribed by the Secretary for
19 such day on interest-bearing obligations of the
20 United States.

21 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
22 poses of this section—

23 “(1) STATE OR LOCAL GOVERNMENT EM-
24 PLOYEE PENSION BENEFIT PLAN.—The terms ‘State
25 or local government employee pension benefit plan’

1 and ‘plan’ mean any plan, fund, or program, other
2 than a defined contribution plan (within the mean-
3 ing of section 414(i)), which was heretofore or is
4 hereafter established or maintained, in whole or in
5 part, by a State, a political subdivision of a State,
6 or any agency or instrumentality of a State or polit-
7 ical subdivision of a State, to the extent that by its
8 express terms or as a result of surrounding cir-
9 cumstances such plan, fund, or program—

10 “(A) provides retirement income to em-
11 ployees, or

12 “(B) results in a deferral of income by em-
13 ployees for periods extending to the termination
14 of covered employment or beyond, regardless of
15 the method of calculating the contributions
16 made to the plan, the method of calculating the
17 benefits under the plan, or the method of dis-
18 tributing benefits from the plan.

19 “(2) FUNDING PERCENTAGE.—The term ‘fund-
20 ing percentage’ for a plan year means the ratio (ex-
21 pressed as a percentage) which—

22 “(A) the value of plan assets as of the end
23 of the plan year bears to

24 “(B) the current liability of the plan for
25 the plan year.

1 “(3) CURRENT LIABILITY.—The term ‘current
2 liability’ of a plan for a plan year means the present
3 value of all benefits accrued or earned under the
4 plan as of the end of the plan year.

5 “(4) PRESENT VALUE.—

6 “(A) IN GENERAL.—The present value of
7 an accrued benefit shall be determined by dis-
8 counting its future cash flows in accordance
9 with subsection (b)(3). The present value of all
10 benefits accrued for a participant shall be cal-
11 culated as the sum of the present value of the
12 accrued benefit for each exit event multiplied by
13 the probability of the associated exit event.

14 “(B) EXIT EVENT.—An ‘exit event’ occurs
15 when the employment of a plan participant ter-
16 minates. For each currently employed plan par-
17 ticipant as of the measurement date, there are
18 one or more potential future exit events. Each
19 exit event is associated with a termination date,
20 a cause of termination (e.g., retirement, death,
21 disability, quit, etc.), a contractual benefit, and
22 a probability that the participant will exit em-
23 ployment via the particular event.

24 “(5) ACCRUED BENEFIT.—

1 “(A) IN GENERAL.—An ‘accrued benefit’ is
2 determined for each exit event as the projected
3 benefit multiplied by service earned as of the
4 measurement date divided by service projected
5 to be earned by the event date. For participants
6 retired or separated from service as of the
7 measurement date, the accrued benefit equals
8 the projected benefit.

9 “(B) PROJECTED BENEFIT.—As of the
10 measurement date, a ‘projected benefit’ (con-
11 sisting of future cash flows) is calculated for
12 each possible exit event using service projected
13 to be earned to the event date and salary as of
14 the measurement date. Such projected benefit
15 shall reflect any cost-of-living adjustments pay-
16 able in the future based on the law in effect as
17 of the measurement date.

18 “(6) MEASUREMENT DATE.—The term ‘meas-
19 urement date’ means the date as of which the value
20 of the pension obligation is determined (sometimes
21 referred to as the ‘valuation date’).

22 “(7) CURRENT COST.—The term ‘current cost’
23 of a plan for a plan year means the present value
24 as of the end of the plan year of all benefits accrued
25 or earned under the plan during the plan year.

1 “(8) PLAN SPONSOR.—The term ‘plan sponsor’
2 means, in connection with a State or local govern-
3 ment employee pension benefit plan, the State, polit-
4 ical subdivision of a State, or agency or instrumen-
5 tality of a State or a political subdivision of a State
6 which establishes or maintains the plan.

7 “(9) PARTICIPANT.—

8 “(A) IN GENERAL.—The term ‘participant’
9 means, in connection with a State or local gov-
10 ernment employee pension benefit plan, an indi-
11 vidual—

12 “(i) who is an employee or former em-
13 ployee of a State, political subdivision of a
14 State, or agency or instrumentality of a
15 State or a political subdivision of a State
16 which is the plan sponsor of such plan, and

17 “(ii) who is or may become eligible to
18 receive a benefit of any type from such
19 plan or whose beneficiaries may be eligible
20 to receive any such benefit.

21 “(B) BENEFICIARY.—The term ‘bene-
22 ficiary’ means a person designated by a partici-
23 pant, or by the terms of the plan, who is or
24 may become entitled to a benefit thereunder.

1 “(10) PLAN YEAR.—The term ‘plan year’
2 means, in connection with a plan, the calendar or
3 fiscal year on which the records of the plan are kept.

4 “(11) STATE.—The term ‘State’ includes any
5 State of the United States, the District of Columbia,
6 the Commonwealth of Puerto Rico, the United
7 States Virgin Islands, American Samoa, Guam, and
8 the Commonwealth of the Northern Mariana Is-
9 lands.

10 “(12) FAIR MARKET VALUE.—The term ‘fair
11 market value’ has the meaning of such term under
12 section 430(g)(3)(A) (without regard to section
13 430(g)(3)(B)).

14 “(d) MODEL REPORTING STATEMENT.—The Sec-
15 retary shall develop model reporting statements for pur-
16 poses of subsections (a) and (b). Plan sponsors of State
17 or local government employee pension plans may elect, in
18 such form and manner as shall be prescribed by the Sec-
19 retary, to utilize the applicable model reporting statement
20 for purposes of complying with requirements of such sub-
21 sections.

22 “(e) TRANSPARENCY OF INFORMATION FILED.—The
23 Secretary shall create and maintain a public Web site,
24 with searchable capabilities, for purposes of posting the
25 information received by the Secretary pursuant to sub-

1 sections (a) and (b). Any such information received by the
2 Secretary (including any updates to such information re-
3 ceived by the Secretary) shall be posted on the Web site
4 not later than 60 days after receipt and shall not be treat-
5 ed as return information for purposes of this title.”.

6 (c) CLERICAL AMENDMENTS.—

7 (1) The table of sections for subpart B of part
8 IV of subchapter B of chapter 1 of such Code is
9 amended by adding at the end the following new
10 item:

“Sec. 149A. Reporting with respect to State or local government employee pen-
sion benefit plans.”.

11 (2) The table of sections for chapter 43 of such
12 Code is amended by adding at the end the following
13 new item:

“Sec. 4980J. Failure of State or local government employee pension benefit
plans to meet reporting requirements.”.

14 **SEC. 4. GENERAL PROVISIONS AND RULES OF CONSTRUC-**
15 **TION.**

16 (a) LIMITATIONS ON FEDERAL RESPONSIBILITIES
17 RELATING TO PLAN OBLIGATIONS AND LIABILITIES.—

18 The United States shall not be liable for any obligation
19 related to any current or future shortfall in any State or
20 local government employee pension plan. Nothing in this
21 Act (or any amendment made by this Act) or any other
22 provision of law shall be construed to provide Federal Gov-
23 ernment funds to diminish or meet any current or future

1 shortfall in, or obligation of, any State or local government
2 employee pension plan. The preceding sentence shall also
3 apply to the Federal Reserve.

4 (b) NO FEDERAL FUNDING STANDARDS.—Nothing
5 in this Act (or any amendment made by this Act) shall
6 be construed to alter existing funding standards for State
7 or local government employee pension plans or to require
8 Federal funding standards for such plans.

9 (c) DEFINITIONS.—Terms used in this section which
10 are also used in section 4980J of the Internal Revenue
11 Code of 1986 shall have the same meaning as when used
12 in such section.

○