

**National Conference of State Legislatures (NCSL)**  
**National Association of Counties (NACo)**  
**National League of Cities (NLC)**  
**International City/County Management Association (ICMA)**  
**National Association of State Auditors Comptrollers and Treasurers (NASACT)**  
**Government Finance Officers Association (GFOA)**  
**National School Boards Association (NSBA)**  
**American Federation of State, County and Municipal Employees (AFSCME)**  
**American Federation of Teachers (AFT)**  
**International Association of Fire Fighters (IAFF)**  
**National Education Association (NEA)**  
**National Association of Police Organizations (NAPO)**  
**Service Employees International Union (SEIU)**  
**National Association of State Retirement Administrators (NASRA)**  
**National Association of Government Defined Contribution Administrators (NAGDCA)**  
**National Conference on Public Employee Retirement Systems (NCPERS)**  
**National Council on Teacher Retirement (NCTR)**  
**National Public Employer Labor Relations Association (NPELRA)**  
**National Conference of State Social Security Administrators (NCSSSA)**

Representative Ron Kind  
U.S. House of Representatives  
1406 Longworth House Office Building  
Washington, DC 20515

Dear Congressman Kind:

The above-listed organizations, representing state and local government employers, employees, retirees, and their retirement systems, thank you for including a very important provision in legislation you recently championed, H.R. 3561, the Small Business Pension Promotion Act of 2011. The provision addresses Internal Revenue Service regulations, which if fully implemented in their current form, will have devastating impacts on the retirement benefits of long-service employees in both the public and private sectors, and additionally conflict with state and local retirement statutes.

Many members of our national workforce – including those in the U.S. military, our nation's electric utilities, and state and local first responders and teachers – have their retirement benefits conditioned on years of service. However, a recent IRS regulation prohibited this long-standing practice in the private sector and left uncertain the status of such policies contained within state and local government retirement statutes – the IRS has yet to resolve this question, twice extending the application of the rules to governments, with the effective date currently set for January 1, 2013.

Your legislation includes a provision that would again permit private sector retirement plans to allow workers to qualify for normal retirement benefits based on years of service in addition to the attainment of a minimum age. We greatly appreciate your also adding clarifying language

that state and local governments may also include service-based qualifications in their retirement

statutes. For decades, nearly all state and local governments have based eligibility for retirement benefits, in whole or in part, on the completion of a stated number of years of service, and have received favorable determination letters from the IRS regarding the federal tax qualification status of their plans. We are very concerned that overturning this long-standing public policy would require state and local governments to amend their pension statutes, possibly violating contract or constitutional protections, and would prohibit many workers from receiving benefits that have been earned over decades of service.

Our representatives have been working with the IRS and other Treasury Department officials for the last several years in an effort to favorably resolve this matter, and understand they may soon be modifying the regulation. While we hope the full extent of our concerns will be addressed, nevertheless, with the pending application of the IRS regulations now less than one year away, we greatly appreciate your readying legislation to properly remedy the harmful affects of the pending regulation.

If we can be of further assistance to your efforts in this regard, please feel free to contact our representatives, listed below.

National Conference of State Legislatures (Michael Bird, 202-624-5400)  
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National League of Cities (Neil Bomberg, 202-626-3000)  
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National Association of State Auditors Comptrollers and Treasurers (Cornelia Chebinou, 202-624-5451)  
Government Finance Officers Association (Barrie Tabin Berger, 202-393-8020)  
National School Boards Association (Debra Rigsby, 703-838-6208)  
American Federation of State, County and Municipal Employees (Ed Jayne, 202-429-1188)  
American Federation of Teachers (Bill Cunningham, 202-393-6301)  
International Association of Fire Fighters (Jim Cho, 202-737-8484)  
National Education Association (Al Campos, 202-822-7345)  
National Association of Police Organizations (Bill Johnson, 703-549-0775)  
Service Employees International Union (Saralee Todd, 202-730-7362)  
National Association of State Retirement Administrators (Jeannine Markoe Raymond, 202-624-1417)  
National Conference on Public Employee Retirement Systems (Hank Kim, 202-624-1456)  
National Council on Teacher Retirement (Leigh Snell, 540-333-1015)  
National Association of Government Defined Contribution Administrators (Susan White, 703-683-2573)  
National Public Employer Labor Relations Association (Christi Layman, 703-533-1019)  
National Conference of State Social Security Administrators (Maryann Motza, 303-318-8061)