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Illinois Effort to Fix Ailing Local Pensions Faces Legal Hurdle.

- **State law mandates merging of assets for 650 funds by mid 2022**
- **No police funds have shifted assets amid pending court ruling**

A court ruling as soon as this month will help determine the fate of one of Illinois Governor J.B. Pritzker's key plans to ease the massive shortfall in local pension funds across the state.

A 2019 law championed by Pritzker would merge about 650 local police and firefighter pensions with assets topping $16 billion into two funds to cut costs and improve returns. Fixing the underfunded plans, which weigh on budgets and credit ratings of many communities statewide, is critical for Illinois's economic rebound.

The law set a June 30 deadline for the consolidation of the funds, but many of the local pensions are hesitating or even refusing to merge until they learn the outcome of litigation to block the combining. Three dozen current employees and retirees, along with 18 local retirement plans, filed a lawsuit in February in Illinois circuit court saying the consolidation violates the state constitution. A key ruling is expected as early as December, said Daniel Konicek, an attorney representing plaintiffs.

The 2019 state law was "a positive step forward for Illinois pensions," said Geoffrey Buswick, an analyst for S&P Global Ratings, noting that many smaller pension funds are chronically underfunded, which weighs on municipalities' credit quality.

"Will it work? There's no guarantee," he added.

The stakes are high for Illinois. The Land of Lincoln is the lowest-rated U.S. state even after recent upgrades, and fixing pensions is critical as it recovers from the pandemic. The state isn't obliged to bail out local retirement plans, but if municipal governments are struggling, Illinois will lag as well.

A spokesperson for Illinois Attorney General Kwame Raoul declined to comment, citing pending litigation, while spokespeople for Pritzker did not respond to emails and calls seeking comment.

Funds Wait

Five statewide systems have a total unfunded liability of about $144 billion. And the collective unfunded liability of local downstate public safety pension plans through the end of fiscal 2020 topped $13 billion, according to Illinois Department of Insurance data.

The upcoming ruling may slow or even halt consolidation. The 2019 law set up one bigger fund for police officers and another for firefighters to take over the management and investment of the combined assets, but left control over benefits and contributions with the local boards.

So far, however, the new Illinois Police Officers' Pension Investment Fund hasn't received any assets and expects to begin getting funds around March, said executive director Richard White. About 44%

of the 357 downstate and suburban police funds that were supposed to be merged into the bigger pension plan haven't even responded to requests for information, White said.

The Firefighters' Pension Investment Fund has received about $2.2 billion in assets but about a quarter of would-be participants in the early tranches are not complying, said executive director William Atwood. The transfers are complicated and take time, Atwood said.

The Illinois Municipal League, which advocated for the consolidation for a decade before the law was enacted, "is confident in the legality and validity of the act, and we see no reason why the suit will render any ultimate decision from the courts otherwise," executive director Brad Cole said in an email. The two consolidated funds should be able to meet the June deadline, said Cole, who serves on the board of both but is commenting on behalf of the league.

"We are already showing savings and increased earning ability, proving the benefit that was predicted and is needed by this consolidation," Cole said.

A Relief?

Some local governments are relieved to see their plans consolidated.

Police and fire pension costs for DeKalb, Illinois, use up about 20% of general fund revenue, up from 10% in 2014, city manager Bill Nicklas said in an interview. The entire property tax levy for the city's proposed 2022 budget will go toward the two pension funds and some more revenue from sales taxes may be tapped for the retirement system payments, he said.

"Of the options that are out there, consolidation seems to be a good place to begin," Nicklas said.

But underscoring how difficult this shift is, the DeKalb Police Pension Fund doesn't agree with city officials and is listed as one of the plaintiffs in the lawsuit.

"I don't think many of us trust the government of Illinois to handle our money given their history," said Jim Kayes, president of the DeKalb Police Pension Fund board, in an interview.

Constitutional Rights

The lawsuit claims that the law takes away the plaintiffs' local authority and "diminishes and impairs the pension benefits" to which they are entitled. Illinois' constitution bans any reduction in worker retirement benefits.

In passing the law, "the Governor and General Assembly have acted in dereliction of their duties to uphold the Illinois Constitution," according to the complaint. "Plaintiffs must therefore turn to this Court to protect their rights and pensions they have earned, invested, and managed."

The state said in a filing in reply that Illinois's constitution protects the payments that retirees are entitled to, but that doesn't extend to areas like choosing the entity that manages the retirement plan.

Even amid the uncertainty that's resulting in a slowing of the process, the consolidated funds are continuing to move forward to meet the statutory requirement, according to their executive directors. The Illinois Police Officers' Pension Investment Fund is increasing its outreach to improve compliance and will respond as needed once the court rules, Executive Director White said.

"We will be in very good shape. There will be certain outliers that didn't quite make it," said Atwood

from the consolidated fire fund. “It’s not going to be for a lack of trying on our part.”

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