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Illinois \$111 Billion Pension Deficit Fix Struck Down.

Illinois will have to find a new way to fix the worst pension shortfall in the country after a judge struck down a 2013 law that included raising the retirement age as unconstitutional.

Today's decision by state court Judge John Belz in Springfield undoes a signature achievement of outgoing Democratic Governor Pat Quinn and hands responsibility for finding a solution to the state's \$111 billion pension deficit to Republican businessman Bruce Rauner, who defeated him in the Nov. 4 election.

State constitutions have been invoked elsewhere to prevent cuts to public pensions. In Rhode Island, unions settled with the state over pension cuts before their constitutional challenge could be put to the test. In bankruptcy cases in Detroit and California, judges ruled that federal law overrode state bans on cutting pensions.

Illinois Attorney General Lisa Madigan, a Democrat, said she'll appeal Belz's ruling and ask the Illinois Supreme Court to fast-track the review.

"Today's ruling is the first step in a process that should ultimately be decided by the Illinois Supreme Court," Rauner said. "It is my hope that the court will take up the case and rule as soon as possible. I look forward to working with the legislature to craft and implement effective, bipartisan pension reform."

Belz ruled a 1970 constitutional provision stating public employee retirement benefits can't be cut, tops the state's claim that it has the power to trim future cost-of-living adjustments and delay retirement eligibility for some workers.

Police Power

"The court finds there is no police power or reserved sovereign power to diminish pension benefits," he said, voiding the legislation in its entirety and permanently barring the state from enforcing any part of it.

The plan to save about \$145 billion over 30 years by reducing those adjustments and raising the retirement age for workers 45 and under was set to take effect on June 1 before being put on hold by a court order in May.

Illinois bonds weakened after the ruling. Taxable pension debt maturing in June 2033, the most frequently traded state securities, traded after the decision at a yield of 5.32 percent, compared with an average of 5.26 percent today and 5.3 percent this month, data compiled by Bloomberg show. It's about 2.7 percentage points more than Treasuries.

Arguments Heard

Public worker unions sued over the legislation in January. Belz heard arguments over the pension reform plan yesterday.

The legislation's challengers were buoyed in July by an state Supreme Court ruling that Illinois couldn't cut contributions to government retirees' health insurance premiums, known as other post-employment benefits or OPEB.

"The market may be a little disappointed — between the OPEB ruling and then this one, the new governor is going to have his hands pretty much tied," said Triet Nguyen, a managing director at New York-based NewOak Capital LLC.

The health insurance case stands for the proposition the constitution's shield "absolutely protects pension benefits from any unilateral diminishment and impairment by the state under any circumstance," members of the Illinois State Employees Association, the Retired State Employees Association and others suing to overturn the fix said in an August filing.

On Track

The state argued that it had been "on track" to pay down its unfunded pension liabilities over the next 40 years pursuant to 1994 legislation before being derailed by "a series of adverse events," most significantly the economic downturn that gathered strength in 2007 and 2008, cresting the following year.

"To respond to the severe financial impacts of the Great Recession, the state is fully justified in exercising its reserved sovereign powers to enact modest reductions in future benefit increases for system members," according to an Oct. 3 filing by Madigan.

That argument offers no legal support for the legislation, its challengers said in a June filing.

"The Pension Protection Clause has no exception, regardless of the exigency," they said.

We Are One Illinois, a coalition of public employee unions that sued to overturn the law, today issued as statement applauding Belz's decision.

"The Illinois Constitution means what it says," the coalition said. "The court held today, as our unions have long argued, that the state cannot simply choose to violate the Constitution and diminish or impair retirement benefits if politicians find these commitments inconvenient to keep."

The case is *In re Pension Litigation*, 2014-MR-000001, Sangamon County, Illinois, Circuit Court (Springfield).

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