A HISTORY OF ILLINOIS PUBLIC EMPLOYEE PENSIONS
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ABSTRACT. Almost from their creation Illinois' public employee pension funds have been the piggy bank from which politicians have diverted required contributions to pay for other programs and services. Many of those programs and services were for short term political gain that politicians were unwilling to ask voters to pay higher taxes or accept cuts in others. Pension funds have been further undermined by frequent changes (over 700 since 2003) in laws governing them. These changes often included hidden or obscure provisions that benefitted politicians and their supporters and allies, including labor leaders. Prudent policy requires that pension codes changes be infrequent and subject to fiscal analysis before being passed. Politicians enjoyed the immediate political benefits without accountability by passing the responsibility for paying for them to their successors long into the future. Illinois' is ranked 37th for tax burden although it has a history of underinvestment in core public services because of structural budget deficits and tax breaks for the wealthy and politically influential corporations. Public employees are ineligible to participate in Social Security. The average monthly SURS annuitant receives about $2,900 per month; 62% receive less than $2,600. As the extent of the budget crisis became obvious and could no longer be deferred, the governor and business and civic leaders called for reduced pension benefits. No cuts in programs and services have been proposed; indeed, the governor's February 6, 2013, State of the State message called for increases in some but included no provisions to pay for them.

The first public employee pension plan for some Illinois public school teachers was offered in 1915. The number of pension plans provided by both public and private sector employers increased during the Depression. The first statewide public pension system in Illinois was the Teachers Retirement System (TRS), founded in 1939.

The State Employees Retirement System (SERS) and what would become known as the State Universities Retirement System (SURS) were created in 1941. The Judges Retirement System (JRS) was established in 1944, the General Assembly Retirement System (GARS) in 1947.

More than 760,000 current and retired public employees now are members of one of Illinois' five public employee pension systems, according to the Office of the Governor. The number of retirees exceeded the number of active employees for the first time in 2012.

After Social Security was created, states had the option, under Section 218, to voluntarily extend its benefits to public employees. Social Security now requires contributions of 6.2 percent of payroll each for the employer and the worker. Most states have chosen to put all or most public employees in Social Security and also provide a state pension.

Illinois is one of 13 states in which most public employees are unable to participate in Social Security. Two of those states, Louisiana and Maine, have recently considered shifting public employees into Social Security.

The sole source of income for most Illinois public employee retirees is the public pension systems. Most retirees who worked elsewhere and qualified for Social Security benefits upon retirement do not receive full Social Security benefits, which are reduced by the Windfall Elimination Provision or the Government Pension Offset.

If its members were covered by Social Security, SURS estimated that the employer cost would be about $216 million.

Illinois' public employee pension plans, more than those in other states, have not been funded at levels sufficient to meet their long-term obligations to active and retired employees. Employee contributions are regularly deducted from their paychecks and deposited in the pension plans. Since the plans' creation, successive governors and legislatures have redirected the state's contribution to other purposes.

Before the 1970 Illinois Constitutional Convention, the pension rights of most state and local employees, for whom participation was mandatory, could be modified or abolished by the legislature at any time. At the time of the Convention, the Pension Laws Commission reported that SURS was 47% funded, General Assembly Retirement System (GARS) 68.5%, State Employees Retirement System (SERS) 43%, Teacher Retirement System (TRS) 40% and Judicial Retirement System (JRS) 32.3%. Noting the difference in the level of GARS funding and that of the other plans, public employees successfully lobbied for inclusion of the Pension Clause.

Drafters of the clause made clear during Convention debates that the clause was not intended to: (1) require the full funding of any pension system or require funding up to any giver percentage; limit the General Assembly's authority to consolidate or reorganize the pension system; or (3) require pension benefit payments to remain immune from inflation, according to Eric M. Madiar, Northern Illinois University.

They made clear that the clause was intended to prohibit the legislature from unilaterally and adversely changing terms of a pension plan after an employee entered the pension system. These interpretations were presented to voters before they voted to ratify the 1970 Constitution, Madiar wrote.

In collective bargaining negotiations over the years, state negotiators promised enhanced and expanded pension benefits in return for lower salary increases or not seeking other benefits. However, the funds seldom were appropriated and transferred to the funds where they would earn dividends.

Failing to provide required appropriations for pension plans has been a common practice almost from the beginning of the plans. Fund managers, members of the political party out of power, public policy experts, other candidates for their elective offices, editorial writers and others frequently expressed concern about the practice and warned of the consequences.

A few politicians in safe districts acknowledged that it was easier politically to pass responsibility for providing the funds to future governors and legislators than to raise taxes or say no to those demanding new or expanded government services and programs at the time. "We have effectively been stealing from our pension funds, only by underfunding, but that can be just as serious," Comptroller Dawn Clark Netsch said after Illinois Supreme Court upheld Gov. Jim Edgar's 1991 order requiring that her office transfer $21 million from pension funds to the state's general fund.

Some new or expanded state services and programs were not important enough to citizens that they were willing to pay additional taxes. They were important to legislative leaders who allowed them to be included in bills at the last minute when they were likely to be overlooked until after being voted on. Sometimes the primary beneficiaries were lobbyists and political donors, supporters and allies. These included highly paid union leaders willing to put their personal interests ahead of those of their members.

Compensation paid to Illinois legislators is higher than what is paid to legislators in many other states. Although their positions are considered part time and most receive income from other sources and jobs, legislators themselves have benefitted handsomely from pension code changes.

Experts know that healthy pension plans are based on well-structured rules and procedures that change rarely and are managed by competent managers. The laws that control Illinois' pension plans now exceed 1,000 pages. These laws determine how the plans are funded, establish benefits and levels and define qualifications.

A Chicago Tribune/WGN-TV analysis found that Illinois' pension laws were revised almost 700 times since 2003, and described many changes as being the result of short-term political wrangling. They reported that more than half of the pension laws since 2003 were passed without any fiscal analysis.

Describing Illinois' changes as "extraordinary, if not unprecedented," Keith Brainard, research director of the National Association of State Retirement Administrators, told the Tribune that so many changes create retirement plan havoc.

Why raid pension funds rather than increase taxes or reduce service and programs? "Because that's where the money is," said California pension attorney Joseph Wyatt, referring to bank robber Willie Sutton.

The current budget crisis is not unprecedented. The recession of the early 1990s caused a revenue decline in all states. Illinois was not one of the 31 states that increased taxes or decreased spending or both. Gov. Jim Edgar ordered $21 million transferred from the state pension fund to the general revenue fund. In finding the governor's order legal, the Illinois Supreme Court reaffirmed two earlier rulings that the state was obligated to honor its pension obligations as they become due.

The Court's decision prompted an unsuccessful effort by public employees to get Congress to mandate national fiduciary standards, require full accounting disclosure, provide penalties for abuses and underwrite state pension plans through federal insurance, as is done for many private pension plans.

The legislature and governors over the years have approved several funding plans that included payment schedules they said would bring the pension system to full or near full funding over a number of years. The plans failed because the state did not make its required contributions.

State law prior to 1989 required that the employer contribution to SURS be sufficient to meet requirements determined by actuarial determinations. It also that state appropriations be enough to meet total accruing normal costs plus interest on unfunded accrued liabilities. No enforcement provisions were included.

A law passed in 1989 required that beginning with fiscal year 1990 the state's contribution would increase over a seven year period by enough that pension funds would be able to meet normal cost and amortize unfunded liability over 40 years. Again, no enforcement provisions were included. When the legislature and governor failed to comply, a class action suit was brought against the state. The Illinois Supreme Court ruled, in 1994 that participants and retirement systems had neither a constitutional nor a vested contractual right to enforce statutory funding obligations.

Gov. Edgar and legislative leaders said a plan passed in 1994 would reduce the state's pension debt over a 50-year period. Government accounting standards recommend that such payment plans not exceed 25 years. The 1994 plan required annual contributions but permitted the state to delay the start of payments until 2010, when the state would be least able to afford them and missing the earlier economic expansion. Extra interest during those 15 years increased the state's debt by billions of dollars. Pension holidays in 2006 and 2007 provided money to pay for current state services and programs but at great cost to pension plans.

While in office, Gov. Rod Blagojevich and the legislature approved costly new and expanded program and services without approving taxes or reducing funding for existing programs and service to pay for them. It has been projected that the cost of some pension obligation bonds sold while Blagojevich was in office could be as much as $14 for each dollar raised. And, not all of the bond money raised went into the pension system—with approval of legislative leaders Blagojevich diverted about $2 to pay state general operational expenses and investment fees on the bonds.

State pension contributions were diverted in 2005 and 2006 to the Chicago Teachers Retirement fund, Chicago Transit Authority and other services and programs, some of which were tainted by federal corruption charges. Demands for campaign donations and other favors by Blagojevich or his fund-raisers were among charges on which he later was found guilty and sentenced to federal prison.

Pension code changes in 2010 created a two-tier system by reducing benefits for those hired after January 1, 2011. Legislative leaders said the changes would reduce pension liabilities over the next 30 years by half. Those savings will not be realized for years but the state promptly started counting them to reduce the amount of required current payments.

SURS actuaries estimated that the 2010 reforms would reduce required state contributions by about $6.4 billion over the next 34 fiscal years. Pension holidays would eliminate much of the savings. For example, a pension holiday in fiscal year 2013 would cut projected savings by 48% over the next 32 fiscal years.

SURS provides retirement, disability, death and survivor benefits to eligible participants and annuitants. Staff employees, such as building service workers, groundskeepers, clerical and administrative staff, make up 56% of SURS members; 44% are professors and teachers. The average SURS annuitant’s monthly retirement benefit in 2011 was $2,913; 62% receive less than $2,600. Seventy nine percent of annuitants live in Illinois.

SURS funding ratio at June 30, 2011, was 45.2%. System assets were $14.24 billion and liabilities were $31.5 billion. SURS FY 2011 investment return was $23.8% net of fees.

Center for Tax and Budget Accountability concluded that Illinois is a low-tax state for individuals. CTBA reported that total state taxes amounted to just 5.5 percent of total in-state personal income in 2011, falling well behind the 6.2 percent fifty-state median and placing Illinois 37th in a ranking of state tax burden. Even after the income tax increased to 4.5% that took effect in 2011, CTBA ranked Illinois 42nd among the states in the share of personal income levied in all state and local revenues.

Such low taxes have proven inadequate to the state’s needs. Illinois has a longstanding history of structural budget deficits and underinvestment in core public services. Despite its higher-than average per-capita income, CBTA found that Illinois spends at below-average per-capita levels on education, human services, Medicaid, and public safety. The state's deliberate, long-term policy of underfunding its public employee pensions caused its unfunded pension liability to grow. This occurred despite the state's low state employee headcount per capita (49th in the nation), low ranking among the states in education funding and relatively modest pension benefits.

Illinois' neglect of its public commitments in all of these areas stemmed from unwillingness to raise adequate revenues, CBTA concluded. "Illinois has the potential to meet its revenue challenge by adopting reforms that will modernize the tax system, eliminate special tax breaks for corporations and the wealthy, and protect the state from the negative impacts of federal tax changes."

Rod Blagojevich was twice elected governor after promising no tax increases during his administration. New and expanded services and programs were implemented with no provision for funding. Even more than under previous governors they were paid for by diverting constitutionally required allocations to pension funds for short term political gain with disastrous long time budget consequences. It was during that time that Illinois' deficit became a crisis that threatens to drive the state into insolvency. The lessons of history were yet to be learned.