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Illinois Policymakers Scramble After Pension Law Struck Down

By **Andrew Ujifusa**

An **Illinois Supreme Court ruling this month** that overturned a 2013 law altering pensions for retired teachers has not only scrambled the state's financial outlook: **It's pushed first-year GOP Gov. Bruce Rauner to seek a constitutional amendment that could clear a path for his own overhaul of retirement benefits and stop any legal challenge to it.**

But shoring up the state budget in light of the ruling won't be easy, in part because lawmakers allowed a **statewide tax increase to partially sunset** at the start of this year, a fact the justices noted in their unanimous May 8 ruling.

While Gov. Rauner has a plan that would create a distinction between previously earned benefits and new, less generous ones in order to boost the pension system's fiscal health, it's not clear it would pass muster with either the legislature, controlled by Democrats, or the courts.

And any constitutional amendment from Gov. Rauner to protect his plan or any other pension overhaul would require approval from 60 percent of both chambers of the legislature just to be put on the ballot.

The state's highest court ruled that Senate Bill 1, signed into law by Mr. Rauner's Democratic predecessor, Gov. Pat Quinn, in 2013, violated **a section of the Illinois Constitution** stating that membership benefits in a state pension or retirement system "shall not be diminished or impaired."

The latest numbers from the state pension system, published last year, show that the Teachers' Retirement System had **\$62 billion in unfunded liabilities**, up from \$56 billion roughly a year ago, out of \$111 billion in total unfunded state-pension liabilities.

"Other than to come up with the money to start paying off the unfunded liabilities, there are some options out there that are just wishing and hoping," said Kent Redfield, a professor emeritus of political science at the University of Illinois at Springfield who has studied state politics and pensions.

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Pennsylvania lawmakers are coming to grips with their own underfunded pension systems—a **bill passed by that state's Senate May 13** would require public school employees in the state pension system hired before 2010 to either pay more into the system or agree to what is effectively a reduction in their benefits.

In Illinois, the 2013 law signed by Mr. Quinn and originally slated to go into effect last June would have excluded most pension issues from collective bargaining, and reduced benefits for workers below a certain level of experience, among other changes.

We Are One Illinois, a coalition of groups that includes teachers' unions, immediately sued to overturn the law. Defending it in court, the state pointed to Illinois' strained finances—including a \$6.2 billion budget deficit heading into fiscal 2016—and the burden of the pensions. But the supreme court justices laid the blame squarely at the feet of lawmakers for not properly funding the pension system.

"Indeed, accepting the state's position that reducing retirement benefits is justified by economic circumstances would require that we allow the legislature to do the very thing the pension-protection clause was designed to prevent it from doing," Justice Lloyd A. Karmeier wrote in the court's opinion.

For fiscal 2016 alone, Gov. Rauner's office says, the state owes \$7.6 billion to the pension system, about a quarter of the state's operating budget.

The governor's plan would offer public employees a lump-sum payment into a supplemental defined-benefits plan in exchange for shifting to a lower cost-of-living adjustment, among other changes. A lawyer for Gov. Rauner, Kim Fowler, told lawmakers last week that, in the governor's view, the court's opinion protects only previously earned benefits, not future ones.

But Rep. Scott Drury, a Democrat, told the governor's staff that Mr. Rauner's claim that his plan is constitutional even as he seeks to amend the constitution to provide legal cover was problematic.

"The court poked a lot of holes in what we did" in 2013, said Mr. Drury, who at the same time acknowledged that he wasn't sure what a sound plan for pensions would ultimately look like.

Some options for the state could include a push to reamortize its pension debt and to move some of the unfunded pension burden to districts outside of Chicago, Mr. Redfield said.

But the court was clear on one issue, he noted: "You can't screw around with the formula to reduce benefits."

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