

Reducing Pension Benefits and Increasing Pension Contributions for Current Educators **OPPOSED**

STATUS: Legislation is being proposed that asks for current members of Illinois state-funded pension systems to significantly increase their contributions in order to receive the pension that they have been promised. Proposals like these have been found by the Illinois Supreme Court to be unconstitutional.

CURRENT LAW: The “Pension Protection Clause” states in Article XIII, Section 5 of the Illinois Constitution:

“Membership in any pension or retirement system of the state, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired.”

CONSTITUTIONAL CONVENTION DEBATE: Delegate Henry Green sponsored the “Pension Protection Clause” and stated that the purpose of this provision was to create “a contractual relationship between the employer and the employee; and secondly, [section 5] mandates the General Assembly not to impair or diminish these rights”.

Additionally, Delegate Helen Kinney sponsored the provision with Delegate Green and in debate cited an example of the provision’s application: *“Benefits not being diminished really refers to this situation: If a police officer accepted employment under a provision where he was entitled to retire at two-thirds of his salary after twenty years of service, that could not subsequently be changed to say he was entitled to only one-third of his salary after thirty years of service, or perhaps entitled to nothing. That is the thrust of the word “diminished.”... It is simply to give them a basic protection against abolishing their rights completely or changing the terms of their rights after they have embarked upon the employment — to lessen them.”*

Case Law Supports “Pension Protection Clause:” It has been affirmed by the Illinois Supreme Court and by the Illinois Appellate courts countless times what this section of the Constitution means.

- *Felt v. Judges Retirement System (1985):* The Illinois Supreme Court ruled that a pension law change by the General Assembly “clearly effects a reduction or impairment in the retirement benefits of the plaintiff members of State retirement systems in violation of the constitutional assurance of [the Pension Protection Clause].”
- *Sklodowski v. State of Illinois (1998):* The Illinois Supreme Court offered in its opinion that, “this court has held that the contractual relationship is governed by the actual terms of the Pension Code at the time the employee becomes a member of the pension system.”

Senate Parliamentarian Eric Madiar’s legal opinion:

- Page 72: “The employee’s contribution rate, in other words, is a term of that enforceable contractual relationship and a benefit because the employee need only pay that rate to receive a pension.”

IEA’s Position:

- We believe increasing the contributions for a member to maintain their current pension benefit package is a direct violation of this clause since it would be a change of a contractual relationship.
- Forcing members to make a choice among “options”, knowing that each option would amount to a smaller or a costlier pension benefit than they would otherwise be entitled to would constitute a violation of the “Pension Protection Clause.”
- Our members have never missed a pension contribution and to force members to pay more so that the state can abrogate its responsibility once again is wrong.