

BEYOND BLUE

California Court: Constitution Is Not a Suicide Pact

California's public sector pensions politics has historically worked something like this: First, union pension funds would purposefully conceal the cost of their liabilities with actuarial tricks and distortions. Then, even as the stock market boomed, the funds would run up a huge shortfall, leading the unions to come back to the state legislature asking for more. Saying no was not an option, because the state's courts had ruled that reducing government employee pensions is always unconstitutional. So the pension outlays would increase, and the cycle would repeat itself.

Earlier this month, however, a California appeals court threw a wrench in this process by allowing the Marin County to bring its finances in order in part by modestly adjusting pension formulas for current employees. *The San Diego Union-Tribune* editorializes:

A unanimous state appeals court ruling that local and state governments can make "reasonable" changes in pension terms going forward is the best news on the California pension front ... ever.

For decades, under what was known as "the California rule," once a government employee was hired, her or his pension benefits could only be increased, not reduced. This was based on the assumption that these benefits amounted to a contract between employer and employee.

But in a ruling on unions' push to continue late-career pension spiking in Marin County despite a 2012 state law saying such maneuvers were no longer legal, Associate Justice James Richman made a broader point: "While a public employee does have a 'vested right' to a pension, that right is only to a 'reasonable' pension — not an immutable entitlement to the most optimal formula of calculating the pension."

The ruling stands in contrast to those in other states, like Illinois, where courts have been a major stumbling block to pension reform. This is a good first step, though the ruling could be overturned on appeal. Next, the legislature should direct its pension funds to cease their accounting mischief and put the state's pensions back on a sustainable path, so that gaping pension deficits aren't built in to the system from day one. With enough diligence, care, and good luck, the Golden State may be able to avert a genuine crisis.

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