

MAJOR POLICY SHIFTS

2010

S.B. 1946

For MRF, SERS, SURS, and TRS new hires, the Illinois Legislature created a new tier (Tier 2) for employees hired after January 1, 2011 that (1) lengthened the period for calculating final average salary from 4 to 8 years; (2) reduced the maximum salary applied to the calculation of the final average salary from \$245,000 to \$106,800; (3) increased the age and service requirements for retirement from age 60 with 8 years of service to age 67 with 10 years of service; (4) eliminated the eligibility to retire at any age; (5) increased the age of eligibility for an early retirement from 60 to 62 with at least 10 years of service; and (6) reduced the COLA to an annual amount of 3% or one-half of the annual increase in the consumer price index for the preceding calendar year, whichever is less. For SERS new hires, the legislature increased the vesting period from 8 to 10 years. For SURS and TRS new hires, the legislature increased the vesting period from 5 to 10 years.

2013

S.B. 1

For JRS, SERS, SURS, and TRS new hires and active Tier1/Tier2 employees, the Illinois Legislature (1) capped future pensionable salary for Tier 1 employees to \$106,800; (2) increased the early retirement age for employees age 45 and under, by requiring that they work an additional 4 months for each year they are under 46; and (3) altered how the base annuity amount is determined for the 'money purchase' formula (an alternative method for calculating pensions that was available to employees hired before July 1, 2005); and (4) conditioned COLAs on an employee's years of service and inflation. The Illinois Supreme Court struck down this legislation (See In re Pension Reform Litigation on the reverse side).

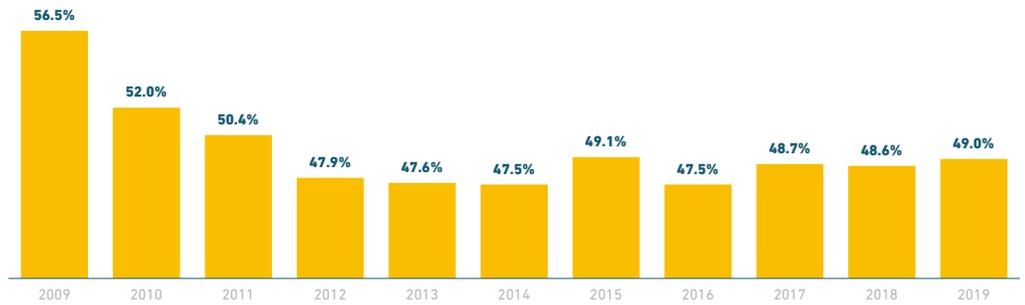
2018

H.B. 3342

For SERS, SURS, and TRS the Illinois Legislature (1) gave employees who retired before January 1, 2011 (Tier 1) or who are inactive but vested the option to take an irrevocable, lump-sum payment (in lieu of a future pension payment) from January 1, 2018 until June 30, 2021; (2) for active employees and participating employers, lowered the salary increase threshold that triggers employer contributions from 6% to 3% to ensure that employers share the cost of pension benefits generated by raises over 3%.

FUNDED RATIO

The graphic below covers the following retirement systems: Judges' Retirement System of Illinois (JRS), Illinois Municipal Retirement Fund (MRF), Illinois State Employees' Retirement System (SERS), the Illinois State Teachers' Retirement System (TRS), and Illinois State University Retirement System (SURS).



LEGAL ENVIRONMENT FOR FUTURE POLICY EFFORTS

Legislative efforts confined to new hires are excluded from analysis because they rarely face significant legal challenges.

Table with 4 columns: Policy Shift, Relevant for Active Employees/Retirees, Legal Challenges, and Legal Prospects. Rows include Increase Employee Contributions, Decrease or Eliminate Cost-of-Living Adjustments, Change Vesting Period, and Change Benefit Calculation.

* FAVORABLE indicates that the issue survived litigation in the past and/or there is a permissive legal environment for the change. * UNFAVORABLE indicates that the issue did not survive litigation in the past and/or there is a non-permissive legal environment the change. * UNDEVELOPED indicates that the issue has not been litigated and/or the current legal environment is unclear as to what the outcome would be.

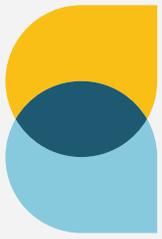
DISCLAIMER: Equable is not necessarily recommending any of the policy concepts listed above. Some of them may be good ideas, bad ideas, or involve trade-offs between various stakeholders. This document only provides information about the likely legal outcomes of pursuing different policy concepts by stakeholders. The document does not constitute legal advice or representation, and the authors are not liable for any actions taken relying on this information.



ILLINOIS

LEGAL ENVIRONMENT FOR PENSION POLICIES

As of December 2020



ILLINOIS STATE LAW CONTEXT

State Provisions

ARTICLE XIII, SECTION 5 OF THE ILLINOIS CONSTITUTION: “[M]embership 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.”

Key Opinions

IN RE PENSION REFORM LITIG., 32 N.E.3D 1 (ILL. 2015)

Active employees enrolled in the state-funded pension systems challenged the constitutionality, under the state constitution’s Pension Protection Clause, of S.B. 1 (2013), which for Tier 1 and Tier 2 members, reduced employees’ retirement benefits in four ways: (1) capped future pensionable salary, (2) increased the early retirement age for employees age 45 and under, by requiring that they work an additional 4 months for each year they are under 46, (3) altered how the base annuity amount is determined for the ‘money purchase’ formula (an alternative method for calculating pensions that was available to employees hired before July 1, 2005), and (4) conditioned COLAs on an employee’s years of service and inflation. *In re Pension Reform Litig.*, 32 N.E.3d at 15. The legislation challenged in this case primarily dealt with Tier 1 annuity modifications and pension systems GRS, SERS, SURS, and TRS. The Illinois Supreme Court held that the law was unconstitutional in its entirety because the challenged amendment changed the pre-existing pension statutes in ways that reduced the value of employees’ annuities. *Id.* at 31. The court interpreted Article XIII, Section 5 of the constitution to mean “‘if something qualifies as a benefit of the enforceable contractual relationship resulting from membership in one of the State’s pension or retirement systems, it cannot be diminished or impaired.’” *Id.* at 17 (quoting *Kanerva v. Weems*, 13 N.E.3d 1228, 1240 (Ill. 2014)). The court determined that “[r]etirement annuity benefits are unquestionably a ‘benefit of contractually-enforceable relationship resulting from membership’ in the four State-funded retirement systems.” *Id.* at 18. Contract protections commence “once an individual begins work and becomes a member of a public retirement system,” and thus “any subsequent changes to the Pension Code that would diminish the benefits conferred by membership in the retirement system cannot be applied to that individual.” *Id.* at 17.

The court also rejected the state’s argument that its reserved sovereign powers allow it to override constitutional protections because of the dire funding situation of the state’s pension system. “Neither the legislature nor any executive or judicial officer may disregard the provisions of the constitution even in case of a great emergency.” *Id.* at 19 (quoting *People ex rel. Lyle v. City of Chicago*, 195 N.E. 451, 454 (Ill. 1935)).

PISANI V. CITY OF SPRINGFIELD, 73 N.E.3D 129 (ILL. 2017)

Active employees enrolled in the MRF challenged the constitutionality, under the state constitution’s Pension Protection Clause, of the city of Springfield’s elimination of a so-called “pension spiking” opportunity to cash in on unused vacation days several months before retirement, increasing the final rate of earnings used to calculate pension benefits. The Illinois Supreme Court held that the provision “did not constitute diminishment or impairments of pension benefits within the meaning of the state constitution’s pension protection clause” because the modification was not to a pension contract but to “a vacation day policy—a change that had only an incidental, indirect effect on pension benefits.” *Pisani v. City of Springfield*, 73 N.E.3d at 130, 132. The court further stated that “[c]hanges in the terms and conditions of employment that indirectly affect the amount of a pension by affecting a number that is plugged into the pension formula are not ‘diminish[ments] or impair[ments]’ of pension benefits, within the meaning of the pension protection clause” and that terms and conditions of employment that have “no fixed numerical value” or presence in the pension code can be modified. *Id.* See also *Peters v. City of Springfield*, 311 N.E.2d 107, 152 (Ill. 1974) (holding that the state constitution did not prevent the city of Springfield from reducing the maximum retirement age, even though the reduction might affect the pensions that plaintiffs ultimately would receive because the “pension contracts was the formula, with its variables, and no matter what numbers were plugged into the formula, it—and therefore the pension contract—remained the same[]”(emphasis in the original)).

FOR MORE INFORMATION

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