

State Universities Annuitants Association



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The State Universities Annuitants Association
Testimony before The Conference Committee
December 3, 2013

On the basis of what we have learned during the last 24 hours, the State Universities Annuitants Association is opposed to the Conference Committee legislation contained in SB 1.

In our opinion, this legislation violates long-standing principles of contract law and the Illinois Constitution. In the interest of time, I will limit my remarks to my understanding of Article XIII, Section 5 of the Illinois Constitution of 1970 as it relates to the rule of consideration in contract formation.

Section 5 is self-evident and easily understood:

“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.”

The Illinois Supreme Court has held that “the purpose and intent of the constitutional provision was to insure that pension rights of public employees which had been earned should not be “diminished or impaired.” ” *Peters v. City of Springfield*, 57 Ill 2d 152, 311 N.E.2d 112 (1974).

In a valid contract or situation that changes an existing contract, consideration must be part of the relationship between both parties. According to *Corbin on Contracts*, consideration is defined as “reasons deemed sufficient to render a promise enforceable,” or a “bargained for exchange.” *Corbin on Contracts, Revised Edition, Vol 2 §§ 5.1-7.21 Formation of Contracts*, 2-3. In other words, consideration is generally something that has value.

The legislation proposed by this Conference Committee changes the terms of this contractual relationship between the State of Illinois and current retirees and employees by requiring them to accept an automatic increase in the retirement annuity based on the lesser of

- a. 3% of the total annuity or
- b. \$1,000 multiplied by the number of years of creditable service.

This represents a diminishment and impairment to the existing 3% compounded, cost of living adjustment (COLA) authorized under State pension law. In our opinion, this amendment is not a “bargained for” exchange under contract law principles, does not give State retirees and employees full consideration for their diminished COLAs, is a unilateral change to earned pension rights, and therefore violates Article XIII, Section 5 of the Illinois Constitution.

For these reasons SUAA respectfully requests you to vote “No” on this legislation.

Respectfully submitted by Linda Brookhart, Executive Director, State Universities Annuitants Association