State Universities Retirement System

807 SOUTH LINCOLN AVENUE

URBANA, ILLINOIS 61801

Telephone: 333-3860, Area Code 217

July 2, 1970

Mr. Henry Green
608 West Pennsylvania
Urbana, Illinois 61801

Dear Henry:

I am enclosing three copies of a memorandum setting forth reasons why I believe that the Constitutional Convention should adopt a provision regarding vesting and funding of public employee pension rights.

The General Assembly has done an excellent job in funding its own retirement system obligations but has failed to meet its commitment to other public employees. This failure has created such a staggering liability for future taxpayers that the extra load during an adverse economic period may require the public to renege on its obligations to its public servants.

Other states are funding their current pension obligations and amortizing the past service liabilities over a period of years. The least that Illinois should do is fund the current obligations and pay interest on the past service obligation in order to stabilize the deficit at the current level.

We appreciate your efforts in trying to get this matter reconsidered by the Constitutional Convention.

Sincerely yours,

Ed

Edward S. Gibala
Executive Director

ESG:rw
Encls.

From Box 1, Folder 15
Henry Green Papers

STATE UNIVERSITIES RETIREMENT SYSTEM
807 South Lincoln Avenue
Urbana, Illinois 61801

CONSTITUTIONAL PROVISION CONCERNING VESTING OF PENSION RIGHTS FOR PUBLIC EMPLOYEES

At the end of 1968, more than 370,000 public employees were participating in 374 pension funds in the State of Illinois. In addition, there were more than 79,000 persons receiving retirement, disability or survivors insurance benefits from these funds with total annual payments exceeding 163 million dollars.[1] Thus, approximately one-half million persons are relying on public employee pension plans in Illinois for their future security.

Court Decisions Concerning Contractual or Vested Rights

The Illinois courts, with some minor exceptions, have generally ruled that pension benefits of public employees under <u>mandatory</u> participation plans were in the nature of bounties which could be changed or even recalled as a matter, apparently, of complete legislative discretion.[2] Inasmuch as most pension plans in Illinois provide for <u>mandatory</u> participation, the pension "rights" of public employees in this State are mere expectancies which are subject to a reserved legislative power of change or repeal.[3]

Financial Deficiencies

In Spina v Consolidated Police and Firemen's Pension Fund Commission,[4] the New Jersey Supreme Court, in rejecting an appeal to attach a contractual status to a plan of mandatory participation stated that "all of these funds

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[1] Report of the Illinois Public Employees Pension Laws Commission - 1969, pp. 31-33

[2] Pecoy v City of Chicago, 265 Ill. 78, 106 N.E. 435 (1914).

[3] Beutel v Foreman, 288 Ill. 106, 123 N.E. 270 (1919).

[4] 41 N.J. 197 A 2d 169 (1964).

had in common the promise of inevitable doom. The reason was that the annual revenues were not related to the ultimate cost of pension benefits, so that while current income might suffice for the earlier pensioners, the day had to come when little or nothing would remain for others, even of their own contributions to the fund."

The above declaration by the New Jersey Supreme Court is particularly appropo to the pension funds in Illinois as evidenced by the following statistics contained in Table 5 on page 34 of the 1969 Report of the Illinois Public Employees Pension Laws Commission:

Date	Total Accrued Liabilities	Net Present Assets	Unfunded Accrued Liabilities
1968	$4,472,164,005	$2,024,157,656	$2,448,006,349
1966	3,594,718,075	1,646,110,392	1,948,607,683
1964	3,070,066,047	1,354,672,141	1,715,393,906
1962	2,610,000,312	1,095,112,990	1,514,887,322
1960	2,224,171,213	863,642,807	1,360,528,406
1958	1,860,862,108	675,856,008	1,185,006,100
1956	1,558,088,292	544,694,236	1,013,394,056
1954	1,182,462,114	418,515,689	763,946,425
1952	965,211,571	323,347,366	641,864,205
1950	730,950,204	249,635,895	481,314,309
1948	610,630,491	188,536,043	422,094,448
1946	513,008,300	153,520,000	359,488,300

In 22 years the unfunded accrued liabilities of public employee pension plans in Illinois increased from about $359 million to almost $2½ billion. The unfunded accrued liabilities are real and not theoretical obligations based upon service already rendered to the taxpayers of the State of Illinois.

Despite consistent warnings from the Illinois Public Employees Pension Laws Commission that current budgeting of pension costs is necessary to insure financial stability of the funds under varying economic conditions, the General Assembly has failed to meet its commitment to finance the pension obligations on a sound basis. For example, in 1967, the General Assembly approved Senate Bill 515 which provided that the appropriations to the State Universities Retirement System shall be at least equal to an amount which is necessary to fund fully the current service costs and to cover interest on the past service liabilities. The purpose of this legislation was to stabilize the unfunded accrued liabilities at the July 1, 1967 level. Despite this legislative mandate for stabilization of the past service liabilities, the General Assembly refused to appropriate the necessary funds to meet this requirement during the 1969 and 1970 legislative sessions. During this 2-year period, the appropriations to this System were about $67 million less than the minimum required by Senate Bill 515. The General Assembly has also failed to appropriate to the State Teachers' Retirement System, the funds required by Statute to stabilize the deficit for past service. Within the next two years, the combined unfunded accrued liabilities of the State Universities Retirement System and the State Teachers' Retirement System will likely exceed a billion dollars.

Practice in Other States

Other states comparable to Illinois are not only funding fully the current service retirement costs for public employees but are amortizing the past service liabilities over a period of years. Thus, the pension expectancies of public employees in such other states are supported by reserve funds which are sufficient to guarantee continuation of benefit payments regardless of economic conditions. The pension funds of colleges with whom the Illinois colleges and universities must compete for faculty and staff are also financed on a sound basis with little or no unfunded accrued liabilities.

Constitutional Guarantee in New York

In New York, public employees by constitutional amendment[5] are guaranteed a "contractual relationship" in their governmental "pension" or "retirement system" after July 1, 1940, "the benefits of which shall not be diminished".

Conclusion

The Illinois courts have generally ruled that public employee pensions are mere gratuities which can be revised or revoked at the will of the legislature, and the State Legislature has cast a spell of doom on the future pension expectancies by consistently failing to meet its commitment to fund the pension obligations. As a result, public employees are beginning to lose faith in the ability of the State and its political subdivisions to meet benefit payments during an adverse economic period. This insecurity on the part of the public employees is defeating the very purpose for which the retirement systems were established. Therefore, the public employees of Illinois have no alternative but to request that the Constitutional Convention adopt a provision similar to the following which would not only guarantee the pension expectancies but direct the General Assembly to take the necessary steps to fund the pension obligations on a basis consistent with sound actuarial principles.

Vesting of Pension Rights of Public Employees

" Pension rights of public employees are an integral part of the contract of employment, and these rights are vested in the employee at the time he accepts each employment contract. The General Assembly shall be responsible for safeguarding these vested

[5] N.Y. Const. Art. V, Sec. 7.

rights during the employment period and after retirement by providing for methods of financing which are consistent with sound actuarial principles."

It is important that the constitutional provision cover not only the vesting of public employee pension rights but also contain a mandate to the General Assembly to fund the obligations in accordance with sound actuarial principles. Constitutional vesting without the mandate for proper funding would be meaningless.

Edward S. Gibala

Edward S. Gibala
Executive Director