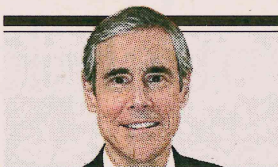


Are you ready for some taxes?

On the afternoon of May 8, 2015, the Illinois Supreme Court, with all seven justices approving, released an extraordinary judicial opinion — one containing an expansive civic lesson as well as a shot at the “blame game.” The justices addressed the thorny problem of pension reform and the sad history of the state’s stewardship of its budget. In the end, the justices ruled that the General Assembly’s passage of the 2013 Pension Reform Act was unconstitutional and ordered that it not be enforced. It looks to me that tax increases were just made inevitable.

There has been a great deal of publicity about the frightening state of affairs of the Illinois budget. Gov. Bruce Rauner was elected by the people of Illinois as a fresh face to try to repair the disastrous state of affairs. The justices observed that the funds available in the pension system to pay retirement benefits earned by public employees would amount to 41 cents on the dollar. The General Assembly and former Gov. Pat Quinn tried to take a first step at fixing the problem in late 2013 by enacting pension reform legislation, including measures that reduced the benefits already earned by public employees. Knowing that the legislation was controversial, they deliberately excluded the Judges’ Public Retirement Program from the adverse changes imposed by the Pension Reform law. I suspect they did this to gain favor with the judges by letting them keep their rich retirement benefits. It did not work.

The justices traced the history of improper funding of public pension programs in Illinois back to 1917. “For as long as there have been public pension systems in Illinois, there has been tension between the government’s responsibility for funding those systems, on the one hand, and the costs of supporting governmental programs and providing governmental services, on the



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other hand,” the opinion said. The justices also quoted extensive dialogue from the 1970 Illinois Constitutional Convention that revealed the delegates’ lack of trust that state legislators would properly fulfill the state’s promise to its workers to honor pension payments earned by those workers. As a result, the Illinois Constitution was amended to include a “pension protection clause” that prevented any diminishment or impairment of benefits that were contractually provided for.

The justices called out the inexcusable negligence on the part of the General Assembly in failing, time and time again, to meet its fiscal obligations to properly deposit money into the retirement systems to pay for benefits already earned by public workers — teachers, university workers, state workers and employees of the General Assembly. The justices even cited an SEC investigation that in 2013 sanctioned Illinois for the way it neglected funding of public pensions and failed to disclose that fact to its bond investors.

Finally, the justices summarily dismissed the General Assembly’s attempt to defend the pension cutbacks by exercise of the state’s “police powers.” They basically said the state had no credibility arguing that it was an immediate necessity to undercut the state’s contractual obligations to its workers, because the state knew about the problem for a long time, and deliberately ignored fixing it in any responsible way. The justices reminded the General Assembly that the proper way to fix the problem would be to implement a plan to gradually fully fund the pension obligations and raise tax revenues.

Uh-oh!

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