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State court upholds 2013 law that cut buying pension credits

By Bob Egelko Updated 2:13 pm, Sunday, January 1, 2017

FILE - In this Monday, Dec. 19, 2016, file photo, members of the California Public Employees' Retirement System, CalPERS listen to discussion about reinvesting in tobacco stocks in Sacramento. A state appeals court has upheld a 2013 California law that eliminated a pension benefit for hundreds of thousands of state and local government employees in an effort to reduce the pension system's mounting deficits.

A state appeals court has upheld a 2013 California law that eliminated a pension benefit for hundreds of thousands of state and local government employees in an effort to reduce the pension system's mounting deficits.

The lawmakers' action in eliminating the right of public employees to buy additional retirement credits was "wholly reasonable" and did not violate any binding promises made to the employees, the First District Court of Appeal in San Francisco said Friday.

A lawyer for a firefighters union that challenged the law said it would probably seek review by the state Supreme Court, which has already agreed to consider another case cutting back on public pensions.

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Friday's case affects a pension system for 1.6 million state and local employees, although the ruling deals only with those who were employed when the law took effect in 2013, said the attorney, Gary Messing.

The 2013 measure repealed a 10-year-old law that allowed employees with at least five years of service to purchase up to five years of credits before retiring, so that a worker who retired after 20 years would receive a pension based on as much as 25 years of contributions.

Although that law did not increase costs to government employers, it added to rising pensions at a time that statewide public retirement systems faced shortfalls estimated at $500 billion or more in recent studies. The repeal barred employees from purchasing future retirement credits starting in 2013.

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The 2013 law was challenged by a union of 6,000 state firefighters, supported by other state and local labor organizations. They argued that they had a "vested," or established, right to pension benefits that were in effect when they were hired, and that the state broke its contractual promise to them by eliminating those benefits.

The California Public Employees' Retirement System, or CalPERS, appeared to support that conclusion in one of its official publications, which told employees that benefits they had been promised could not be decreased without their consent.

But the appeals court said even vested pension rights can be reduced or eliminated in California as long as employees still receive a pension that is "substantial" and "reasonable."

That language came from a 1978 state Supreme Court ruling, which also said that any cutbacks in employees' pension plans, to be considered reasonable, "should be accompanied by comparable new advantages." But "should" does not mean "must," the appeals court said in Friday's ruling.

The employees "are entitled only to a reasonable pension, not one providing fixed or definite benefits immune from modification or elimination," Justice Martin Jenkins said in the 3-0 ruling. Because the former law allowed employees to purchase credits for time they had not actually worked, he said, it did not serve the usual purposes of a pension system, and the Legislature acted reasonably in repealing it.

Messing, the union's lawyer, said the court had brushed aside the directive of the 1978 ruling on pension cutbacks. "When you take away a benefit, you have to replace it," he said.

Bob Egelko is a San Francisco Chronicle staff writer. Email: begelko@sfchronicle.com Twitter: @egelko