Supreme Court strikes down retroactive PERS adjustment

State can't change COLA formula for retired workers

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SALEM — The Oregon Supreme Court ruled today that a cost-of-living adjustment for public retirees cannot be changed retroactively.

The decision strikes down a change made by the Legislature in 2013 to reduce the system's long-term liability.

The court, in a long-awaited decision, also ruled that lawmakers can change how that cost-of-living increase is applied to employees who retire after the changes were made.

The court also rejected appeals by out-of-state retirees of the Legislature's decision to discontinue payments granted years ago to help retirees offset state income taxes.

The decision has no immediate effect on the contribution rates of the Oregon government employers that cover 95 percent of the public workforce. The Public Employee Retirement Board set the rates last fall for the 2015-17 budget cycle, which starts July 1.

But it is unclear how the decision will affect the system's future liability, which lawmakers tried to pare with their 2013 changes.

Retirees and public employee unions went to court to challenge those changes. They argued that the changes violated the contract between government employers and workers.

"We conclude that petitioners have a contractual right to receive the pre-amendment COLA for benefits that they earned before the effective date of the amendments," Chief Justice Thomas Balmer wrote for the court.

The system has about 128,000 retirees.

Five justices joined the decision. Justice Jack Landau recused himself and did not take part.

The court rejected arguments by the state and lawyers for local governments that a more compelling "public purpose" justified breaching the contract.

"The public-purpose defense that respondents ask this court to recognize imposes a high bar to justify the state's impairment of a state contract, like PERS, and the record in this case does not meet that standard," Balmer wrote.

At issue are two changes made by the Legislature in 2013 to the Public Employees Retirement System, which was created in 1945 and now has about 128,000 retirees. The system has 925 government employers and covers about 95 percent of all public employees.

Read more about the decision at http://bit.ly/1EvAwyw.