

January 2, 2014 Thursday

**Campaign contributions;**

**Courting controversy;**

**State Supreme Court justices rake in cash tied to players in pension law fight**

By Dave McKinney

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SPRINGFIELD - If a lawsuit challenging Illinois' new pension-reform law reaches the state Supreme Court, the overwhelming majority of justices might first want to extend a "thank you" before hearing arguments about the constitutional merits of the case.

That's because they'll be listening to their campaign contributors - literally - make a case for and against the historic new law that the General Assembly and Gov. Pat Quinn put on the books last month.

All told, state records show six of seven justices have taken close to a combined $3 million in campaign contributions tied to those with a stake in the pension debate: labor unions, business groups and a political committee controlled by House Speaker Michael Madigan, D-Chicago, who last month said the legislation could not have passed without his muscle.

That fact renews the focus on Illinois' no-holds-barred fundraising system for Supreme Court justices, which President Barack Obama, as a state senator, once called "unseemly" since justices' six-figure donors one day could reappear before the court with important business to decide.

That likely could be the case now on pension litigation, which the state's public-sector unions expect to file soon to block a new law they believe is unconstitutional. Already, retired Illinois teachers have filed suit against the changes.

"Even the most honorable justice has to acknowledge this looks bad. It puts them in a bad light," said David Yepsen, a former political reporter and director of the Paul Simon Public Policy Institute at Southern Illinois University.

The largest beneficiary of pension-related money is Democratic Justice Thomas Kilbride, a former chief justice of the court who in 2010 was immersed in the nation's most expensive judicial-retention battle in nearly a quarter century.

During that fight, Kilbride took in $1.47 million from the Democratic Party of Illinois, which is controlled by Madigan, the state party chairman. That fund chipped in another $688,000 in 2000, when Kilbride was first elected as a justice, assuring another decade-plus of Democratic control of the state's highest court.

In his 2010 retention battle, Kilbride accepted another $467,360 from the Illinois Federation of Teachers, $100,300 from AFSCME Council 31 and $16,000 from the Illinois AFL-CIO, all of which fought aggressively against the pension legislation Quinn signed.

Another member of the court who accepted substantial donations from groups involved in the pension fight is Justice Lloyd Karmeier, a Republican from downstate Nashville.

In his 2004 ascension to the Supreme Court, a battle that centered on tort reform and became the most expensive state Supreme Court election in U.S. history up to that point, Karmeier accepted $210,500 from the Illinois Chamber of Commerce, $35,000 from the Illinois Manufacturers' Association, $15,000 from the Chicagoland Chamber of Commerce and $5,861 from the National Federation of Independent Businesses. All of those groups lobbied at the Statehouse for the pension legislation Quinn signed.

The longest-tenured member of the court, Justice Charles Freeman, also took in significant contributions from a Madigan-led committee during his 2000 retention campaign. The Democratic Party of Illinois gave the Chicago Democrat $63,000.

Those funds are on top of less than $3,000 from the Illinois AFL-CIO and the Service Employees International Union, which are both members of the We Are One Illinois coalition that fought the pension bill.

Karmeier, Kilbride and Freeman, through a court spokesman, did not respond to a request from the Chicago Sun-Times to be interviewed about their pension-related campaign contributions.

Other justices on the court who have taken $15,000 or less in contributions from groups involved in the pension fight include Chief Justice Rita Garman, Mary Jane Theis and Anne Burke.

Justice Bob Thomas is the only member of the high court who does not appear to have taken money from players in the pension battle.

In the December issue of Chicago Lawyer magazine, Garman said there is no correlation between campaign fundraising and "judicial logic" on the bench.

"I think politics plays no role in any of the issues that we have before us," said Garman, who has received $6,750 in contributions from business groups that fought the pension bill.

"If a legislative challenge goes up or down, [it's] based upon whether it meets the standards of our constitution. And I think our court will analyze it that way. I know from time to time that there is speculation about the party split on the court. That is not an issue with the court," Garman told the magazine.

Justices now face no statutory limitations on the source of campaign contributions. However, the Judicial Code of Conduct established by the state Supreme Court bars judicial candidates from personally soliciting or accepting contributions, assigning those tasks instead to a campaign committee.

In 2003, Obama led an effort to impose new campaign fundraising rules on the state Supreme Court, but Madigan blocked the measure.

Obama, as a state senator, carried legislation embraced by the American Bar Association that would have set up a pilot program for justices, allowing them to tap into $750,000 in public funding for their initial campaigns.

"I think we're all particularly concerned about the unseemly process where judges have to raise this kind of money or candidates have to raise this kind of money typically from lawyers," Obama said during a March 2003 debate and vote. "I think that there is a - arising, at least the appearance, if not the actuality, that this may be impacting the judge's impartiality as they're deciding cases."

However, the legislation never got called by Madigan in the Illinois House.

Madigan spokesman Steve Brown declined to comment on any other aspect of how campaign contributions to Supreme Court justices could factor into the looming legal fight over pensions.

"It's my understanding it's either the law or the canons of judicial ethics that says the justices aren't involved in the fundraising. I'm not sure which of the two it is," Brown said. "But after that, I plan to defer comment on questions like this because of the pending possibility of litigation."

An official with one of the union donors, AFSCME, downplayed the effect his organization's contributions could have.

"Obviously, money has some influence in all things," said John Cameron, AFSCME Council 31's political director. "But I think the way justices are elected, once they're elected, they get a 10-year term then a retention, so it's not the same thing where they have to file and run through a Democratic primary. I do think it gives them a much greater level of independence."

Ironically, when the pension legislation was being deliberated on the House floor, Madigan was pressed about why judges weren't being asked to sacrifice in the same manner as current and retired state workers, university employees, lawmakers and downstate and suburban teachers. The Judges Retirement System was the only one of five state pension systems carved out of the bill.

"The intent was to eliminate the possibility of a judicial conflict during the adjudication of this matter through the court system," the Southwest Side Democrat said when asked about the judges on the House floor by Rep. Dan Brady, R-Bloomington.

In other words, the debate seemed to show Madigan didn't want the state's seven Illinois Supreme Court justices being tempted to rule against a controversial pension-reform package because their own state-funded pensions were on the line.

But the speaker was silent on the other "judicial conflict" that Obama and others have cited and that could emerge once the court wades into a case that pits the interests of 750,000 current and retired government employees against a prospective state budget meltdown caused by its $100 billion pension crisis.

"If it's a conflict for judges to be in the pension bill," Rep. Brady told the Sun-Times, "then it's a conflict they're taking money from the groups they'll make rulings about.

"Somewhere along the line, there's the idea of fair and impartial and that lady justice wears the blindfold," Brady continued. "But you're OK to collect campaign contributions and remain 'fair and impartial,' but you can't be 'fair and impartial' and be in the pension bill?

"I'd be interested in how the speaker answers that," he said.