

SNG-change court-12-16-18

If court won't change, change the court

By Jim Nowlan

The Illinois Supreme Court has repeatedly thwarted citizen efforts to vote on term limits and redistricting reform, and has dismissed, without even a hearing on the merits, a proposal to address the public employee pension mess that is strangling the state budget.

This past week, the state high court approved an outrageous violation of taxpayer-funded pension programs by awarding huge pensions to non-government union officials who put in a single day on a government payroll. How shameful this practice.

I say if the court won't change its ways, change the court. Read on, though the next several paragraphs might be a slog.

The framers of the Illinois Constitution of 1970 provided that voters could initiate and amend the legislative article of the charter. "Structural and procedural" amendments would be allowed. In 1976, the court held that this term requires amendments be *both* structural *and* procedural. This makes it almost impossible to craft a proposal to make a single change in the legislative article that is both.

The late, eminent state Supreme Court justice Walter Schaefer pooh-poohed this court reading. "When I see that a restaurant serves both chicken and beef, that doesn't mean every dish has to have both chicken and beef in it!"

Nevertheless, because of the court's interpretation, term limits and redistricting reform have been prevented from reaching the voters.

As for the state pension mess, the constitution does set out a clear, contractual guarantee of pension benefits earned. The court has, however, bent over backwards to expand the coverage to include health insurance, as well as to private sector union officials who now collect \$150,000 a year or more from us taxpayers (while continuing in their high-paid union official jobs) for just one day of government employment!

A few years ago, a leading civic group sought to argue that the state, swimming in \$250 billion of pension obligations for which there is no money, had the legal right to override the pension guarantee, in order to save the state from itself. The high court wouldn't even deign to give the argument a hearing.

Voters and taxpayers are frustrated, to say the least. What to do?

The court now has a 4-3 Democratic majority. One of its Dem members—they are elected on a partisan basis for 10-year terms—is up for retention for another 10 years in the 2020 election cycle, right around the corner.

Previously unknown Rock Island attorney Thomas Kilbride of the central Illinois 3rd District was narrowly elected in 2000, with the help of \$1 million from Democratic House speaker Mike Madigan. In 2010, Kilbride was retained by a 65.9 percent vote (60 percent is required to stay on the bench), with the help of \$2.7 million from Madigan and his trial lawyer friends. This made it the most expensive retention race on record in the U.S. up to that time.

Justice Kilbride is part of the problem, voting, in my opinion, the wrong way on the types of issues noted above.

If a citizen-taxpayer effort were aroused to oppose his retention, he could be toppled. The court would then be left 3-3 Dem-Rep in 2021.

In that year, the legislature will redraw congressional and state legislative districts. Since the Democrats will have big majorities in the two chambers and a Democratic governor, it is assured, based on history, that Madigan will craft an exquisitely gerrymandered set of maps, to benefit his party.

Just as assured, Republicans will challenge the maps. In the past, the GOP has filed its complaints in federal courts, realizing the Democratic majority on the state high court would reject its appeals.

In 2011, a federal court rejected the GOP contentions—because the U.S. Supreme Court has never gone beyond requiring equal population and protection of minority opportunity to elect their own. Matters of district compactness, for example, have not been addressed, at least as of this writing.

However, the state constitution does require that districts be “compact, contiguous and substantially equal in population.” (The most compact shape is a circle.)

Present Illinois districts are equal in population—but the opposite of compact. See nearby an illustration, but one of many, of the two House districts along Chicago’s lakefront. [NOTE: If editor cannot accommodate the graphic, substitute to following: For example, the Illinois House districts in Chicago reach out like long, slender fingers into the nearby suburbs to grasp enough population justify his Democrat-majority districts.]

If a challenge were made to the 3-3 state high court, they might deadlock, which would leave a lower circuit court decision in place. The GOP would, of course, want to challenge the remap in a Republican-friendly jurisdiction.

This rejection of Mr. Kilbride is the only way I can divine to send a message to the state high court that things have to change, so the state can save itself from itself.