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## How Public-Employee Unions Overturned Stein's Law

By [Andrew Biggs](#)

May 10, 2010, 1:54 pm

Late AEI Senior Fellow Herbert Stein once quipped that “If something cannot go on forever, it will stop.”

The Cato Institute’s David Boaz recently pointed out the sad truth of Stein’s comment, [writing](#): “I thought of ‘Stein’s Law’ when I read former California Assembly Speaker [Willie Brown’s response](#) to a question about whether California’s lavish public-employee pensions would bankrupt the state: ‘No, it’s not going to bankrupt the state. My guess is that the State of California, like most places involved with pensions, is going to cease to pay them.’”

I hope he’s right, but I’m not feeling nearly so sanguine. In most states, accrued public-sector pension benefits

carry an effective property right, either through legal rulings or outright constitutional provisions. As Donald Kohn, the vice chairman of the Federal Reserve Board, put it, “For all intents and purposes, accrued benefits have turned out to be riskless obligations.”

Some states interpret these rights as prospective, meaning that not only does a public-sector employee have a right to the benefits he’s already earned, but he has a right to continue earning benefits at the same rate no matter how financially unsustainable the pension formula may be. These provisions make state pension benefits far more assured than even Social Security, which the federal government can legally cut at anytime.

Historical experience tells us that true pension cuts will be a long time coming. New York City continued to pay full benefits during its fiscal crises of the 1970s. Orange County, California, did the same during the 1990s even as holders of explicit government debt, whose claims you’d think would be senior to those of public-sector retirees, often took a hit. Likewise, Vallejo, California, is currently in bankruptcy—in part due to the high cost of its pension obligations—but reforms will not affect the pension benefits or even future benefit accruals of any current Vallejo employees. Only newly hired workers will receive less generous benefits.

And the problem isn’t simply legal protections for pension benefits; it’s the power of public-sector employee unions to oppose the few financing options—such as raising worker contribution rates or reducing cost of living adjustments that may be on the table.

Public-sector pension shortfalls, [I’ve argued](#), are far larger than generally perceived—at market prices, pensions hold less than half the assets needed to fund accrued liabilities, producing a \$3 trillion shortfall nationwide. I’m not optimistic about public-sector employees or retirees paying that tab, meaning that states—and taxpayers—may face some very tough times ahead.

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  - [Fiscal Policy and Taxes](#) (52)

- [Media and Technology](#) (51)
- [Monetary Policy](#) (16)
- [Regulation](#) (67)
- [Retirement and Social Security](#) (53)
- [Trade](#) (27)
- [Education](#) (141)
- [Foreign and Defense](#) (356)
  - [Africa](#) (5)
  - [Asia Pacific](#) (39)
  - [Development](#) (7)
  - [Europe and Russia](#) (31)
  - [Latin America](#) (9)
  - [South Asia](#) (8)
  - [War on Terror](#) (62)
- [General](#) (36)
- [Health Policy](#) (176)
  - [Global Health](#) (24)
- [Law and the Constitution](#) (32)
  - [Supreme Court](#) (9)
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