

Capitol Alert: Group suggests using police power to alter pensions

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A non-profit policy institute out of Kansas says that the U.S. Constitution does not prevent a state from rolling back pension benefits for current employees.

A 20-page paper issued by CalPERS yesterday said both the U.S. and California constitutions bar the state from taking away something that's promised in a contract. The Kansas Policy Institute in a four-page brief released earlier this month said the state can use its police power to overcome that protection if it serves a legitimate public purpose, such as getting the state out of financial trouble.

Relying on the U.S. Supreme Court cases of Energy Reserves Group v. Kansas Power & Light and United States Trust Company of New York v. New Jersey, the institute sums up the theory to say:

A state may impair a contractual right if it has a significant and legitimate public purpose such as remedying a broad and general social or economic problem, such as elimination of unforeseen windfall profits. A state may do so as an exercise of its police power. A contractual impairment may be constitutional if it is reasonable and necessary to serve an important public purpose.