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**Illinois pension crisis;**

**Big names litter road to pension disaster; SEC, in fraud case against state, says plenty of blame to go around for nearly $100 billion funding crisis**

By Dave McKinney

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SPRINGFIELD - Federal securities regulators implicitly blamed former Gov. Rod Blagojevich and his budget office for the fraudulent manner in which state bond investors were misled about Illinois' sickly pension ledgers.

But in making a nearly unprecedented case of securities fraud against the state, the Securities and Exchange Commission on Monday laid bare a trail of responsibility for Illinois' nearly $100 billion pension crisis that extends far beyond the impeached ex-governor's scandalous time in office.

Those who helped get Illinois to where it is today with pensions include former Gov. Jim Edgar; Blagojevich; House Speaker Michael Madigan (D-Chicago), a Statehouse constant during the state's calamitous pension slide; and everyone who voted for either a flawed, 1994 pension-funding law Edgar and Madigan championed, including three potential GOP contenders for governor in 2014, or a 2005 law that let the state skimp on its pension obligations for five years.

Even the public-sector labor unions whose members have the most to lose if the pension systems go belly-up bear some culpability. Unions like AFSCME Council 31, the Illinois Education Association and Illinois Federation of Teachers didn't protest the 1994 law. In 2005, both teachers unions supported the legislation cutting pension payments, state records show.

"There is complicity among everyone who's been involved in government since 1994 in failing to update the assumptions based on the financial realities the state of Illinois was facing," said Laurence Msall, president of the Civic Federation, a government-finance watchdog.

"At best, the pension-funding scheme from 1994 was overly optimistic and a clear attempt to make it easier for the state's annual budgets to be technically 'balanced' while shortchanging what the actuaries clearly reported was needed to stabilize the pensions," Msall said.

The 1994 pension-funding plan that Edgar and Madigan designed aimed to put the state on track during the next 50 years to have its five pension systems 90 percent funded. Prior to the law, there was no requirement that the state commit anything to its pension programs, which then were about 50 percent funded and underwater by what today sounds like a meager amount: $20 billion.

"This legislation will bring us steadily and surely toward solid and proper funding of our retirement systems," Edgar said at the time in a rosy-sounding press release issued when he signed the legislation in August 1994. "It is affordable within the resources state government will have, and it will work because it does not leave pension funding to the whims of future governors and future legislatures."

That legislation, which took effect in 1995, passed both chambers of the Legislature unanimously, drew no opposition from unions and had backing from business groups and newspaper editorial boards. It set out an escalating schedule that required gradual pension payments of as little as $500 million at first but a much steeper ramp-up after 15 years. By 2009, the state paid $2.4 billion toward its pension tab, and next year that obligation will reach a staggering $6.7 billion.

"This reform will not be ignored," Edgar said at the time. "It will work to guarantee the fiscal soundness of the state retirement funds on which thousands of state employees rely."

But the 'guarantee' of fiscal stability in the pension systems that Edgar foresaw never materialized, and the SEC pinned blame for that on the very law the ex-governor said could not be ignored.

In its complaint against the state Monday, the SEC said the scheduled payments under the 1995 law were "insufficient" to meet the pension systems' true obligations. As a result, the agency described the law as the "primary driver" behind a breathtaking $57 billion increase in unfunded pension liabilities between 1995 and 2010.

"Rather than controlling the state's growing pension burden, [the law's] contribution schedule increased the unfunded liability, underfunded the state's pension obligations and deferred pension funding," the SEC wrote. "This resulting underfunding of the pension systems ... enabled the state to shift the burden associated with its pension costs to the future and, as a result, created significant financial stress and risks for the state."

The SEC said those underfunding problems were exacerbated under Blagojevich. Without opposition from some labor unions, he persuaded the Legislature in 2005 to cut required pension payments in 2006 and 2007 and avoid increases the following three years that would have put the state back on track to meeting the 1995 funding schedule.

To this day, Edgar sticks by the law that he and Madigan put together in the midst of Edgar's 1994 re-election campaign. He bristles at the idea it now is drawing criticism from the SEC and some of the same newspaper editorial writers who loudly proclaimed it as ground breaking at the time.

"I think you could, 20 years later, say, 'Gee, they didn't do enough in '94,' " Edgar told the Chicago Sun-Times. "But I don't agree we made it worse. For the first time, we officially recognized the problem and tried to take steps at the time that everybody - the experts included - thought were positive. All I can figure, you just do what you think is the right thing to do at the time."

Madigan, meanwhile, blamed Blagojevich and the ex-governor's budget director, John Filan, for the abuses identified in the SEC complaint but also minimized the effect of not fully informing bond investors about the state's pension woes.

As for the role Madigan played in not stopping the pension systems from being swamped, an aide said the powerful House speaker and chairman of the Democratic Party of Illinois will accept whatever criticism is directed his way.

"To the extent he's in charge of an element of the governmental process in Illinois, he'll take whatever blame or criticism that goes along with it. But as many have pointed out, he's not the guy who's totally in charge of the state of Illinois," Madigan spokesman Steve Brown said.

AFSCME Council 31, the union representing the largest bloc of state workers, didn't object to the 1994 measure when it was before the Legislature, but AFSCME's chief has no regrets that it didn't oppose the Edgar-Madigan plan or raise critical questions against it at the time.

"I'm sure if we'd have been opposed to it, maybe there would have been 10 or 20 votes against it," said Henry Bayer, AFSCME Council 31's executive director. "If it didn't pass, it wasn't like there was an alternative bill that would have made things better. If it didn't pass, we'd still have what we had. There would have been no contribution or what they'd decide to put in every year, which would have been even less."

The 1994 vote in the Legislature could carry ripples into the 2014 governor's race, at least on the GOP side. Three potential gubernatorial candidates - Treasurer Dan Rutherford, state Sen. Bill Brady (R-Bloomington) and state Sen. Kirk Dillard (R-Hinsdale) - voted in favor of it as lawmakers. They also voted against the 2005 law that permitted so-called pension holidays.

"We're talking 18 years ago, and it was the best estimate, the best effort, at trying to bring about some resolution to this." Rutherford said. "Not one time in those following 18 years did I vote for a budget that didn't fully fund the pensions."

Dillard defended his vote, comparing the law's aim to "getting an alcoholic to admit having a drinking problem as the first step to recovery."

"I voted for it because it established a 'continuing appropriation' that was designed to put pension payments at the front of the line," he said. "That worked until Rod Blagojevich stopped making payments and unbelievably, with Speaker Madigan's help, actually raided monies from the Teacher Retirement System."

Brady, the GOP's 2010 gubernatorial nominee, also justified his 1994 vote and insisted the real pension problems materialized after Blagojevich orchestrated a $10 billion borrowing scheme to fund pensions in 2003 and the "pension holiday" law the then-governor backed in 2005. "It's as good as we could get then. I think it was sustainable then," Brady said of the Edgar-Madigan plan of nearly two decades ago. "But the big bonding package and 'holidays' have proven to make it unsustainable."

Regardless of who is most to blame for the state's pension catastrophe, the SEC's move to make Illinois only the second state hit with securities fraud charges put on display a political system that has failed voters on every financial front.

"Everyone in the state of Illinois is a victim of this finding," Msall said. "Every taxpayer. Every citizen."