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Editorials

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Editorial: Rule against pension lawsuits at state Supreme Court

The Seattle Times urges the Washington Supreme Court to rule for the state in two cases involving public employee pensions.

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THE state Supreme Court is hearing arguments Thursday on two cases about state employee pension plans. It is imperative that it rule for the state in both cases. At stake is \$10 billion in taxpayer money over the next 25 years — money that will be needed for public schools, community colleges and universities.

What's at issue are two enhancements to public employee pension plans that the Legislature granted in the 1990s and repealed at the urging of Democratic Gov. Chris Gregoire.

Lower courts ruled against these acts of repeal on the grounds that a pension is a promise of payment years in the future for work today, and that employees were counting on those promises.

Each of these cases, however, is about an oddball pension sweetener defined in the legislation creating it that it was not a promise. In each case the Legislature reserved the right to amend or repeal it.

One is referred to as the Uniform Cost of Living Adjustment, aka UCOLA. Passed in 1995, it granted an automatic pay increase of 3 percent a year to pensioners in the Public Employees Retirement System Plan 1 and Teachers Retirement System Plan 1, but not in the newer, less generous plans. Stung by the arithmetic of indefinite 3 percent increases, whether there was inflation or not, the Legislature repealed the UCOLA in 2011.

The other sweetener is gainsharing, which the Legislature passed in 1998 during the dot-com bubble. Under gainsharing, if the investments in a pension fund increased by 10 percent for three years in a row — which they were doing then — the benefit would go up. If the investments did poorly, however, the benefit would not go down. Legislators who made this no-lose offer to employees were told it would cost taxpayers nothing, which was demonstrably untrue. Legislators wised up and repealed it in 2007, even before the recession hit.

The court needs to rule firmly for the state. The state needs the money to make good on the court's McCleary ruling on education. And the Legislature made a clear statement in both cases that these pension goodies were not promises. Its words should not be dismissed.