

# **Bond Case Briefs**

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## **PENSIONS - MICHIGAN**

### **AFT Michigan v. State**

**Court of Appeals of Michigan - January 14, 2014 - N.W.2d - 2014 WL 128086**

Representative organizations of public school employees, appealed the Court of Claims' orders dismissing their challenges to provisions of 2012 PA 300, which amended the Public School Employees Retirement Act (PSERA) and altered future healthcare and retirement benefit plans available to public school employees for services performed after December 1, 2012.

Plaintiffs took issue with four separate provisions of 2012 PA 300:

- MCL 38.1343e, requiring a 3% contribution towards retiree healthcare.
- MCL 38.1343g, requiring a 4% contribution to pension to remain in the Basic Plan.
- MCL 38.1384b, providing a "sanction" of reduced multiplier in calculating pension benefits for those individuals who opt-out of § 43g.
- MCL 38.1391a(8), providing the mechanism for refunding contributions to individuals who opted into the retiree healthcare plan but who ultimately fail to qualify to receive such benefits.

The Court of Appeals concluded that:

- 2012 PA 300 did not unconstitutionally impair existing contractual obligations to pension and retiree healthcare benefits in violation of both the federal and state constitutions.
- Various pamphlets, handbooks and informative brochures published by the state did not evidence a contract between the state and the members, whereby the state specifically indicated that a 1.5% multiplier would be used to calculate pension benefits, nor did there exist an "implied in law" contract.
- The argument that 1980 PA 300 created a contract between the state and public school employees under which every public school employee was given a clear promise that the retirement multiplier used to calculate pension benefits would be 1.5% was specifically rejected by the Michigan Supreme Court in *Studier v. Michigan Pub School Employees' Retirement Bd*, 472 Mich. 642; 698 NW2d 350 (2005).
- Const 1963, art 9, § 24 protects only those pension benefits that have already accrued, not future benefits.