

Bond Case Briefs

Municipal Finance Law Since 1971

PENSIONS - PENNSYLVANIA

United Police Society of Mt. Lebanon v. Mt. Lebanon Comm'n

Supreme Court of Pennsylvania - November 24, 2014 - A.3d - 2014 WL 6634130

Municipality adopted police pension plan (the “Plan”) pursuant to a collective bargaining agreement (CBA). Thereafter, the municipality administered the plan term along the lines of the incomplete or inaccurate assessment that resulted from the incomplete or inaccurate information submitted to the actuary, in effect unilaterally modifying both the plan and the CBA.

The Commonwealth Court determined that because Act 205 had statutory primacy over any CBA, the plan must be administered as understood by the actuary when it made its Act 205 cost study, even if this effectively alters a bargained-for term of the parties.

The Supreme Court of Pennsylvania took up the case.

“However, we must nevertheless consider how Act 205 affects the proper disposition of this case. Because the Municipality provided the wrong information to the actuary performing the Act 205 cost study with respect to the COLA cap for early retirees, the Municipality failed to obtain a “complete and accurate” actuarial cost estimate, as required by Act 205. Thus, as here, the implementation of a pension plan based on an incomplete and inaccurate cost estimate is a violation of Act 205 in itself. For this reason, the Commission erred by ordering the Plan’s implementation along the lines of the incomplete and inaccurate Act 205 cost study, which was, in turn, based on the incomplete and inaccurate information supplied by the Municipality.”

“The only appropriate remedy available is to remand the matter for an order directing the Municipality to comply with its mandate under Section 305: to make a complete and accurate cost study that includes the correct COLA cap for certain early retirees, as herein determined.”

The Court concluded that it was error to impose a unilateral change to the Plan at odds with its plain language based on the results of an incomplete and inaccurate Act 205 cost study. It therefore reversed the order of the Commonwealth Court and remanded the case to that court for further remand to effectuate a complete and accurate Section 305 cost study.