

Bond Case Briefs

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PENSIONS - NEW HAMPSHIRE

American Federation of Teachers v. State

Supreme Court of New Hampshire - January 16, 2015 - A.3d - 2015 WL 222181

Members of state employee pension plan and organizations representing groups of such members brought action against state and others challenging the constitutionality of certain statutory amendments affecting the calculation of benefits under the pension plan. The Superior Court entered judgment finding that amendments to the definition of “earnable compensation” violated the contract clauses of the state and federal constitutions, but amendments to the statutes providing for cost of living adjustments (COLAs) did not. State appealed, and pension plan members and organizations cross-appealed.

The Supreme Court of New Hampshire held that:

- Statute defining “earnable compensation” did not create contractual right to fixed definition of the term, and
- Pension plan members did not have vested rights to a COLA.

Statute defining “earnable compensation” for purposes of state employee pension plan did not create contractual right to fixed definition of the term, and thus amendment to statute that excluded from the definition certain “other compensation” paid by the employer did not violate the contract clauses of federal and state constitutions, even though state employees became vested in pension plan after 10 years of creditable service. Vesting was not synonymous with a contractual right, statute contained no clear language indicating legislative intent to be bound by the definition of earnable compensation, and change in the definition did not retroactively affect calculation of pension benefits.

Members of state employee pension plan did not have vested rights to a COLA, and thus statutory amendment changing the manner of funding COLAs did not violate the contract clauses of the state and federal constitutions. COLA was not the same thing as the underlying retirement benefit, and statutes defining the “retirement allowance” collectible by eligible members of the pension plan did not state that the retirement allowance included COLAs.