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PENSIONS - ILLINOIS

In re Pension Reform Litigation

Supreme Court of Illinois - May 8, 2015 - N.E.3d - 2015 IL 118585

Members of public retirement systems and groups representing those members brought actions challenging constitutionality of law amending the Pension Code by significantly lowering benefits for anyone first contributing to State pension systems after January 1, 2011. Actions were consolidated. The Circuit Court declared the law unconstitutional in its entirety as a violation of the pension protection clause, and permanently enjoined its enforcement. State appealed.

The Supreme Court of Illinois held that:

- Act violated Pension Protection Clause;
- Contracts Clause was not a valid affirmative defense to violation of Pension Protection Clause; and
- State's police powers was not valid affirmative defense to violation of Pension Protection Clause.

Act amending the Pension Code by significantly lowering retirement annuity benefits for anyone first contributing to State-funded pension systems after January 1, 2011 violated Pension Protection Clause. Protections afforded to pension benefits attached once an individual first embarked upon employment in a position covered by a public retirement system, not when the employee ultimately retired, and, accordingly, once an individual began work and became a member of a public retirement system, any subsequent changes to the Pension Code that would have diminished the benefits conferred by membership in the retirement system could not be applied to that individual.

Violation of Pension Protection Clause by act amending Pension Code to significantly lower retirement annuity benefits for anyone first contributing to State-funded pension systems after January 1, 2011 could not be upheld under Contracts Clause, even though retirement systems contained a total of only 41.1% of the funding necessary to meet their accrued liabilities and total unfunded liabilities approached \$100 billion. Act was not a last resort, rather, it was an expedient to break a political stalemate, repercussions of underfunding public pension systems were well known when legislature enacted provisions of Pension Code which act sought to change, General Assembly understood provisions would be subject to Pension Protection Clause, and funding problems which developed were foreseeable.

Violation of Pension Protection Clause by act amending Pension Code to significantly lower retirement annuity benefits for anyone first contributing to State-funded pension systems after January 1, 2011 could not be upheld on the basis of police powers, even though retirement systems contained a total of only 41.1% of the funding necessary to meet their accrued liabilities and total unfunded liabilities approached \$100 billion. Clause's protections could not be overridden by General Assembly, people of Illinois yielded none of their sovereign authority through Clause, rather, they simply withheld an important part of their authority, and there was no police power to disregard the express provisions of Constitution.

