

Bond Case Briefs

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PENSIONS - NEW JERSEY

Burgos v. State

Supreme Court of New Jersey - June 9, 2015 - A.3d - 2015 WL 3551326

Members of public pension funds and unions acting on behalf of public employees brought declaratory judgment action against state, alleging that prior and current fiscal year appropriation acts did not provide sufficient funding to meet amounts called for under amendments to statute granting members non-forfeitable right to receive benefits that introduced contractual terms in connection with state's payment of its annual required contribution (ARC) to pension funds, which members and unions argued created enforceable contract that was entitled to constitutional protection against impairment.

The Superior Court granted members and unions summary judgment on impairment-of-contract claims, granted application for declaratory judgment filed by members and unions, and denied state's motion to dismiss. State filed motion for direct certification, which was granted.

The Supreme Court of New Jersey held that:

- Legislature and Governor clearly expressed intent that statute create contractual right, but
- Governor and legislature were without authority to enact and enforce long-term financial agreement through statute.

Legislature and Governor clearly expressed intent that amendments to statute granting members of public pension funds non-forfeitable right to receive benefits create contractual right to timely and recurring annual required contribution (ARC) payments to public pension funds to reduce unfunded liability of funds to safe levels, as would support members' argument that statute created contractual right that was protected from unconstitutional impairment. The statute expressly referenced a contractual right to method of ARC payments three times, and statute denoted state's failure to make ARC payments an impairment, which invoked language of Contracts Clauses under State and Federal Constitutions.

Governor and legislature, acting without voter approval, were without authority to enact and enforce legally binding long-term financial agreement in connection with state's payment of its annual required contribution (ARC) to public pension funds through statute granting members of funds non-forfeitable right to receive benefits, such that contract rights set forth in statute did not create legally binding financial contract enforceable against state, since Debt Limitation Clause and Appropriation Clause of state Constitution conflicted with contractual language of statute. Amount of monies statute purported to contractually require state annually to dedicate to pay down unfunded liability of pension funds substantially exceeded limits allowed under Debt Limitation Clause, and without voter approval, agreement was enforceable only as agreement subject to appropriation, which under Appropriations Clause rendered it subject to annual budgetary appropriations process.

Governor and legislature, acting without voter approval, were without authority to enact and enforce legally binding long-term financial agreement in connection with state's payment of its annual required contribution (ARC) to public pension funds through statute granting members of funds non-

forfeitable right to receive benefits, such that contract rights set forth in statute did not create legally binding financial contract enforceable against state, since Debt Limitation Clause and Appropriation Clause of state Constitution conflicted with contractual language of statute.