

# **Bond Case Briefs**

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## **PENSIONS - ILLINOIS**

### **Village of Westmont v. Illinois Municipal Retirement Fund**

**Appellate Court of Illinois, Second District- August 13, 2015 - N.E.3d - 2015 IL App (2d) 141070 - 2015 WL 4763915**

Village appealed Illinois Municipal Retirement Fund (IMRF) Board of Trustees' reclassification of village, requiring participation of part-time firefighters in IMRF despite oral assurance that village was not required to do so more than 20 years earlier. The Circuit Court affirmed Board's reclassification. Village appealed.

The Appellate Court held that:

- Village was unambiguously included in IMRF manual's group of municipalities excluded from participation in IMRF, but
- IMRF manual's administrative exclusion conflicted with statute.

Illinois Municipal Retirement Fund (IMRF) manual excluding those municipalities that had a population of 5,000 or more "and/or" had formed a fire pension fund from requirement of participation in IMRF on behalf of part-time firefighters unambiguously included village that had a population larger than 5,000 but did not form a fire pension fund, and therefore Appellate Court would not defer to IMRF's interpretation of manual as excluding only municipalities that met both elements. The inclusion of "or" marked an alternative indicating that the population requirement and the formation of a fund had to be taken separately, and IMRF's interpretation rendered the word "or" superfluous.

Illinois Municipal Retirement Fund's (IMRF) manual, which purported to exclude village from statutory requirement that it participate in IMRF on behalf of its part-time firefighters, conflicted with statute stating municipalities falling under umbrella of IMRF participation could be excluded only as expressly provided by statute, and therefore IMRF could not be estopped from discontinuing manual's exclusion of village from IMRF participation. Even though IMRF orally represented that village was not required to enroll firefighters in IMRF more than 20 years earlier, village was within umbrella of IMRF participation, statute did not exclude village from requirement to participate, and statute did not allow IMRF to create an independent, "second" exclusion.