

# **Bond Case Briefs**

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## **PENSIONS - PENNSYLVANIA**

### **Delaware Tp. Bd. of Auditors v. Delaware Tp.**

**Commonwealth Court of Pennsylvania - January 5, 2016 - A.3d - 2016 WL 47743**

Township board of auditors brought action against township, supervisors, and pension trust for declaratory and injunctive relief after township approved creation of a new defined benefit pension plan that included supervisors who were also employees. The Court of Common Pleas sustained preliminary objections and dismissed complaint. Board appealed.

The Commonwealth Court held that:

- Board could not invalidate plan based on possible inaccuracies on which prior board based approval;
- Pension benefit for supervisors who were also employed by township was compensation for supervisors' role as employees, not role as elected officials; and
- Former supervisor who remained employee was still entitled to participate in plan without being reelected to new term.

Possible inaccuracies in alleged representations by township's former supervisors during meeting at which its former auditors approved pension plan including township supervisors did not permit township's current board of auditors to invalidate plan under statute requiring board to approve inclusion of supervisor-employees in township pension plans, paid for in whole or in part by the township, and to determine pension-benefit compensation. Differences in cost of plan were lower than estimates and were not material, actual contributions from state did not vary materially from estimate reflected in the minutes, nothing suggested that alleged estimates were intentionally false or made by anyone with corrupt motive, and looking behind signatures of elected officials was not justified.

Pension benefit for township supervisors who were also employed by township was compensation for supervisors' role as employees, not role as elected officials, and, thus, was not "compensation of the elected office" within meaning of statute making any change in compensation or emoluments of the elected office effective at beginning of supervisor's next term. Statute distinguished between compensation of supervisors as elected officials, whose salary was capped by statute for six years until next term of office, and salary of supervisor-employees, whose salary was discretionary with board of auditors.