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PENSIONS - CALIFORNIA

Marin Association of Public Employees v. Marin County Employees' Retirement Association

Court of Appeal, First District, Division 2, California - August 17, 2016 - Cal.Rptr.3d - 2016 WL 4379316 - 16 Cal. Daily Op. Serv. 9044

County employees and their unions brought action against county employees' retirement association for declaratory, injunctive, and writ relief to halt implementation of revised retirement income formula. State intervened to defend constitutionality of Pension Reform Act.

The Superior Court sustained demurrer without leave to amend. Employees and unions appealed.

The Court of Appeal held that:

- Statutory hearing procedure did not apply to retirement board's determination that all members were barred from including in-kind benefits converted to cash in pension calculation because they had "been paid to enhance a member's retirement benefit";
- Retirement association's revision of members' retirement income formula was not an unconstitutional impairment of contracts; and
- Retirement association had no authority to establish equitable estoppel requiring items to be included in calculation of "compensation earnable."

Trial court's order sustaining county employees' retirement association's demurrer to county employees' and unions' estoppel and constitutional contract clause challenges to the revision of their retirement income formula under Pension Reform Act satisfied the statute requiring a statement of the specific grounds for the trial court's decision, and thus the judgment was not subject to reversal based on the brevity of the trial court's statement of grounds, where the order stated that a "statute, once duly enacted, is presumed to be constitutional."

The statute providing that a county employees' retirement board "shall establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit," and thus whether the element of compensation was subject to exclusion from the retirement association member's "compensation earnable" in calculating the member's pension, did not require a county retirement board to follow such a procedure in determining that in-kind benefits converted to cash were categorically "paid to enhance a member's retirement benefit" as applied to every member of the retirement association, and thus that in the future the payments would be excluded from every member's pension calculation.

County employees' retirement association's revision of retirement income formula under the Pension Reform Act for members who had not yet retired, in excluding payments for services rendered outside of normal working hours and for in-kind benefits converted to cash, was not an unconstitutional impairment of contracts under federal and state constitutions, since the revision was not an "unreasonable" change or a "substantial" impairment of the contracts, even though the revision resulted in a net decrease in the pension benefit, where the revision caused the county to stop making paycheck deductions for the items that were excluded from the pension calculation, and the revision excluded the items from the pension calculation only prospectively for future pay periods.

Short of actual abolition, a radical reduction of benefits, or a fiscally unjustifiable increase in employee contributions, the governing body may make reasonable modifications and changes to public employees’ pension before the pension becomes payable, and until that time the employee does not have a right under the contract clause of the constitution to any fixed or definite benefits but only to a substantial or reasonable pension.

A public pension system is subject to the implied qualification that the governing body may make reasonable modification and changes before the pension becomes payable and that until that time the employee does not have a right to any fixed or definite benefits, which can mean that any one or more of the various benefits may be wholly eliminated prior to the time they become payable, so long as the employee retains the right to a substantial pension.

Any representations or promises made by county employees’ retirement association to county employees regarding calculation of their pensions could not, under doctrine of equitable estoppel, prevent the association from implementing and enforcing new definition of “compensation earnable” set out in Pension Reform Act, and require the association to instead calculate “compensation earnable” to include in-kind benefits converted to cash or payments for additional services rendered outside of normal working hours. Association’s representations or promises could not displace clear statutory language or delay its implementation.