

# **Bond Case Briefs**

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## **PENSIONS - TENNESSEE**

### **Frazier v. City of Chattanooga, Tennessee**

**United States Court of Appeals, Sixth Circuit - November 3, 2016 - F.3d - 2016 WL 6520066**

Retired city employees brought action for declaratory and injunctive relief when city amended its ordinance to reduce cost-of-living-adjustment (COLA) that retirees had previously received in their pension benefits, as allegedly protected by the Contract Clause.

The United States District Court granted city's motion for summary judgment, and retirees appealed.

The Court of Appeals held that ordinance previously adopted by city, providing that retirees would be entitled to annual three-percent cost-of-living-adjustment (COLA) in their pension benefits, did not unmistakably manifest intent by legislature to forego from exercising its sovereign power to reduce extent of COLA increases in future.

Ordinance previously adopted by city, providing that retirees would be entitled to annual three-percent cost-of-living-adjustment (COLA) in their pension benefits, did not unmistakably manifest intent by legislature to forego from exercising its sovereign power to reduce extent of COLA increases in future, where City Code provided that city could freely amend pension plan subject only to condition that vested financial benefits accrued by any plan participant "shall not in any way decrease," and where this COLA adjustment was not included in pension plan's vesting provision. Use of the mandatory word "shall" manifested intent only to prevent any decrease in vested and accrued benefits, and retirees' interest in 3% COLA adjustment, as interest that was neither vested nor accrued, was not protected by the Contract Clause.