

The Illinois Supreme Court Ruling Expands the Pension Protection Clause to Cover Health Care Benefits

Labor & Employment Law Update

By Julie Proscia on July 16, 2014

On July 3, 2014, the Illinois Supreme Court issued its decision in *Kanerva v. Weems*, 2014 IL 115811, reversing the circuit court's dismissal of four lawsuits, *Bauer v. Weems*, No. 12-L-35 (Cir. Ct. Randolph Co.); *Kanerva v. Weems*, No. 12-L-582 (Cir. Ct. Sangamon Co.); *Maag v. Quinn*, No. 12-L-162 (Cir. Ct. Sangamon Co.); and *McDonal v. Quinn*, No. 12-L-987 (Cir. Ct. Madison Co.). One of the claims raised in each of the four cases was the constitutional validity of amendments to the Illinois State Employees Group Insurance Act instituted by the general assembly that impacted the amount retired state employees and their survivors had to contribute for health care benefits. *Kanerva v. Weems*, 2014 IL 115811

The Circuit Court of Sangamon County had previously dismissed the four consolidated complaints from those cases, in part based on its determination that the Pension Protection Clause of the Illinois Constitution only protected traditional pension benefits and did not encompass the state's obligations to contribute toward the cost of health care benefits for retired state employees and their survivors. *Id.*

In reversing the circuit court's decision the Supreme Court addressed only one of the questions raised on appeal, whether health insurance subsidies are constitutionally protected under the Pension Protection Clause. *Id.* The Court determined that even though health-care benefits for the public employees in question were controlled and set forth in different statutes, the "eligibility for all of the benefits is limited to, conditioned on and flows directly from membership in one of the State's various public pension systems." *Id.* at ¶40. The Court further rationalized that "giving the language of article XIII, section 5, its plain and ordinary meaning, all of these benefits, including subsidized health care, must be considered to be benefits of membership in a pension or retirement system of the State and, therefore, within that provision's protections." *Id.* at ¶40.

In only addressing the question regarding what the Pension Protection Clause covers, the Court refused to address other issues raised on appeal, including contract clause claims and the merits of the Pension Protection Clause claims. As recognized by Justice Burke in her dissent, by not expressing any opinion as to

the merits of the Pension Protection Clause claims, contract claims or other claims, there is no clear answer whether they are even viable and either party may still ultimately prevail in those claims. Thus, while the Illinois Supreme Court ruling in *Kanerva v. Weems* does not completely cut the legs out from under the Illinois General Assembly's steps towards pension reform, it has increased the likelihood that the General Assembly may have to look to other ways to address the pension problems, including increasing income through taxes.

Additionally, it potentially impacts cities, municipalities and other public entities whose collective bargaining agreements and retirement programs may be subject to the Pension Protection Clause. If a city, municipality or other public entity has a collective bargaining agreement or retirement program that provides health care benefits to retirees, under the Supreme Court's decision any modification to current retirees' health care benefits could potentially be challenged as a violation of the Pension Protection Clause. To address such, cities, municipalities and other public entities should be careful in drafting collective bargaining agreements and other documents in which health care benefits are provided to avoid any presumption that such benefits are guaranteed or would vest for the life of the employee or retiree.

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