



ILLINOIS APPELLATE COURT UPHOLDS LAW CONSOLIDATING ASSETS OF DOWNSTATE POLICE AND FIRE PENSION FUNDS

On February 7, 2023, the Illinois Appellate Court upheld the constitutionality of Illinois Public Act 101-610 (“the Act”). The Act’s primary effect was to consolidate the investment assets of all Article III and Article IV pension funds (police funds and firefighter funds, respectively) into two statewide funds to invest those assets. The suit, *Arlington Heights Police Pension Fund et al. v. Pritzker et al.*, presented two questions to the Appellate Court. First, did the Act violate the rights of downstate fund participants and beneficiaries under the Pension Protection Clause of the Illinois Constitution? Second, did it violate those individuals’ rights under the Constitution’s Takings Clause? The Appellate Court found no violation in either case.

As to the Pension Protection Clause, the court acknowledged that the Clause protects “benefits” beyond just the payment of a certain amount of money. However, the benefits protected by that Clause did not include voting rights. The court explained that voting rights were, at best, “ancillary to a participant’s receipt of pension payment and other assets.” The court differentiated voting rights from protected rights, such as health care coverage. Instead, it compared voting rights to the manner in which governments funded their pension obligations, in that neither is protected under the Pension Protection Clause.

The court also rejected the plaintiffs’ Takings Clause argument. The Act only affected investment assets, in which none of the plaintiffs had a property right. As the court noted, “The Act does nothing more than require one type of government-created pension fund to transfer assets to another type of government-created pension fund.” Thus, the court concluded, “Plaintiffs’ rights ... are not impacted by these transfers.”

This decision will, hopefully, put an end to any legal challenges against the Act, and any doubt as to its validity.

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