Asher, Gittler & D'Alba, Ltd.
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ILLINOIS SUPREME COURT UPHOLDS STATEWIDE CONSOLIDATION OF PENSION FUNDS FOR ILLINOIS POLICE OFFICERS AND FIREFIGHTERS

A 2020 amendment to the Illinois Pension Code consolidated all Article 3 (police) and Article 4 (fire) pension fund assets into two statewide pension investment funds. All funds were required to transfer custody and investment responsibility for their assets to the applicable statewide fund. The act's purpose is to streamline investment and eliminate redundant costs, and the funds would be invested to help pay benefits to local fund members. The local funds remained in place with no other changes to the operations of those funds, meaning they still retained the sole jurisdiction to determine eligibility for benefits.

Plaintiffs, active and retired members of 17 (15 police and two fire) pension funds, filed suit alleging that they were deprived of the exclusive right to manage the funds, that their voting power on investments and costs was diluted, and that the funds were burdened with the costs of the transition process. They alleged a violation of Article XIII Section 5 (pension protection clause) and the Takings Clause of the Illinois Constitution.

On January 19, 2024, in a unanimous decision, the Illinois Supreme Court upheld the Circuit Court and Appellate Court rulings in *Arlington Heights Police Pension Fund v. Pritzker*, finding that creating these two statewide investment Funds was constitutional and a lawful exercise of legislative power. The Court rejected Plaintiff's claims in three ways:

First, the Court affirmed that something that qualifies as a benefit from membership in a pension or retirement system cannot be diminished or impaired. Furthermore, the Court found that benefits outside of payments that might constitute benefits subject to protection only affect a participant's ability to continue participation or increase service credits, thereby negatively affecting the calculation of benefits. The ability to vote in local elections or to have local board members control the funds are not such rights. The Court upheld previous cases, finding that the clause protects a right to receive the promised benefits, not the adequacy of the funding to pay for them.

Second, regarding payment of the transition and operating costs of the new funds, the Court said that plaintiffs failed to adequately explain how the borrowing and payments impair the payment of benefits to members of the Fund. Additionally, the Court noted the substantial savings to date and the beneficial intent of the consolidation to ensure that more money would be available to fund benefits due to fee and cost savings and economies of scale.

Third, regarding the Takings clause challenge, the Court found that plaintiffs had failed to identify an affected property right, noting that no assets of the funds were taken. The management of the funds merely changed from one government entity (The Local Funds) to another (The Statewide Investment Fund). Similar to the above analysis, the right to pay benefits was not impaired, meaning no taking of benefits.

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