

# Chapman Client Alert

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Current Issues Relevant to Our Clients

## Illinois Supreme Court Invalidates Chicago Pension Reform Law

In a widely expected ruling, the Illinois Supreme Court has upheld a Cook County state court ruling<sup>1</sup> holding that a state law, Public Act 98-641 (the “Act”), reducing annuity benefits for employees and retirees of the City of Chicago, in exchange for increased contributions to certain pension funds, was unconstitutional.<sup>2</sup> The Act at issue had sought to enact certain pension reforms, including amendments to the Illinois Pension Code as it pertained to the Municipal Employees’ Annuity and Benefit Fund of Chicago (“MEABF”) and Laborers Annuity and Benefit Fund of Chicago (“LABF”).

Broadly, the Act changed the amount of annual increases that retirees would receive as a part of their respective pension plans, by either altering the calculation of those increases or postponing or eliminating the increases during particular years. Additionally, the Act contained provisions increasing both employee and employer contributions, among others.

The sole question on appeal was whether the Act violated what is known as the Pension Protection Clause of the Illinois Constitution, which provides:

Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired.<sup>3</sup>

Relying on precedent, the Court found that the Act violated the Pension Protection Clause and, thus, was unconstitutional. Specifically, the Supreme Court found that under the Pension Protection Clause, a public employee’s membership in a pension system is an enforceable contractual relationship, and the employee has a constitutionally protected right to the benefits of that contractual relationship as of the date the employee is hired and becomes a member of the public pension system. Under its plain and unambiguous language, the Court explained, the Pension Protection Clause prohibits the General Assembly from unilaterally reducing or eliminating the pension benefits conferred by membership in the pension system.

Because the Act expressly stated that its provisions “apply regardless of whether the employee was in active service on or after the effective date of this amendatory Act,” the Court found that the modifications diminished the value of the

retirement annuities the members of MEABF and LABF were promised when they joined the pension system.<sup>4</sup> Accordingly, the Court held that these annuity reducing provisions contravened the Pension Protection Clause’s absolute prohibition against diminishment of pension benefits, and exceeded the General Assembly’s authority.

The City made two main arguments in favor of the Act. First, the City argued that the Act provided a “net benefit” that would ensure the long term solvency of the plans. Second, the City argued that the Act is a bargained-for exchange between the unions representing the participants and the City that could change the rights of the Fund participants. The Court rejected both arguments, and found that because the provisions that were held unconstitutional were not severable, the entire Act was void as unconstitutional.

The Illinois Supreme Court’s interpretation of the Pension Protection Clause eliminates a number of options for the City to reduce its pension funding deficiency.

### For More Information

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- 1 *Jones, et al. v. Municipal Employees' Annuity and Benefit Fund of Chicago, et al.*, No. 14-CH-20027 (Cook County Chancery Ct. July 24, 2015), and *Johnson, et al. v. Municipal Employees' Annuity and Benefit Fund of Chicago, et al.*, No. 14-CH-20668 (Cook County Chancery Ct. July 24, 2015).
- 2 *Jones et al. v. Municipal Employees' Annuity and Benefit Fund of Chicago, et al.*, 2016 IL 119618.
- 3 Ill. Const. 1970, art. XIII, § 5.
- 4 40 ILCS 5/8-174(a), 11-170(a).

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