

Michigan Court of Appeals Protects Act 345 Health Care Funding for Retired Police Officers and Firefighters

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In a matter of first impression, the Michigan Court of Appeals held that municipalities may use tax dollars assessed under the Fire Fighters and Police Officers Retirement Act (a/k/a "Act 345") to fund police and fire retiree healthcare benefits.

Act 345 was passed in 1937 to create "a system of pensions and retirements" for retired firefighters and police officers. [1] If a municipality's voters adopt an Act 345 system, the Act provides that the municipality may create a fund for the payment of "pensions and other benefits" for those retirees. [2] In *Bate v City of St. Clair Shores* and *Ruman v City of Warren*, two consolidated class action lawsuits, the Court of Appeals clarified that under the plain terms of Act 345, these "other benefits" may include retiree health care benefits (also known as other post-employment benefits, or "OPEB").

In *Bate* and *Ruman*, a group of taxpayers sued the cities of St. Clair Shores and Warren, respectively, alleging that the cities' use of taxes collected under Act 345 to fund health care for retired police officers and firefighters was unconstitutional under Michigan's Headlee Amendment. The Headlee Amendment, enacted and ratified in 1978, requires local voters to approve any locally levied taxes that were not authorized by law at the time the Amendment was ratified. Although the voters of St. Clair Shores and Warren *had* approved taxes under Act 345, the plaintiffs argued that Act 345 *only* authorized the cities to collect taxes to fund pensions for retired police officers and firefighters. Therefore, the plaintiffs argued the cities would need to get additional voter approval to collect taxes to fund police and fire retiree health care benefits, as well.

St. Clair Shores, represented by Miller Canfield, and Warren both argued that Act 345 was intended to fund broader retirement systems for police and firefighter retirees, not just pensions. In support of this argument, the cities emphasized Act 345's statutory text referring to "other benefits" and "retirement systems." The Court of Appeals agreed with the cities, holding that the phrase "'other benefits payable' could include healthcare benefits ..." This means that when the cities' voters approved the collection of taxes under Act 345, they approved the collection of taxes to establish an entire retirement system that may include more than just pensions.

The Court of Appeals' decision clarifies that municipalities may use Act 345 funds to provide retiree healthcare benefits for their police officers and firefighters without running afoul of the statute. If you have questions about how these cases impact your local government, please contact the authors of this article or your Miller Canfield attorney.

[1] 1937 PA 345

[2] MCL 38.559(2)