

Michigan Public School Health Care Funding Statute Ruled Unconstitutional

April 12, 2011

In a much anticipated legal decision, the State of Michigan Court of Claims ruled that legislation (PA 75 of 2010) enacted during the administration of former Governor Granholm is unconstitutional. In a decision dated April 1, 2011, the Court opined that the legislature's attempt to require members of the Michigan Public School Employees Retirement System to contribute 3% (initially, 1.5% for members with salaries less than \$18,000) of their compensation to fund retiree health costs violated the Constitutions of both the United States and Michigan. While some organizations appeared to welcome the ruling, it is widely anticipated that the state will appeal the decision.

In 2010, the state legislature passed the controversial provision to help Michigan school districts keep pace with the rising costs of retiree health insurance. The provision, Section 38.1343e of the Michigan Compiled Laws, created an irrevocable trust account to be funded by the mandatory employee contributions. The government anticipated that the account would make the future provision of retiree health benefits more affordable for the state's school districts.

The Court of Claims decision was significantly impacted by the Michigan Supreme Court's prior ruling in *Studier v. Michigan Public School Employees Retirement Board*. In *Studier*, the Michigan Supreme Court determined that the MPERS' members did not have a contractual right to receive future health care benefits, and that those benefits could be curtailed by the legislature. Following the *Studier* rationale, the Court of Claims dismissed the members' contractual claims because of the absence of an enforceable contract. However, the Court of Claims held that because the members did not have "any accrued or vested rights in the retirement health care system," the state's attempt to require mandatory wage withholdings constituted an impermissible "taking" under the Constitutions of the United States and Michigan. Interestingly, the Court inferred that it may not have characterized the provision as an unconstitutional taking if the members actually possessed a contractual right to their retiree health benefits.

As mentioned above, this decision is likely to be appealed and the ultimate future of PA 75 of 2010 is still uncertain.

For more information about this important decision and the future of PA 75 of 2010, contact your Miller Canfield attorney.