



Missouri Supreme Court “Vests” Retiree Health Benefits

Not all the interesting employee benefits cases are argued in federal court. Oftentimes, we can find state cases reflecting emerging trends in employee benefits policy.

In *St. Louis Police Officers’ Association v. Board of Police Commissioners of the City of St. Louis*, the Supreme Court of Missouri ruled that a state statute requiring that the Board of Police Commissioners provide coverage to retirees does not permit the Board to charge retirees for that coverage. The statute in question, Mo. Rev. Stat § 84.160.8(3), provides that the Board “shall provide health, medical, and life insurance coverage for retired officers and employees of the police department” and that such insurance coverage “shall be made available for purchase” for the spouse and dependents of such officers.

The Board had proposed to amend the benefits provided to retired police officers. The Board proposed to adopt a new basic plan with increased annual deductibles and copayments, and decreased coinsurance percentage, compared to the retiree’s former plan. In addition, the Board adopted a new buy-up plan with the same, more-extensive coverage as that provided to active employees, except that active officers would not pay premiums, but retirees would be charged a \$251 monthly premium.

The Court held that the Board must provide substantially the same level of reasonable benefits provided to active duty officers without payment of a premium, especially given that retirees invested their entire career in the police department in consideration for a promise of healthcare in retirement.

Judge Breckenridge, concurring in part and dissenting in part, noted with specificity the testimony of several employee benefits experts that they were unaware of any group health benefits plan as “bad” or “skinny” as the new basic plan, and stated that the legislature did not intend to authorize the Board to provide retirees with “a health insurance plan so deficient that it is virtually impossible to find as poor coverage elsewhere on the market.”

The decision is interesting because the Court states that the retirees had a “vested property right” in the prior policy. The concept of vesting has historically been only a pension benefits concept, and has only recently been applied to health benefits matters.

Some might argue that this decision will be limited to the particular facts involved, or even more generally to police officers and commissions. However, the decision fits squarely within the growing frequency of retirees challenging reductions in health benefits, and the current trend of courts to protect the rights of retirees to receive benefits previously promised. *See, e.g., UAW Local 540 v. Baretz*, 150 F. Supp. 961 (E.D. Mich. 2001). Likewise, the U.S. House of Representatives has been debating the Emergency Retiree Health Benefits Protection Act, which would vest retiree health benefits regardless of provisions in a plan document or SPD allowing plan document amendments that would curtail or possibly eliminate such benefits.

Seeing these efforts to protect retiree health benefits under different theories, it seems that we may be in for a new emerging area of benefits planning.

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