

PENSION POINTERS



Cook County Court Upholds Two-Tier Judicial Pension System

By John Motylinski
Ottosen DiNolfo Hasenbalg & Castaldo, Ltd.

The Cook County Circuit Court has ruled against two Illinois judges who challenged the constitutionality of the state's two-tier judicial pension system. The case, *Kievlan v. Judges Retirement System* (2024 CH 01708), centered on whether long-term public servants who became judges after January 1, 2011, should be classified as Tier 2 pension participants despite their prior service in other state pension systems.

The plaintiffs—Patricia Kievlan, a retired St. Clair County Associate Judge, and Natosha Toller, a Cook County Associate Judge—argued that their classification as Tier 2 participants violated several constitutional provisions and contradicted legislative intent. Both judges had extensive careers in other public service positions before joining the judiciary, with Kievlan previously participating in the State Universities Retirement System (“SURS”) and Toller in the Cook County pension system. The financial impact of the tier designation is substantial. For one of the plaintiffs, the difference amounts to nearly \$6,150 per month in pension benefits.

In an order issued December 30, 2024, Judge Alison C. Conlon rejected all constitutional and procedural challenges to Public Act 96-0889, which established the two-tier pension structure. The ruling represents a significant victory for the Judges Retirement System of Illinois (“JRS”)

About the Authors: *John E. Motylinski* is a partner with the law firm of Ottosen DiNolfo Hasenbalg & Castaldo, Ltd. in Naperville. John graduated summa cum laude from the University of Illinois College of Law and holds an undergraduate degree in political science from the University of Illinois at Urbana-Champaign. He focuses on the areas of local government, municipal, public pension, and labor and employment law.

and could have broader implications for public pension systems across the state.

Court Rules Against Constitutional Arguments

The circuit court systematically addressed and dismissed each of the plaintiffs' claims. First, it rejected the argument that the two-tier system violated the Pension Protection Clause of the Illinois Constitution.

The Pension Protection Clause, found in Article XIII, Section 5 of the Illinois Constitution of 1970, states that membership in any public pension system “shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired.” The Illinois Supreme Court has interpreted this clause as a clear statement by Illinois citizens that the legislature lacks the power to diminish or impair public pension benefits, making it one of the strongest constitutional protections for public pensions in the nation. The Pension Protection Clause has historically posed a significant challenge to pension reform efforts in Illinois.

The plaintiffs claimed that the Reciprocal Act secured their Tier 1

status. Under the Reciprocal Act, public employees have an optional right to combine their service in two or more statewide Illinois pension systems that have adopted the Act into a proportional retirement annuity.¹ 40 ILCS 5/20-101 and 20-115.

But Judge Conlon found that the Pension Protection Clause did not apply. Indeed, the court distinguished between pension credits and benefits—while the Reciprocal Act guarantees continuity of pension credits when moving between systems, it does not promise continuity of benefit formulas.

The court also dismissed equal protection and special legislation challenges, finding a rational basis for treating JRS differently from other pension systems. Judge Conlon noted that judges and legislators receive “more favorable Tier 1 benefits rules than members of other systems” and that JRS had one of the worst

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1. Police and firefighters' pension funds under Articles 3 and 4 are not covered under the Reciprocal Act.

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funded ratios among state systems when the reforms were enacted.

Additionally, the court rejected arguments about legislative intent, finding no clear expression that the General Assembly intended Tier 1 status to follow public employees who later became judges. The court also dismissed procedural challenges to the law's enactment under the enrolled bill doctrine.

Three Readings Challenge Denied

Nor did the court accept plaintiffs' procedural challenge to Public Act 96-0889. The plaintiffs contended that its passage violated the Illinois Constitution's "Three Readings Clause." This provision requires that bills be read by title on three different days in each legislative chamber

before passage. The plaintiffs asserted that significant last-minute changes to the pension reform bill were rushed through without adequate review.


However, Judge Conlon cited well-established Illinois Supreme Court precedent regarding the "enrolled bill doctrine." Under this doctrine, once the Speaker of the House and Senate President certify that a bill has met all procedural requirements for passage, courts conclusively presume those requirements were satisfied. Since the plaintiffs conceded the bill was properly certified, the court found this challenge failed as a matter of law.

Looking Ahead

The ruling marks an important milestone in Illinois pension litigation, though it is unlikely to be the final word. Given the substantial financial implications and novel legal issues involved, the case

will likely proceed to the First District Appellate Court.

The decision also highlights ongoing tensions in Illinois' efforts to address its pension challenges while maintaining constitutional protections for public employee benefits. The outcome of any appeal could have significant implications for other public pension systems and future reform efforts. ■



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