

PERS Legal Issues

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1973 – Taylor v. Multnomah County Deputy Sheriff's Retirement Board

- Established contractual theory of pensions
- Found that pension offer created a contract between public employers and public employees
- Contract can be breached and unconstitutionally impaired

Core Questions

- What are the terms of the contract?
- What obligations do the terms provide?

1992 – Hughes v. State of Oregon

1996 – OSPOA v. State of Oregon

2005 – Strunk v. Public Employees
Retirement Board

2015 – Moro v. State of Oregon

1992 – Hughes v. State of Oregon

- Members argued that imposition of state income taxes on PERS benefits breached the PERS contract
- Court found that PERS statutes constituted an offer for a contract.
- “An employee’s contract right to pension benefits becomes vested at time of his or her acceptance of employment.”

1992 – Hughes v. State of Oregon

1996 – OSPOA v. State of Oregon

2005 – Strunk v. Public Employees
Retirement Board

2015 – Moro v. State of Oregon

1996 – OSPOA v. State of Oregon

- Challenged Ballot Measure 8 (1994)
 - Prohibited pickup
 - Eliminated 8 percent guarantee
 - Prohibited use of sick leave in calculation of final average salary
- Court found that all provisions of Ballot Measure 8 violated the PERS contract.
- “The state may undertake binding contractual obligations with its employees, including benefits that may accrue in the future for work not yet performed.”

1992 – Hughes v. State of Oregon

1996 – OSPOA v. State of Oregon

2005 – Strunk v. Public Employees
Retirement Board

2015 – Moro v. State of Oregon

2005 – Strunk v. PERB

- Challenged 2003 legislation
 - Redirected employee contributions from member account to IAP
 - Modified earnings guarantee for Tier 1 members (“8 percent guarantee”)
 - Froze COLA to pay back improper crediting to retirees’ member accounts
 - Updated mortality tables used to calculate annuities
- Court found that redirecting employee contributions was permissible – no contract right to make contributions to member account
- Court found that modifying the earnings guarantee and freezing the COLA were impairments of the contract

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Retirement Board

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2015 – Moro v. State of Oregon

- Challenged 2013 regular and special session legislation
 - Reduced the maximum cost-of-living adjustment (COLA) to PERS benefits for all PERS members, including those who had already retired.
 - Eliminated the tax benefit for certain out-of-state retirees.
- Court disavowed OSPOA's view of contract rights as vesting upon acceptance of employment

2015 – Moro v. State of Oregon

- Legislature can make prospective changes to benefits attributable to work not yet performed
- Legislature cannot make changes to benefits attributable to work already performed
 - Cannot change benefits already owed to retirees

2015 – Moro v. State of Oregon

- Moro standard only applies to terms of the PERS contract
 - Remunerative provisions
 - Provisions relating to eligibility for benefits

2015 – Moro v. State of Oregon

- Irrevocability exception
 - Express irrevocability
 - Implied irrevocability
 - “the implied term of irrevocability...applies to only those offers that are accepted by performance that takes time to complete.”
 - Did not apply to COLA because court found that COLA “accrues incrementally as a PERS member renders additional service to his or her employer.”