


PUBLIC SECTOR

Harder to dismiss cases challenging loss of ‘vested’ benefits

by Jonathan Holtzman

Recent court decisions illustrate the difficulty public employers face after the California Supreme Court’s decision in *Retired Employees Assn. of Orange County, Inc. v. County of Orange* (known as *REAOC*). In *REAOC*, the supreme court held that a “vested” right to retiree health benefits may be implied into statutes or other legislative enactments if the “statutory language or circumstances accompanying [their] passage clearly evince a legislative intent to create private rights of a contractual nature.”

Before *REAOC*, cases alleging vested rights were frequently thrown out at the pleading stage because the plaintiffs couldn’t point to a specific promise by the public employer to make the benefit permanent. That saves clients enormous legal fees because discovery (the pretrial exchange of evidence) in these cases is frequently extensive. Now, however, recent decisions suggest that under *REAOC*, plaintiffs who merely allege the existence of an implied contract can proceed to discovery.

Background

The plaintiffs in *Requa v. Regents of the University of California* were former employees of Lawrence Livermore National Laboratory, which was administered by the Regents of the University of California (UC). Upon their retirement from Livermore, they began receiving UC-sponsored health insurance benefits.

Later, UC transferred operation of Livermore to a private consortium, terminated the employees’ UC-sponsored group health insurance coverage, and provided benefits that allegedly were more expensive than and inferior to those provided by UC.

The retirees sued, claiming that the elimination of UC-sponsored health benefits impaired vested contractual rights and alleging that the regents had promised them UC-sponsored health coverage upon retirement. Various booklets stated, “You may continue your University-sponsored group health plan coverage for you and your family after you retire.”

The trial court dismissed the case at the pleading stage, finding that the materials cited by the retirees were insufficient to create either an express or implied contract. The court found that they had failed “to provide any statutory or legislative authorization” that

would convert the “promises” contained in the booklets to binding commitments. Absent such statutory or legislative authority, it “would not constitute [a] binding contract against [the regents], a public entity.”

The court of appeal reversed, holding that “the essential allegations of Retirees’ claim of implied contract were that the Regents authorized University-sponsored group health insurance coverage for retirees, and then during Retirees’ employment at Livermore, the Regents—through various benefit booklets and handbooks published by their authorized representative—offered to provide Retirees with University-sponsored group health insurance plan coverage when they retired.” These “allegations suffice to plead a [claim] based on an implied contract.”

The court also rejected the regents’ argument that language in the benefit booklets contained no express promise of lifetime retiree health benefits. The court explained that the “retirees’ interpretation may ultimately prove invalid, but it was improper for the trial court to resolve the issue against them” on the pleadings. *Requa v. Regents of the University of California* (California Court of Appeal, 1st Appellate District, 12/31/12, published 1/29/13).

Bottom line

This ruling suggests that to pursue a claim under *REAOC*, litigants need allege only that a public employer authorized retiree health benefits and that in doing so, it intended to convey a vested (i.e., irrevocable) right. Despite *REAOC*’s admonition that there is a “presumption against vesting” and the pleading party’s “heavy burden” to overcome this presumption, this decision suggests that courts will consider those issues only after the parties have had a chance to conduct discovery.

In short, *REAOC* will be a boon to lawyers but needlessly expensive for public agencies. In public law, unlike private, only the governing body can bind the agency. In the absence of clear authorization by the governing body, collateral evidence such as employee handbooks created by staff shouldn’t permit an action to proceed.



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