

Florida Pension Fight Heats Up in Supreme Court

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Jim Saunders, The News Service of Florida

With Republican legislative leaders and the Florida League of Cities already weighing in, Gov. Rick Scott and Cabinet officers have asked the state Supreme Court to approve a plan requiring public workers to chip in money to the state pension system.

Lawyers representing Scott, Attorney General Pam Bondi and Chief Financial Officer Jeff Atwater filed an initial brief that asks justices to overturn a Leon County circuit judge's ruling that said already-hired employees could not be forced to contribute 3 percent of their salaries to the Florida Retirement System. Lawmakers approved the requirement in 2011, as they tried to close a multibillion-dollar budget shortfall.

"Pension and retirement costs are among the largest and most longstanding financial commitments of state and local governments," said the brief, which was filed Monday in the Supreme Court. "When revenues expand, government agencies can increase retirement benefits for public employees. But in financially challenging times such as these, the Legislature must be able to adjust its future pension commitments."

As a sign of the high stakes involved in the case, Senate President Mike Haridopolos and House Speaker Dean Cannon and the Florida League of Cities have already formally asked the Supreme Court to be able to file briefs. Scott, Bondi and Atwater oversee the pension system while serving as the State Board of Administration.

"The matters at issue involving the Florida Retirement System necessarily implicate the Legislature's appropriations and policy-making powers as well as the responsibility to enact a balanced state budget," attorneys for Haridopolos and Cannon wrote in a motion filed with the Supreme Court last week.

The Supreme Court has already approved the League of Cities' request to file a brief, known as an amicus brief. In its request, the organization said that 185 cities participated in the Florida Retirement System in 2011 and that another 206 cities have local plans.

"In recent years, pension costs have been consuming an ever-increasing portion of cities' budgets," the league request said. "This case may very likely affect the ability of cities to include pension modifications in response to current fiscal challenges."

The case has moved quickly to the Supreme Court, with the 1st District Court of Appeal taking the somewhat-unusual step of passing it along without holding a hearing or ruling. Justices have scheduled arguments Sept. 5.

Leon County Circuit Judge Jackie Fulford issued a ruling in March that sided with the arguments of public employees who filed the lawsuit last year. She pointed, in part, to a 1974 law that said employees would not be required to contribute to the pension fund and that the rights were of a "contractual nature."

Fulford found that the Legislature's plan to require pension contributions would violate the rights of employees hired before July 1, 2011.

"To find otherwise would mean that a contract with our state government has no meaning and that the citizens of our state can place no trust in the work of our Legislature," Fulford wrote.

"Those are findings this court refuses to make."

Despite Fulford's ruling, the state has collected the 3 percent contributions during the lawsuit. Scott and the other state officials, whose lead attorney is former Supreme Court Justice Raoul Cantero, contend in the brief this week that Fulford's ruling violates legal precedents and "if left standing would handcuff the Legislature's response to changing financial circumstances."