



#FundNJ Pension

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Supreme Court Pension Decision

Q&A

What did the court rule?

In a 5-2 decision, the New Jersey Supreme Court ruled against public employees by supporting the position of Gov. Christie. It overruled a lower court ruling saying that public employees have a contractual right to state contributions to their pensions, while admitting that public employees have a non-forfeitable right to their pensions. According to the decision, the state can – and should – fund public employees’ pensions on an annual basis. However, the Court found that the state overreached its authority by requiring proscribed payments.

How did we get here?

NJEA – and other public employee unions – have been fighting tirelessly on many different levels to protect our members’ pensions. The court’s decision is the result of a legal battle NJEA has been fighting for decades to force the state to pay its share.

What does that mean?

While the Court did not strike down Chapter 78, it held that the Legislature could not bind the state to appropriate the funds required for full pension payments in future years. In so doing, it allowed the current administration to push the pension funding obligation off onto future Legislatures, costing taxpayers billions in higher payments.

What happens next?

The Legislature still can and should do the right thing by making the state’s full pension payment under Chapter 78 in this year’s budget. We anticipate that Gov. Christie will once again underfund the pension system by using his line-item veto power to reduce the pension payment, further endangering the health of the pension system. We must therefore demand that the Legislature override his veto.

Do we have a federal case?

NJEA has directed our attorneys to review all legal options, including a possible federal appeal.

Will we get our money back?

It is understandable that public employees feel betrayed by the court’s decision. But even if it were legal to do so, pulling our members’ money out of the pension fund will only cause the fund’s further decline. In fact, it would speed up the timeline for the pension system to go bankrupt.

Can we get our medical contributions back?

The majority opinion does not give any guidance on our members’ obligations under Chapter 78; however, the dissenting opinion is that the law must be taken as a whole. If part of it is unconstitutional, then the entire law is unconstitutional. NJEA will be talking to legislators and our attorneys to discuss possible remedies and strategies moving forward. Upon careful review of the law, NJEA will provide guidance to its members.

Will I still get my pension?

The Court’s decision does NOTHING to change the state’s obligation to provide public employees with a defined benefit pension. According to the majority decision, “In 1997, with enactment of Chapter 113 of the Laws of New Jersey, the Legislature granted to members of the public pension funds a ‘non-forfeitable right to receive benefits,’ a right defined to mean that benefits could not be reduced once the right to them had attached. The individual members of the public pension systems, by their public service, earned this delayed part of their compensation. That those men and women must be paid their pension benefits when due is not in question in this matter.”

What will the Legislature do?

We anticipate that the Democrat majority will pass a budget that includes the 5/7th pension payment. We expect that the governor will once again line-item veto the funding from the budget. He has publicly stated that he will underfund the pension payment by \$1.57 billion.

What will Senate President Steve Sweeney do?

Senate President Sweeney spoke clearly and forcefully at today’s Statehouse press conference, asserting that Governor Christie broke his promise to fund the pension system. He told reporters that the Legislature would again pass a budget that fully funds the system, and sent a clear warning to Republicans who voted FOR Chapter 78, but AGAINST overriding Christie’s veto, that they should start thinking about their futures after Christie leaves office. Remember, Sweeney and Prieto both joined public employees on the lawsuit.

What will Assembly Speaker Vincent Prieto do?

In a statement released moments after the court’s decision was made public, Prieto said: “The ruling changes nothing. We’ve always intended to fully fund our obligations, just as we did last year. Democrats will choose the path of responsibility. The governor chose last year to be fiscally irresponsible and to further weaken our economy. For the sake of New Jersey’s taxpayers and its economy, I hope he chooses a different course this year.” Remember, Sweeney and Prieto both joined public employees on the lawsuit.

What happened to my non-forfeitable right?

The court’s decision affirms that public employees STILL have a non-forfeitable right to their pensions; however, this decision condones Gov. Christie’s continued attempts to kick the can down the road and create an even greater unfunded pension liability. But in order to protect that right, ALL members MUST act and demand that Legislators make the full pension payment.

How many of the justices were Christie appointees?

Three of the justices were appointed by Gov. Christie: Patterson, Fernandez-Vina, and Solomon. They were joined in the majority opinion by Justice LaVecchia, who wrote the opinion, and Judge Cuff, who has been temporarily assigned to the court.

What will we do if Christie vetoes the pension funding in the budget?

If, as expected, Gov. Christie uses the line-item veto to dramatically reduce the state’s pension payment again, the Legislature MAY vote to override the governor. However, in 50 attempts at an override of the governor’s veto, the Legislature has failed every single time. But this is an opportunity for Republicans in the Legislature to do the right thing and stand with public employees and taxpayers to make the full pension payment.

What happens if we do not get the override of the veto?

We will hold legislators ACCOUNTABLE in future elections. In addition, we are exploring every option – up to and including a constitutional amendment – to make the Legislature’s obligation to fund public employee pension systems ironclad.

NJEA’s actuaries have announced that the pension fund will be bankrupt by 2027 unless the state provides full funding. Does this ruling change that?

No. On the current path, the fund could go bankrupt as soon as 2027, regardless of this court decision. This underscores the urgency of member action and legislative responsibility.

Should I retire now?

Unless you were already planning to do so, you should not retire as a result of this decision.

What should I do now to protect my retirement?

The best thing you can do now is to continue to ADVOCATE for yourself and your pension by working with NJEA leaders and staff to press the Legislature into doing the right thing.



Sign up to be a pension advocate at fundnjpension.org

This information is intended for NJEA and its members only.