

INTERNATIONAL UNION OF OPERATING ENGINEERS

Craft-Maintenance Division State of California Unit 12
Locals 3, 39 & 501, AFL-CIO

Public Sector Union Members Dodge the Pension Bullet

On March 4, 2019, the California Supreme Court finally issued their long-awaited decision on a lawsuit that was filed by CalFire Local 2881 v. California Public Employees' Retirement System on the issue of "Air Time".

In late 2012, the legislature enacted the California Public Employees' Pension Reform Act also known as PEPRAs which substantially revised the laws governing public employee pensions.

This decision eliminated the opportunity for public employees to purchase additional retirement service credit or more commonly referred to as "Air Time".

Beginning in May 2003, many public sector employees were granted the opportunity to purchase up to five years of service credit by making appropriate payments to their pension fund.

Participating employees could therefore receive pension benefits calculated on the basis of up to five years' more public employment than they actually worked. PEPRAs effectively repealed the statute granting public employees the opportunity to purchase additional service credit even though it did not alter the rights of employees who had already purchased such credit.

For clarification, the only change made by PEPRAs relating to "Air Time" was to eliminate the opportunity to purchase the credit after the end of 2012. PEPRAs do not purport to affect the rights of employees who took advantage of the opportunity to purchase the credits while it was still available.

Persons who purchased the credits therefore remain in the same position as they were prior to the PEPRAs changes.

The Court concluded that the opportunity to purchase the credits was not a right protected by the contract clause (or often referred to as the California Rule). In the absence of constitutional protection, the opportunity to purchase credits could be altered or eliminated at the discretion of the legislature.

Because the Court concluded that the opportunity to purchase the credits was not a term and condition of public employment protected from impairment by the California Rule, its elimination does not implicate the Constitution.

UNION STRONG!

Steve Crouch
Director of Public Employees