

IN THIS ISSUE

PA Enacts Sweeping Pension Reform Bill for State and School District Employees 1

One-on-One with Michael J. Engle on White-Collar Defense2

People News 4

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Pennsylvania Enacts Sweeping Pension Reform Bill for State and School District Employees

On June 12, Gov. Tom Wolf signed into law a pension reform bill that will change the retirement savings plans for state government and public school employees hired in 2019 and after. The bill passed the state Senate by a vote of 40-9 and the state House by a vote of 143-52. Pennsylvania becomes one of a handful of states to move workers to a defined contribution plan; in this case, it's a partial defined contribution retirement plan for state workers and public school teachers. The new law creates for the first time a mandatory defined contribution/401(k) plan for all new public school and state government hires, except those wearing a uniform, such as the state police. The legislation also shrinks any defined benefit/pension a new hire would be entitled to, and saves the Commonwealth and its taxpayers more than \$4 billion.

The law moves away from the current guaranteed pension system that public employees in Pennsylvania have participated in for about a century to one that includes, in part or in whole, a 401(k)-style plan that many in the private sector have. State government employees hired after Jan. 1, 2019, and public school employees hired after July 1, 2019, will be forced to move into a new plan that offers them three retirement savings options:

- **Option 1:** The first option offered to future employees would be a hybrid defined contribution/defined benefit plan that would require workers to contribute 8.25 percent of their pay for retirement, split between the guaranteed pension and the new 401(k)-style plan. Upon retirement, they would receive a guaranteed pension based on 1.25 percent of their final average salary (see below for how that is calculated) times years of service, plus whatever they earned through their 401(k)-style plan.
- **Option 2:** This is another hybrid plan in which workers could reduce their payroll deduction to 7.5 percent (also split between the guaranteed pension and 401(k)-style plan), and receive a guaranteed pension based on 1 percent of final average salary times years of service, also supplemented by the new 401(k)-style plan.
- **Option 3:** This is a full defined contribution plan similar to what most workers in the private sector have. It would require a minimum employee payroll contribution of 7.5 percent. The employer contributes 2 percent of salary for public school employees and 3.25 percent for state government employees.

The law does not address the unfunded liability of the state's two current pension plans (SERS and PSERS), which is estimated to be in excess of \$70 billion.

(continued on page 2)

Pension Reform Bill *(continued from page 1)*

Stradley Ronon government affairs professionals worked with the Pennsylvania Legislature and the Wolf administration to ensure that state government and public school employees hired in 2019 and thereafter have the ability to manage their 401(k)-style plans with the help of their current financial adviser. ■



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One-on-One with Michael J. Engle on White-Collar Defense



Government Affairs News (GAN): How did you get started in criminal law and ultimately representing white-collar defendants?

Michael Engle: Well, I came from a family that was very law enforcement-oriented. However, I became acutely aware of the importance of defending our constitutional rights at the end of my college career. During my internship with the FBI, I was unknowingly placed with an agent who was under investigation for espionage. To make a very long story short, I learned from that experience that at times our government and its various agencies will use its citizens for its own ends and that there must be lawyers who serve to ensure that our government does not trample on the rights of its citizens. That experience led me to explore criminal defense work, and over the years, I have transitioned from a traditional state court criminal practice to a far more heavily weighted federal and white-collar practice. Engaging in white-collar criminal defense has just been part of a natural progression from my early days as a state court criminal defense lawyer. I have enjoyed taking on the role of a white-collar defense attorney along with all of the complex investigations and intricate defense cases that naturally flow from such a practice.

GAN: Can you talk a little about your experience with public corruption investigations?

MJE: I have handled numerous investigations and white-collar defense matters that have been related to public corruption prosecutions over the years. I have been involved in several of the higher-profile public corruption prosecutions in Pennsylvania, including the successful

defense of a government vendor in connection with a corruption case involving a major state agency. My experience in this area has included the representation of political action committees, campaign finance committees for political candidates and public officials, businesses and individuals associated with government entities under investigation for corruption, key employees of multibillion-dollar companies doing business in the mid-Atlantic region, and public officials themselves, including the defense of a state court judge charged with honest-services fraud. However, most of my experience with public corruption investigations relates to matters that fortunately never resulted in any criminal charges for the client.

GAN: What are the most challenging aspects of this type of litigation?

MJE: Unlike in many criminal cases, white-collar matters require the attorney to always remain focused on the damage to reputation for the business or professional being represented. The ability to help the client avoid charges in the first place is probably the most challenging aspect of this work, especially when representing a public official. Defending a white-collar matter at trial involves the same fundamental process as in any other criminal defense trial; however, for white-collar clients, especially those in or related to government service, the ability to obtain a declination of prosecution or deferred prosecution agreement is where the real battle is won and lost. This reality only serves to highlight the importance of a solid investigation, which is absolutely critical to the success of the representation. Pre-indictment investigation and coordination with counsel on the enforcement side of an issue are typically key to obtaining the desired result for the client.

(continued on page 3)

GAN: What types of internal investigations have you been involved in, and what are their biggest challenges?

MJE: Internal investigations are a large part of any white-collar practice, and I have been fortunate to participate in a variety of such investigations touching on many industries, including securities and finance, health care, public corruption and others. Investigations can be complex and challenging for a variety of reasons. A good white-collar investigator needs to conduct a swift yet thorough review of volumes of critical documents, email correspondence, and company or government entity policies and procedures. The investigation team also must conduct delicate interviews of employees, officers, directors, in-house counsel and even public officials in an effort to ascertain what transpired, if there is a problem, how to resolve said problem and guiding the company or governmental body in developing a compliance program to avoid any such problem in the future. All of this must be done in a timely and cost-effective manner that also makes certain to avoid substantial disruption of the client's normal business activities or government functions. Ultimately, internal investigations pose the challenge of counseling a client faced with a criminal or regulatory violation on how to approach disclosure concerns and, in many instances, how to create an effective strategy for simultaneously confronting allegations of wrongdoing that can be fatal to the client's reputation in the political arena or its given industry.

GAN: What is the most challenging case you have worked on, and what made it challenging?

MJE: I was once tasked by the court with defending a young man who was charged in a conspiracy to defraud the IRS of an amount exceeding \$10 million. The client was the son of the CEO and founder of a company that the government claimed was marketing abusive tax shelters across the United States. My client lived in southern California, and the case was being prosecuted in federal district court in Philadelphia. It was a complex fraud case and one where there was seemingly little hope of success at trial for the co-defendants. Finding a way to separate the client from his father and the other defendants was a big challenge. It is always frightening to defend a client one believes to be innocent, and in this case, I was certain that my 26-year-old client with no prior criminal contacts was just that, innocent. In addition to having my young client's freedom in my hands, I also had him living in my home throughout the monthlong trial. While it is unusual to represent an indigent client in a white-collar fraud case, this client's father decided to spend his money on multiple lawyers for himself and none for his child. Having no place

to reside in Philadelphia and insufficient financial resources to pay for a hotel, the young man spent every hour of every day for about a month with me. This only made the representation more challenging. Fortunately, in the end, the jury saw things our way and acquitted my client, who was the only person associated with this alleged conspiracy to be found not guilty.

GAN: What are some of the trends you see in this practice area?

MJE: Public corruption investigations will continue to be a priority for both the Department of Justice and the various offices of attorneys general throughout the United States. We have seen a variety of elected officials, prominent businesspeople and entities investigated or prosecuted by state and federal authorities in the past few years. The ability to recognize when one is crossing the line into an improper relationship in exchange for official acts on the part of a public official has become increasingly difficult. The line has been blurred in the areas of bribery, honest-services fraud and state ethics act violations, where the demarcation between protected political speech and criminal activity can be difficult to comprehend. Therefore, public officials, government entities, political candidates and campaign finance organizations as well as individuals and businesses that engage in dealings with political figures and government agencies must be cognizant of the danger areas by engaging compliance counsel to forestall criminal investigations when possible, or by having top white-collar counsel conduct investigations of alleged misconduct while aggressively defending against allegations of corruption.

GAN: Can you talk a little about your role at Stradley Ronon?

MJE: I am the chair of Stradley Ronon's newly formed White-Collar Defense, Internal Investigations & Corporate Compliance group. My goal is to build a team that can work in tandem with the many talented attorneys we have across a variety of industries and practices areas, including government affairs, environmental law, health care, life sciences, banking, tax, financial services litigation, the investment management industry and securities. There is significant crossover between a white-collar practice and many of the other services we provide to our clients. Our ability to serve our clients' needs when a government enforcement or criminal investigation is looming makes Stradley Ronon a stronger firm. I look forward to building relationships both inside and outside our firm that will lead to our enhanced presence in the white-collar arena. ■

People News



William Sasso



Val DiGiorgio

Chairman **William Sasso** and Partner **Val DiGiorgio** were named to City and State Pennsylvania’s 2017 “Power 100” list. The list honors the 100 most influential people in government, business, culture and social services.

Twenty Stradley Ronon attorneys, including Chairman **William Sasso** and government affairs group members **Steve Davis** and **Karl Myers**, were named to the recently released 2017 edition of *Super Lawyers*, regarded as a definitive guide to legal excellence. *Super Lawyers*, a Thomson Reuters business, is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high degree of peer recognition and professional achievement. The annual selections are made using a patented multiphase process that includes a statewide survey of lawyers, an independent research evaluation of candidates and peer reviews by practice area.



Partner **Steve Davis** moderated a panel entitled, “Insurance Department General Counsel Discussion,” at the Property Casualty Insurers Association of America’s Northeast General Counsel Seminar on Sept. 18 in Philadelphia. The discussion included insights and practical advice on various regulatory hot topics from Amanda Baird, General Counsel

of the Ohio Department of Insurance; Amy Daubert, Chief Counsel of the Pennsylvania Insurance Department;

and Gale Simon, Commissioner of Enforcement and Consumer Protection at the New Jersey Department of Banking and Insurance.



Attorney **Karl Myers** has been appointed solicitor of the Nor-Gwyn Pool Commission in Montgomery County, Pennsylvania. The Commission operates the Nor-Gwyn pool, a community pool located in Upper Gwynedd, and consists of seven Commissioners appointed by North Wales Borough Council and the Upper Gwynedd Township Commissioners.

Karl also recorded a podcast for the American Bar Association. The show, “Optimizing Technology for Appellate Practice,” included practical advice for practitioners on how to use technology to achieve efficiencies in preparing appellate briefs and appendices.



Attorney **Mark Chopko** presented a webinar on the ministerial exception for the National Association of Church Personnel Administration on May 23. Mark’s presentation addressed the origin of the ministerial exemption under the First Amendment.

Mark also served as a speaker for the Seventh-day Adventist Church Pastors’ Summit on Abuse on Sept. 11. He presented “Pastors’ Legal Responsibilities Regarding Abuse” and “Pastoral Care for the Abuser.” The first session focused on the legal obligation to report abuse and neglect to civil authorities, and the second session examined ways in which pastors could minister to abusers while simultaneously protecting families and children.

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