

V. INVIOABLE CONTRACT

When analyzing the state's inviolable contract, the legal opinion makes a distinction between pension benefits and medical benefits. In regard to pension benefits, the existence of an inviolable contract seems clear. However, while KRS and KTRS are clearly covered by the scope of the inviolable contract for pension and medical insurance benefits, [-] KTRS coverage for medical insurance benefits is limited to access only. It is less clear regarding the scope of medical benefits protected and, to date, there is no Kentucky case law on point.

"The Kentucky statement of intent is one of the strongest among the states. Its statute expressly states that pension benefit laws "constitute an inviolable contract of the Commonwealth and the benefits provided therein shall ... not be subject to reduction or impairment by alteration, amendment, or repeal." See, e.g., KRS 16.653, 61.692, 78.852.. Thus, under Kentucky law, pension benefits for public employees and retirees are a contractual right, and those benefits may not be reduced or terminated by the legislature retrospectively.

With respect to medical benefits, there is a split of authority among the states on the issue whether medical insurance or other medical benefits are part of the retirement benefit conferred by public retirement systems. However, the Kentucky statutes provide that medical benefits are included as part of the "inviolable contract" of the Commonwealth with regard to KRS participants, with the exception that benefits "provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract." See., KRS 61.702(8)(d). The extent to which the Kentucky legislature may modify the medical benefits that are presently conferred by statute to employees hired before July 1, 2003, has not been determined by the Kentucky courts. To the extent that the inviolability exists relative to post employment medical insurance, it is clear by related statutes in KRS Chapter 18A that it does not extend beyond the value of the Kentucky Kare Standard Plan of 1994.