



North Dakota Legislative Council

Prepared by the Legislative Council staff
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SUMMARY OF THE NORTH DAKOTA SUPREME COURT'S OPINION IN *BOARD OF TRUSTEES OF THE NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM V. NORTH DAKOTA LEGISLATIVE ASSEMBLY*

This memorandum provides a summary of the ruling of the North Dakota Supreme Court in *Board of Trustees of The North Dakota Public Employees Retirement System v. North Dakota Legislative Assembly* declaring Senate Bill No. 2015 (2023) unconstitutional, and therefore void, because the bill embraced more than one subject.

LEGAL BACKGROUND

Section 13 of Article IV of the Constitution of North Dakota provides in relevant part:

No law may be enacted except by a bill passed by both houses, and no bill may be amended on its passage through either house in a manner which changes its general subject matter. **No bill may embrace more than one subject, which must be expressed in its title;** but a law violating this provision is invalid only to the extent the subject is not so expressed. (emphasis added)

Section 13 of Article IV of the Constitution of North Dakota commonly is referred to as "the single subject rule." The two requirements under the single subject rule are that "[n]o bill may embrace more than one subject" and that the subject of the bill "must be expressed in its title." The purpose of the first requirement is to restrict the practice of "logrolling," which is the combining into one bill of several diverse measures that have no common basis except, perhaps, their separate inability to receive a favorable vote on their own merits. The purpose of the second requirement is to ensure the public is informed of the matters within a bill.

RULING

As introduced, Senate Bill No. 2015 provided the appropriations to the various divisions of the Office of Management and Budget. As the legislative session progressed, numerous additional provisions were incorporated as amendments to Senate Bill No. 2015. One of those provisions, contained in Section 41 of the bill, amended a law concerning the number of individuals who may sit on the Public Employees Retirement System Board.

The North Dakota Public Employees Retirement System initiated a lawsuit challenging Section 41 of the bill by asserting, among other claims, Section 41 violated the single subject rule in Section 13 of Article IV of the Constitution of North Dakota because the bill embraced more than one subject. On September 28, 2023, the North Dakota Supreme Court issued an opinion in *Board of Trustees of The North Dakota Public Employees Retirement System v. North Dakota Legislative Assembly*, which held the title and substance of Senate Bill No. 2015 violated Section 13 of Article IV of the Constitution of North Dakota and the title of the bill does not contain language suggesting the bill is anything other than an appropriations bill with other miscellaneous provisions. In other words, the title of Senate Bill No. 2015 violates Section 13 of Article IV of the Constitution of North Dakota because the bill expressed more than one subject by including an assortment of unrelated laws and embraced multiple distinct subjects extraneous and not germane to the general appropriations to the various divisions of the Office of Management and Budget. However, the court did not provide any guidance with respect to determining germaneness.