

MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
(CITY OF ST. LOUIS)

CHARLES A. LANE, and)	
JAMES CRAWFORD,)	
)	Case No. 2122-CC00751
Plaintiffs,)	
)	Division 20
v.)	
)	
POLICE RETIREMENT SYSTEM)	
OF THE CITY OF ST. LOUIS, et al.,)	
)	
Defendants.)	

**CROSS-CLAIM PETITION OF DEFENDANT CITY
OF ST. LOUIS FOR DELARATORY JUDGMENT**

COMES NOW Defendant City of St. Louis, pursuant to MO. R. CIV. P. 55.32(f), and for its cross-claim against Defendant State of Missouri states as follows:

BACKGROUND

1. Cross-claim Plaintiff City of St. Louis (“City”) is a constitutional charter city organized pursuant to the Missouri Constitution, the laws of the State of Missouri, and the Charter of the City of St. Louis.
2. Cross-claim Defendant the State of Missouri is a sovereign state of the United States.
3. Chapter 86 of the Revised Missouri Statutes applies to “any city not within a county.” § 86.203 R.S.Mo. Thus, the provisions of that chapter apply only to the City of St. Louis.
4. The Police Retirement System of the City of St. Louis (“PRS”) is a state agency created and operating pursuant to state statutes, §§ 86.200 R.S.Mo., *et seq.* PRS is a defendant in the underlying claims in the above-captioned cause of action.
5. PRS is a State-created and State-governed pension system established for City police officers.

6. Defendant State of Missouri does not provide any funding for PRS.
7. Each year, State statutes require the City to pay to PRS an amount determined by the PRS actuary and certified by the PRS board of trustees. In general terms, the PRS actuary performs an assets-to-liabilities analysis to determine the amount the City must pay in order to assure that PRS is actuarially sound.
8. Pursuant to § 86.344 R.S.Mo., the annual amounts certified by the PRS board of trustees “shall be appropriated by the city and transferred to the retirement system in equal payments in the first six months of the ensuing year.”
9. When the State and PRS adopt and implement pension benefit increases for police, it increases PRS financial liabilities.
10. Unless the City contests the calculations of the PRS actuary, the City’s obligation to pay the amount certified by PRS is mandatory.
11. When the State and PRS adopt and implement pension benefit increases for police, it has the effect of increasing the level of an existing activity at the City’s expense.
12. Jurisdiction and venue are proper in this Court as the parties are all located in the State of Missouri, and this case involves the interpretation of Missouri state law and statutes.

COUNT I – Declaratory Judgment Regarding Mo. Rev. Stat. § 86.810

13. Cross-claim Plaintiff City restates and adopts the averments in paragraphs 1 through 12 of this cross-claim as if stated fully herein.
14. This cross-claim is an action for declaratory judgment brought pursuant to § 527.010 R.S.Mo., *et seq.*, seeking a declaration of this Court that § 86.810 R.S.Mo. has no application to taxpayer claims brought pursuant to Article X, Section 21 of the Missouri

Constitution (commonly referenced as the “Hancock Amendment”), including the taxpayer claims asserted by plaintiffs in the above-captioned cause.

15. The Hancock Amendment to the Missouri Constitution provides, in pertinent part:

A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the general assembly or any state agency of counties or other political subdivisions, unless a state appropriation is made and disbursed to pay the county or other political subdivision for any increased costs.

16. Section 86.810 R.S.Mo. states:

The provisions of any other law notwithstanding, the board of trustees of any retirement system, the provisions of which are governed by this chapter, or any political subdivision which funds such retirement system, shall have standing to seek a declaratory judgment concerning the application of article X, section 21 of the Missouri Constitution to the provisions of this chapter. In the event a final judgment is rendered by a court which judgment determines that any provision of this chapter constitutes a new activity or service or increase in the level of an activity or service beyond that required by existing law under article X, section 21 of the Missouri Constitution, or any successor to that section, that provision of this chapter shall be void ab initio and any new benefit or feature required by such provision of this chapter shall be deemed not to have accrued and shall not be payable to members.

17. By its terms, Section 86.810 purports to (a) convey standing to the City of St. Louis to seek declaratory judgments based upon the Hancock Amendment; and (b) if the City obtains a judgment holding that a new pension benefit required by the terms of Chapter 86 violates the Hancock Amendment, the pertinent statutory section and benefit increase shall be “void ab initio,” and “shall be deemed not to have accrued and shall not be payable to members.”

18. The City has not asserted a Hancock Amendment claim with respect to any pension benefit increases approved or implemented by the State or PRS.

19. By its terms, Section 86.810 does not apply to Hancock Amendment claims asserted by taxpayers.

20. The City wishes to assure that the pension benefits promised to City police officers continue to accrue and be paid.
21. The City has an interest in protecting the pension rights of its employees.
22. Although it is unclear, the Answer of Defendant State of Missouri previously filed in this cause appears to deny plaintiffs' contention that Section 86.810 applies only to Hancock Amendment claims filed by a political subdivision such as the City of St. Louis.
23. A justiciable controversy exists that presents a real, substantial, presently existing controversy as to which specific relief by Cross-claim Plaintiff City of St. Louis is sought. Specifically, the City seeks a judgment as to whether the provisions of Section 86.810 apply to terminate certain police pension benefits upon successful Hancock Amendment claims filed by individual taxpayers.
24. The City has a legitimate legal interest in protecting the pension rights of its employees. The controversy is ripe for judicial determination, given the nature of plaintiffs' underlying claims and the response of the State of Missouri.
25. Cross-claim Plaintiff has no adequate remedy at law.

WHEREFORE, Cross-claim Plaintiff City of St. Louis prays for the declaratory judgment of this Court that the provisions and penalties contained in § 86.810 R.S.Mo. are limited to circumstances in which a political subdivision that funds a pension system asserts a successful Hancock Amendment claim; further declaring that Mo. Rev. Stat. § 86.810 has no application to Hancock Amendment claims asserted by individual taxpayers, including the plaintiffs in this cause; and ordering such other relief as this Court deems just and proper.

COUNT II – Declaratory Judgment Regarding Mo. Rev. Stat. § 86.810

26. Cross-claim Plaintiff City restates and adopts the averments in paragraphs 1 through 25 of this cross-claim as if stated fully herein.
27. This cross-claim is an action for declaratory judgment brought pursuant to § 527.010 R.S.Mo., *et seq.*, seeking a declaration of this Court that § 86.364 R.S.Mo. has no application to police pension benefits where the City’s legislative body has not approved or authorized such benefits.
28. Mo. Rev. Stat. 86.364 states:
- All provisions of this chapter which authorize the granting of additional benefits or compensation to beneficiaries shall terminate upon the issuance of an opinion by the Missouri supreme court which would result in the state of Missouri being obligated or required to pay any such additional benefits or compensation **even though such additional benefits or compensation is formally approved or authorized by the appropriate body of the city.** (Emphasis added).
29. By its terms, the provisions of above-quoted statute are triggered if the State of Missouri becomes obligated to pay additional police pension benefits or compensation “even though such additional benefits or compensation is formally approved or authorized by the appropriate body of the city.”
30. The City has not “formally approved or authorized” any police pension benefit increases since voter approval of the Hancock Amendment.
31. Because the City has not “formally approved or authorized” any of the police pension benefit increases referenced in the taxpayer plaintiffs’ underlying claims, the provisions of § 86.364 R.S.Mo. will not be triggered if the taxpayer plaintiffs prevail in their Hancock Amendment claims.
32. Although it is unclear, the Answer of Defendant State of Missouri previously filed in this cause appears to deny the taxpayer plaintiffs’ contention that Section 86.364 is not

applicable here because the City did not approve or authorize any of the police pension benefit increases referenced in the taxpayer plaintiffs' underlying claims.

33. The City has an interest in protecting the pensions rights of its employees.

34. A justiciable controversy exists that presents a real, substantial, presently existing controversy as to which specific relief by Cross-claim Plaintiff City of St. Louis is sought. Specifically, the City seeks a judgment as to whether the provisions of Section 86.364 apply if the taxpayer plaintiffs' Hancock Amendment claims are successful.

35. The City has a legitimate legal interest in protecting the pension rights of its employees. The controversy is ripe for judicial determination, given the nature of plaintiffs' underlying claims and the response of the State of Missouri.

36. Cross-claim Plaintiff has no adequate remedy at law.

WHEREFORE, Cross-claim Plaintiff City of St. Louis prays for the declaratory judgment of this Court that the provisions and penalties contained in § 86.364 R.S.Mo. are inapplicable where, as here, the City did not approve or authorize any of the police pension benefit increases referenced in the taxpayer plaintiffs' underlying claims; further declaring that Mo. Rev. Stat. § 86.364 has no application to pension benefits that were not formally approved or authorized by the City; and ordering such other relief as this Court deems just and proper.

Respectfully submitted,

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Certificate of Service

I hereby certify that on Friday, August 13, 2021, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all parties of record.

/s/ Michael A. Garvin