

A statute changing a public pension program in such a way as to impact current participants will violate the Contract Clause only if: (1) the change infringes a contractual right, (2) the infringement is substantial, and (3) the impairment is not "reasonable and necessary to serve an important public purpose."

As to (1), the state's retirement plan is treated as a contractual obligation by statute. See MGL ch. 32, § 25(5) (state retirement plan statute establishes "a contractual relationship under which members who are or may be retired for superannuation are entitled to contractual rights and benefits").

As to (2), the infringement is deemed substantial only if it impairs the participants' core of reasonable expectations as informed by the content of the pension statute when the participant began service. See *MacLean v. State Board of Retirement*, 432 Mass. 339, 344-45 (2000) (deeming changes to laws barring pension payment due to certain misconduct as not substantial, because employee had no reasonable expectation that these provisions would not change); *McCarthy v. Sheriff of Suffolk County*, 366 Mass. 779, 783 (1975) (affirming legislation reducing court officer mandatory retirement age from 70 to 65 because there was no reasonable expectation that officers would be guaranteed employment through age 70).

As to (3), a modification is reasonable if it bears some material relationship to the theory of the pension system and its successful operation, or is necessary to maintain the integrity of the system. See *Madden v. Contributory Retirement Appeal Board*, 431 Mass. 697, 703-04 (2000) (change prorating teacher's part-time service for purposes of calculating creditable service was permissible because change was an attempt to correct a disparity which allowed a largely part-time teacher to earn the same level of retirement benefits as a full-time teacher). It may help sustain as reasonable changes that result in disadvantages to employees if they are accompanied by comparable new advantages. *Opinion of the Justices*, 364 Mass. 847, 961 (1973) (legislation under which compulsory contributions by government employees to the contributory government retirement plan would be raised from 5 percent to 7 percent of salary, without any increase in benefits to be paid, was presumptively invalid as to persons who were members of the retirement system as of the date of its effectiveness).