

Order

Michigan Supreme Court
Lansing, Michigan

June 15, 2011

143157

IN RE REQUEST FOR ADVISORY OPINION
REGARDING CONSTITUTIONALITY OF
2011 PA 38

SC: 143157

Robert P. Young, Jr.,
Chief Justice

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

On order of the Court, the request by the Governor for an advisory opinion on the constitutionality of the reduction or elimination of tax exemption for pension incomes contained in 2011 PA 38 is considered, and it is GRANTED. We direct that oral argument on the following questions be heard on Wednesday, September 7, 2011, at 9:30 a.m. MCR 7.302(H)(1). The questions submitted are: (1) whether reducing or eliminating the statutory exemption for public-pension incomes as described in MCL 206.30, as amended, impairs accrued financial benefits of a “pension plan [or] retirement system of the state [or] its political subdivisions” under Const 1963, art 9, § 24; (2) whether reducing or eliminating the statutory tax exemption for pension incomes, as described in MCL 206.30, as amended, impairs a contract obligation in violation of Const 1963, art 1, § 10 or the US Const, art I, § 10(1); (3) whether determining eligibility for income-tax exemptions on the basis of total household resources, or age and total household resources, as described in MCL 206.30(7) and (9), as amended, creates a graduated income tax in violation of Const 1963, art 9, § 7; and (4) whether determining eligibility for income-tax exemptions on the basis of date of birth, as described in MCL 206.30(9), as amended, violates equal protection of the law under Const 1963, art 1, § 2 or the Fourteenth Amendment of the United States Constitution.

The Attorney General is respectfully requested to submit within 56 days of the date of this order separate briefs arguing that the reduction or elimination of tax exemption for pension incomes contained in 2011 PA 38 and the determination of eligibility of income tax exemptions for pensions on the basis of age are and are not constitutional under the Michigan and United States Constitutions.

Persons or groups interested in the determination of the questions presented in this matter may move the Court for permission to file briefs amicus curiae on either or both sides of the submitted questions.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 15, 2011

Corbin R. Davis

Clerk