

No. 118585

IN THE
SUPREME COURT OF ILLINOIS

IN RE: PENSION REFORM LITIGATION
(consolidated pursuant to Supreme Court Rule 384)

) Appeal from the Circuit Court
) for the Seventh Judicial
) Circuit, Sangamon County,
) Illinois, No. 2014 MR 1
) Honorable JOHN W. BELZ
) Judge Presiding

DORIS HEATON, *et al.*,
Plaintiffs-Appellees,
v.
PAT QUINN, Governor of Illinois, *et al.*,
Defendants-Appellants.

)
) Originally Filed as
) Cook County Case
) No. 2013 CH 28406
)

RETIRED STATE EMPLOYEES ASS'N RETIREES,
et al.,
Plaintiffs-Appellees,
v.
PATRICK QUINN, Governor of Illinois, *et al.*,
Defendants-Appellants.

)
) Originally Filed as
) Sangamon County Case
) No. 2014 MR 1
)
)

ILLINOIS STATE EMPLOYEES ASS'N, *et al.*,
Plaintiffs-Appellees,
v.
BOARD OF TRUSTEES OF STATE EMPLOYEES
RETIREMENT SYSTEM OF ILLINOIS, *et al.*,
Defendants-Appellants.

)
) Originally Filed as
) Sangamon County Case
) No. 2014 CH 3
)
)

GWENDOLYN A. HARRISON, *et al.*,
Plaintiffs-Appellees,
v.
PATRICK QUINN, Governor of Illinois, *et al.*,
Defendants-Appellants.

)
) Originally Filed as
) Sangamon County Case
) No. 2014 CH 48
)

STATE UNIVERSITIES ANNUITANTS ASS'N, *et al.*,
Plaintiffs-Appellees,
v.
STATE UNIVERSITIES RETIREMENT SYSTEM, *et al.*,
Defendants-Appellants.

)
) Originally Filed as
) Champaign County Case
) No. 2014 MR 207
)

MOTION FOR ACCELERATED DOCKET

FILED ^①

DEC 4 2014

SUPREME COURT
CLERK

Defendants-Appellants Illinois Governor Patrick Quinn, *et al.* (“Defendants”) respectfully move pursuant to Supreme Court Rule 311(b) for acceleration of the docket in this case, including accelerated briefing and argument, as further described below. In support of this motion, Defendants submit a separate Supporting Record (“SR”) of relevant materials filed in the circuit court and the affidavit of Illinois Solicitor General Carolyn E. Shapiro (“SG Aff.”), and state as follows.

Introduction and Summary of Grounds for Motion

1. This direct appeal under Supreme Court Rule 302 involves the five cases challenging the validity of Public Act 98–599 (the “Act”) that were consolidated in the circuit court of Sangamon County pursuant to Supreme Court Rule 384. SR 1-10. Defendants appeal from the circuit court’s recent judgment declaring the Act unconstitutional and striking it down in its entirety.

2. As described below, the issues raised in this case are of widespread public importance to the State’s government, to the tens of thousands of members of the four affected state-funded retirement systems, and to Illinois citizens generally. A prompt resolution of those issues is critical because the State must either implement the Act, or, in the alternative, significantly reduce spending and/or raise taxes. That choice is relevant to the State’s budget process for the fiscal year beginning on July 1, 2015, which process must be completed by May 31, 2015. Defendants accordingly seek an accelerated docket, as set forth in paragraph 10 below, that will provide a prompt and timely resolution of this appeal.

Factual Background

3. The Act included, among other things, various changes to the Pension Code that modify future pension benefit increases for active and retired members of four state-funded retirement systems: the Teachers’ Retirement System, the State Employees’ Retirement System, the State Universities Retirement System, and the General Assembly Retirement System. SR 4-5. The

complaints in each of the five consolidated suits alleged that these benefit changes violate the Pension Clause of the Illinois Constitution (art. XIII, § 5). SR 27. Defendants filed answers to each of the complaints alleging, as affirmative matter under Section 2–613(d) of the Code of Civil Procedure, that the Act represents a legitimate exercise of the State’s reserved sovereign powers, also called its police powers, with respect to constitutionally protected contract rights. *Id.* Defendants specifically asserted that the Act was a reasonable and necessary measure to advance an important public interest in light of extraordinary, unforeseen circumstances. *Id.* These unforeseen circumstances included events related to the Great Recession that dramatically increased the systems’ unfunded liabilities and corresponding state contributions, while at the same time greatly reducing the revenues available to make those contributions and to address other critical public needs, for which the State had already reduced spending significantly over the past decade. *Id.*

4. Plaintiffs filed a consolidated reply to this affirmative matter. SR 27. Thereafter, they filed three separate motions — a motion for summary judgment, a motion to strike, and a motion for judgment on the pleadings — maintaining that the police powers doctrine applicable to all other contracts, including contracts with the government, does not apply to the contractual relationship established by the Pension Clause. *Id.*

5. Defendants separately filed a motion for summary judgment and supporting materials that set forth both the economic and fiscal circumstances leading to passage of the Act, including several earlier reforms that did not change current members’ pension benefits, and the economic and fiscal effects of not implementing the Act. SR 28.

6. The circuit court ordered briefing first on Plaintiffs’ motions. SR 28. Following that briefing, the circuit court requested the parties to submit proposed orders and, on the day after oral argument, entered a six-page order adopting Plaintiffs’ proposed order with minor changes. SR 3-

18. That order concluded, in particular, that the contractual relationship protected by the Pension Clause, unlike all other contract rights, is not subject to any exception for an otherwise legitimate exercise of the State's police powers, and that the Act's provisions reducing future benefit increases therefore violate the Pension Clause. SR 6-7.

7. The circuit court's order further held that, notwithstanding Section 97 of the Act making some provisions of the Act "inseverable" and declaring the remaining provisions "severable," none of the Act's provisions was severable from the provisions the court found to violate the Pension Clause, and the Act was therefore void in its entirety. SR 6-7.

8. The order permanently enjoined implementation of the Act, and it further included a finding pursuant to Supreme Court Rule 304(a) that there was no reason to delay enforcement or appeal from its decision. SR 8. A few days later, the court supplemented that order with findings pursuant to Supreme Court Rule 18. SR 9. This appeal followed. SR 1-10.

Discussion

9. The Court should accelerate this appeal to facilitate a resolution enough in advance of the May 31, 2015 deadline for passage of the State's fiscal-year 2016 budget (beginning on July 1, 2015) that the General Assembly and the Governor may take the Court's decision into account when adopting the fiscal-year 2016 budget. It is in the interest of all concerned — Plaintiffs, Defendants, the state government generally, and the public — that the Court resolve this appeal as expeditiously as reasonably practical.

10. Defendants therefore respectfully request that the Court accelerate its docket in this matter and adopt one of the schedules below, listed in order of preference:

- a. Defendants' brief and supporting record due by December 18, 2014; Plaintiffs' brief due by January 8, 2015; Defendants' reply brief due by January 15, 2015; and oral

argument on January 22, 2015.

- b. Defendants' brief and supporting record due by January 8, 2015; Plaintiffs' brief due by February 2, 2015; Defendants' reply brief due by February 11, 2015; and oral argument specially set for February 18, 2015.
- c. Defendants' brief and supporting record due by January 12, 2015; Plaintiffs' brief due by February 16, 2015; Defendants' reply brief due by February 27, 2015; and oral argument on March 10, 2015.

11. Outside of the child custody context, Rule 311(b) governs an "accelerated docket" in a reviewing court. Defendants recognize that a request for relief under Rule 311(b), while not unprecedented, asks the Court to make an exception to its normal procedures for handling cases, and that those procedures facilitate the Court's ability to fulfill its responsibilities in an efficient, orderly and fair manner. Defendants nonetheless submit that this case is particularly appropriate for exercise of the Court's authority under Rule 311(b).

12. The budget process for the next fiscal year, commencing on July 1, 2015, will begin shortly. Pursuant to Article VIII, Section 2(a) of the Illinois Constitution and Section 50-5 of the State Budget Law, 15 ILCS 20/50-5 (2012), the Governor must submit his budget proposal to the General Assembly, including a description of all projected receipts and expenditures, by February 18, 2015. The General Assembly will then convene hearings to prepare enactment of the budget for the upcoming fiscal year, including estimates of the State's revenues and expenditures. If the General Assembly does not pass the relevant laws to implement this budget by May 31, 2015, those laws cannot take effect by the start of the fiscal year absent the vote of a three-fifths majority of the House and of the Senate. Ill. Const. art. IV, § 10. And without a budget (or some other interim, short-term action) before July 1, 2015, the State's ability to operate will be very limited.

13. Formulating the State's budget is necessarily complicated by uncertainty over the

validity of the pension contribution changes established by the Act, which were declared invalid by the circuit court's judgment under review. Compared to prior law, the Act changed the schedule of state contributions to the affected retirement systems over a 30-year period in a manner that both increased the systems' actuarial funding level at the end of that period and reduced the State's projected annual contributions by about \$1 billion per year in the early years of the Act's application. SR 20-25, 29.

14. The circuit court's ruling creates uncertainty about whether the State must find alternative means to cover the budget shortfall if the contribution reductions provided by the Act are unavailable. Prompt resolution of this appeal will therefore facilitate critical budget-related decisions that depend on whether the Act is valid, including whether the State must make corresponding long-term reductions in other spending or increases in taxes.

15. In short, a prompt ruling by the Court in this appeal will greatly facilitate the shared responsibility of the General Assembly and the Governor to enact timely legislation consistent with the Illinois Constitution to ensure the State's ongoing and future operations without disruption, including for the upcoming fiscal year beginning July 1, 2015.

WHEREFORE, Defendants respectfully pray for entry of an order pursuant to Supreme Court Rule 311(b) accelerating the docket in this case as specifically set forth in paragraph 10 above.



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ORDER

This matter having come before the Court on Defendants-Appellants' Rule 311(b) motion for an accelerated docket in this appeal,

It is hereby ordered that the motion is ALLOWED / DENIED.

It is further ordered that the following schedule shall govern the proceedings in this appeal:

Alternative A: Defendants' brief and supporting record due by December 18, 2014; Plaintiffs' brief due by January 8, 2015; Defendants' reply brief due by January 15, 2015; and oral argument on January 22, 2015.

Alternative B: Defendants' brief and supporting record due by January 8, 2015; Plaintiffs' brief due by February 2, 2015; Defendants' reply brief due by February 11, 2015; and oral argument specially set for February 18, 2015.

Alternative C: Defendants' brief and supporting record due by January 12, 2015; Plaintiffs' brief due by February 16, 2015; Defendants' reply brief due by February 27, 2015; and oral argument on March 10, 2015.

Date: _____