

No. 118585

IN THE
SUPREME COURT OF ILLINOIS

In re: Pension Reform Litigation

Direct Appeal Pursuant to Ill. Sup. Ct. R. 302(b)
from the Circuit Court of Sangamon County, No. 2014 MR 1
Consolidated with Sangamon County, Nos. 2014 CH 3, 2014 CH 48;
Cook County, No. 2013 CH 28406;
Champaign County, No. 2014 MR 207
The Honorable John W. Belz, Judge Presiding

**MOTION FOR LEAVE TO FILE BRIEF AND APPENDIX OF THE CITY OF
CHICAGO AS AMICUS CURIAE IN SUPPORT OF DEFENDANTS-
APPELLANTS**

The City of Chicago ("Chicago" or the "City") moves pursuant to Illinois Supreme Rule 345 for leave to file the accompanying brief *amicus curiae* (instant) in support of the position of Defendants-Appellants. In support thereof, the proposed *amicus curiae* states as follows:

1. The case before the court concerns pension funds funded by the State, but the Circuit Court's decision deeming those reforms unconstitutional also threatens legislation that has already been enacted, or is otherwise urgently needed, to address the crisis currently affecting the four pension funds covering employees and retirees of the City. The City has a vital interest in the outcome of this litigation and seeks to submit the accompanying brief as *amicus curiae* in order to advise the Court on the impact its ruling could have on pension reform efforts

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undertaken by the City and other governments and agencies throughout Illinois, including the Chicago Public Schools, Chicago Transit Authority, Chicago Park District, and Cook County.

2. The City's employees and retirees participate in four public pension funds: the Policemen's Annuity and Benefit Fund of Chicago ("PABF"); the Firemen's Annuity and Benefit Fund of Chicago ("FABF"); the Municipal Employees' Annuity and Benefit Fund of Chicago ("MEABF"); and the Laborers and Retirement Board Employees' Annuity and Benefit Fund of Chicago ("LABF") (collectively, the "Chicago Funds").

3. Although Chicago has paid every dollar required by Illinois law into the Chicago Funds, each nevertheless faces a massive, urgent funding crisis. The Chicago Funds are underfunded by an aggregate sum nearing \$20 billion, a hole that (absent reform) deepens by millions of dollars every day. This pension underfunding crisis has already imposed severe stress on Chicago, causing it to have the lowest credit rating of any major U.S. city other than Detroit and straining the City's ability to provide essential services to its residents.

4. Since the current administration took office in mid-2011, the City has worked diligently to solve this problem and, among other things, engaged in extensive negotiations with its collective bargaining units in an effort to find a consensus solution. Following the passage of the legislation before this Court, the City proposed legislation aimed at saving two of the Chicago Funds. On June 9, 2014, Senate Bill 1922 ("SB1922") was signed into law, which instituted reforms for

the MEABF and LABF. *See* Public Act 98-641 (June 9, 2014). As the General Assembly noted during the debates over SB1922, the legislation reflected extensive participant input, and thirty of the thirty-three affected collective bargaining units did not oppose it.

5. Without SB1922, MEABF and LABF will run out of money in a matter of years, at which point participants will be paid only a fraction of the benefits promised. At the same time, SB1922 makes only modest changes to the rate of future increases in pension benefits, without reducing the annuity amounts under prior law or increasing the retirement age. SB1922's combination of new funding and reduced liabilities sets these two funds on a path to security, without leaving pensions at risk of default or imposing an impossible burden on the City.

6. While Chicago believes that SB1922 should survive challenge regardless of the outcome of this case, several collective bargaining units and individuals have initiated litigation claiming that the result the Circuit Court reached likewise shows that SB1922 is unconstitutional. In addition, Chicago's ability to achieve reform for the two Chicago Funds not covered by SB1922 may be defined and limited by the Court's decision here. With reform of each of the Chicago Funds an absolute necessity, the pension crisis closely tied to the economic and financial fate of the City, and the Circuit Court's unprecedented and extreme decision in this case threatening current and future pension reform efforts, this case inevitably affects Chicago's interests.

7. The City's brief includes an appendix of material that has been

submitted to the Circuit Court in litigation changing SB1922, which supports the factual statements in this motion and in the City's proposed *amicus curiae* brief.

8. The brief of Defendants-Appellants, whose position Chicago's proposed brief *amicus curiae* supports, is due on this date, January 12, 2015. Therefore, Chicago's proposed amicus brief is timely pursuant to Illinois Supreme Court Rule 345.

WHEREFORE, for the reasons set forth herein, Chicago respectfully requests leave to file a brief *amicus curiae* in this matter instanter

Dated: January 12, 2015

Respectfully submitted,

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NOTICE OF FILING

PLEASE TAKE NOTICE THAT on January 12, 2015, we filed with the Clerk of the Supreme Court of Illinois, 421 East Capitol Avenue, Springfield, IL 62701, **MOTION FOR LEAVE TO FILE BRIEF AND APPENDIX OF THE CITY OF CHICAGO AS AMICUS CURIAE IN SUPPORT OF DEFENDANTS-APPELLANTS**, a copy of which is attached hereto and served upon you.

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CERTIFICATE OF SERVICE

I, Michael B. Slade, an attorney, certify that on January 12, 2015, I caused the original plus one (1) copy of the foregoing *Motion for Leave to File Brief and Appendix of the City of Chicago as Amicus Curiae in Support of Defendants-Appellants* to be filed with the:

Clerk's Office - Springfield
421 East Capitol Avenue
Springfield, IL 62701-1712

and that I caused one copy to be served upon the parties listed below via U.S. mail, postage prepaid and properly addressed, by depositing same in the mailbox located at 300 N. LaSalle, Chicago, Illinois on January 12, 2015:

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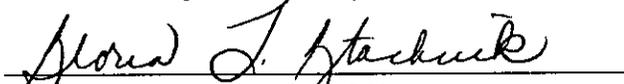
**SUPREME COURT
CLERK**

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Michael B. Slade

SUBSCRIBED and SWORN to before me
this 12th day of January, 2015



Notary Public



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ORDER

This matter coming to be heard on motion of the City of Chicago to file a brief *amicus curiae* instanter in support of Defendants-Appellants, all parties having been duly notified, and the Court being advised in the premises,

IT IS HEREBY ORDERED:

That leave to the City of Chicago to file a brief *amicus curiae* instanter is
GRANTED/DENIED.

ENTERED: _____

JUSTICE

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**BRIEF OF THE CITY OF CHICAGO AS AMICUS CURIAE IN SUPPORT OF
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INTEREST OF AMICUS CURIAE

The Circuit Court's decision finding Public Act 98-599 unconstitutional concerns four State pension funds, but it also threatens pension reform efforts that have been passed, or are urgently needed, for the City of Chicago and other governments and agencies throughout Illinois, including the Chicago Public Schools, Chicago Transit Authority, Chicago Park District, and Cook County. The situation facing Chicago and the four pension funds covering Chicago employees and retirees (the "Chicago Funds") demonstrates this reality. Although Chicago has paid every dollar required by Illinois law into the Chicago Funds, each nevertheless faces a massive, urgent funding crisis. The Chicago Funds are underfunded by an aggregate sum nearing \$20 billion, a hole that (absent reform) deepens by millions of dollars every day. Without prompt reform, this already severe crisis will worsen quickly and exponentially, and will become impossible to fix.

This pension underfunding crisis has already imposed severe financial stress on Chicago, causing it to have the lowest credit rating of any major U.S. city other than Detroit and straining the City's ability to provide essential services to its residents. Thus, ever since the current City administration took office in 2011, the City has sought to resolve this problem. Those efforts culminated in Senate Bill 1922 ("SB1922"), which was signed into law on June 9, 2014. *See* Public Act 98-641 (June 9, 2014).

SB1922 was the product of extensive negotiation—and compromise—between the City and unions representing fund participants. Only three of the thirty-three affected bargaining units opposed it. (A169).¹ Put simply, SB1922 was enacted to save the Municipal Employees’ Annuity and Benefit Fund of Chicago (“MEABF”) and the Laborers and Retirement Board Employees’ Annuity and Benefit Fund of Chicago (“LABF”) from certain insolvency, but in a way that does not destroy the City’s economy by requiring infeasible tax increases and decimating the City’s ability to provide essential public services. The urgency of the problem demanded a prompt solution: without SB1922, the unfunded liabilities of MEABF and LABF grow by approximately \$2.5 million every day—more than \$900 million each year. Consequently, without SB1922, MEABF and LABF will run out of money in a matter of years, at which point participants will be paid only a fraction of the benefits promised.

SB1922 requires the City to provide MEABF and LABF with billions of dollars in new funding, a financial obligation that did not previously exist and, without SB1922, will not exist. At the same time, SB1922 makes only modest changes to the rate of automatic future increases in pension benefits and to the rate of employee contributions, without reducing the annuity

¹ Citations to “SR” are to the supporting record filed by Appellants. Citations to “A” are to the Appendix filed separately by the City of Chicago. The Appendix includes materials filed in *Jones et al. v. Municipal Employees’ Annuity and Benefit Fund of Chicago, et al.*, 2014 CH 20027 (Circuit Court of Cook County), one of two cases seeking to declare SB1922 unconstitutional.

amounts owed to retirees or increasing the retirement age. SB1922's combination of new funding and reduced liabilities sets these two funds on a path to security, without leaving pensions at risk of default or imposing an impossible burden on the City.

The other two Chicago Funds, the Policemen's Annuity and Benefit Fund of Chicago ("PABF") and the Firemen's Annuity and Benefit Fund of Chicago ("FABF"), also have unfunded liabilities exceeding \$10 billion and are less than 30% funded. The *annual* underfunding of these two funds is approximately \$538 million, and Chicago simply does not have the money to pay an additional \$538 million every year into these funds, make a dent in these funds' combined \$10 billion of accrued unfunded liabilities (which represents only half of the City's \$20 billion underfunding crisis), and still provide adequate levels of basic services to its residents. Legislation passed in 2010 and known as Senate Bill 3538 ("SB3538") purported to address this crisis by relying on increased City contributions alone. It requires the City to triple its contributions to these two funds in a single year, from \$300 million in 2015 to \$839 million in 2016. *See* Public Act 96-1495 (Dec. 30, 2010). To put this amount in perspective, the City's entire property tax receipts in 2015 are projected to be \$830 million. In other words, the 2016 contributions to PABF and FABF alone will consume all of the City's property tax receipts and crowd out funding for essential services—and this is before considering the almost quadrupling of the City's contributions to MEABF and LABF from

\$177 million in 2014 to \$650 million in 2020 required by SB1922.

The City thus has a vital interest in this case. Failing to achieve reform for the Chicago Funds would have a devastating impact on Chicago's economy and its delivery of essential services, as well as on the retirement security of current and former employees. This is no secret. Observers have repeatedly noted Chicago's "worst-in-the-nation pension funding crisis"² that is a ticking "time bomb"³ threatening the city with "financial ruin."⁴ And ratings agencies have made similar observations in downgrading the City's credit rating an unprecedented four notches in the past eighteen months, to a level just two ratings above junk bond status. Fitch Ratings Service, for example, has emphasized the urgency of the problem, noting that "[t]he amount that would be required to amortize the unfunded liability grows larger as time passes, both in nominal terms and as a percent of government spending, threatening to crowd out other city spending priorities." (A158). Moody's Investors' Service has been even more direct, citing "massive and growing unfunded pension liabilities" that make Chicago an "extreme outlier"

² *Governor Quinn, Sign Chicago's Pension Bill*, Chicago Tribune (June 5, 2014), available at <http://www.chicagotribune.com/news/opinion/commentary-laurence-msall-pension-reform-20140605,0,6527016.story>.

³ *With Time Bomb Ticking, City Must Act on Pensions*, Chicago Sun Times (June 18, 2014), available at <http://www.suntimes.com/opinions/28156559-474/with-time-bomb-ticking-city-must-act-on-pensions.html#.U6YY1p1OlgU>.

⁴ *Rahmbo's Toughest Mission*, The Economist (June 14, 2014), <http://www.economist.com/news/united-states/21604165-can-rahm-emanuel-save-chicago-financial-calamity-rahmbos-toughest-mission>.

and, absent reform, “threaten the city’s fiscal solvency.” (A158-59).

While Chicago believes that SB1922 should survive constitutional challenge regardless of the outcome of this case, a handful of collective bargaining units and several individuals have initiated litigation claiming that the Circuit Court’s decision below dooms the constitutionality of SB1922. (A169). In addition, Chicago’s ability to achieve reform for the two Chicago Funds not covered by SB1922 may be defined and limited by the Court’s decision here. With reform of each of the Chicago Funds an absolute necessity; the pension crisis closely tied to the economic and financial fate of the City; and the Circuit Court’s unprecedented and extreme decision in this case threatening current and future pension reform efforts, this case inevitably affects Chicago’s interests.

ARGUMENT

I. PENSION REFORM IS CRITICAL TO THE FATE OF CHICAGO AND THE RETIREMENT SECURITY OF THE CITY'S CURRENT AND FORMER EMPLOYEES.

A. The Chicago Funds Are Severely Underfunded.

Chicago employees and retirees participate in four pension funds:

PABF, FABF, MEABF and LABF. Each is severely underfunded.

Unfunded liabilities measure the difference between the value of a pension fund's assets and its accrued liabilities, while the funded ratio reflects the percentage of the Fund's accrued liabilities that it is able to pay. A fully funded plan has a funded ratio of 100%, meaning that its assets would be sufficient to pay all accrued liabilities. For comparison, under federal law governing the pension funds of private employers, a fund with a funded ratio of 70-80% is considered "at risk." See 29 U.S.C. § 1083(i)(4)(A).

Each of the Chicago Funds falls woefully short of this standard, and each is clearly in extremis under any relevant benchmark. The funds have nearly \$20 billion in unfunded liabilities and a 34.6% aggregate funding percentage—less than half the ratio that would place private funds "at risk":

| | PABF | FABF | MEABF | LABF | Total |
|------------------------------------------|---------|---------|---------|---------|----------|
| Unfunded Liabilities (\$ in millions) | \$7,027 | \$3,098 | \$8,742 | \$1,036 | \$19,903 |
| Funding percentage | 30.3% | 24.2% | 36.9% | 56.7% | 34.6% |

(A5-6).

This funding crisis exists even though both Chicago and participants have always satisfied 100% of their funding obligations under Illinois law. (A3). Instead, the funded ratios have rapidly declined over the past decade as a result of two principal factors, both of which were outside the control of Chicago and fund participants. First, reduced investment returns caused by, among other things, the great recession of 2008, sharply reduced the value of the Chicago Funds' assets. (A9-12). Second, prior to SB1922 and SB3538, Illinois law directed the City and its employees to make contributions based on a percentage of current employees' salaries. (*Id.*) These contribution formulas had no relationship to the actuarial funding requirements needed to ensure that the funds would have sufficient money to pay the benefits promised. While this actually resulted in over-funding for one of the funds (LABF) for a period of time that ended in 2004 (A11), these contributions proved insufficient to ensure adequate funding as the number of current employees making contributions diminished due to layoffs and other belt-tightening, and as investment returns fell. (A9, A11). Absent reform, this accelerating downward spiral will continue. (A13-14).

Without SB1922, the unfunded liabilities of MEABF and LABF alone would continue to increase by approximately \$2.5 million every single day, or \$900 million per year. (A3). Illinois law provides that pension payments are not the obligations or debts of the City, "but shall be held to be solely an obligation of such pension fund" 40 ILCS 5/22-403. Consequently, in the

absence of SB1922, the only money available to pay these liabilities would be the monthly contributions made by current employees and the annual City contributions required by pre-SB1922 law, and the assets of the funds would continue to be depleted until they are ultimately exhausted. (A13-14). This outcome would be catastrophic for participants in MEABF and LABF, who would see sharp reductions in payments because the funds would lack sufficient money to pay the benefits as promised.

A similar funding crisis confronts PABF and LABF. Indeed, as discussed above, these funds are even more underfunded than MEABF and LABF. SB3538, enacted in 2010, delayed addressing this underfunding crisis until 2016, and even then, purported to do so only by increasing Chicago's contribution alone, on an extremely aggressive 25-year actuarial schedule, and without any ramp-up in those contributions over time. This will require Chicago's contributions to nearly triple in one year, from the 2015 level of approximately \$300 million to \$839 million, and this does not include the additional funding for MEABF and LABF required by SB1922.

B. The City Cannot Solve Pension Underfunding Without Benefit Reform.

The contributions needed to fund the existing \$20 billion in unfunded liability, not to mention the incremental liability that accrues every day without reform, would dwarf Chicago's resources. The entirety of the City's projected property tax receipts in 2015 is \$830 million, while the *annual* underfunding for MEABF and LABF currently exceeds \$900 million, and

SB3538 requires payment of \$839 million to PABF and FABF in 2016. Thus, to cover the *annual* underfunding for MEABF and LABF and make the additional payments SB3538 requires for PABF and FABF would require more than double Chicago's entire property tax receipts, solely for pensions—and that would still not make any dent in the \$20 billion in unfunded accrued liabilities. Solving Chicago's pension crisis through increased City contributions alone and without benefit reform is not feasible. The problem is simply too large and, without reform, it escalates every day.

Nor can the current underfunding be addressed through spending cuts, either alone or in conjunction with tax increases. The overwhelming majority of the City's spending is personnel related. (A30-31). The City's core operating fund is the corporate fund. On average, 85% of corporate fund expenses are personnel related, and some 80% of the salaries and wages in the corporate fund budget relate to public safety. (*Id.*) Thus, cutting expenses to fund pensions would require laying off thousands of police officers, firefighters, and other City employees, leaving the City unable to provide basic services to its residents.

The impossibility of addressing the underfunding crisis through increased contributions alone and without benefit reform is compounded by the City's longstanding structural budget deficit. The City has had such a deficit every year for at least the past decade, in both so-called "boom years" as well as during and after the 2008 recession. (A27-28). While the City's

current administration has reduced this deficit by several hundred million dollars over the past three years—and those efforts are continuing—it has not been and will not be able to eliminate it for the foreseeable future. (A27-30). The City currently anticipates a deficit of \$300 million in 2016, even *before* paying any additional dollars into any of the Chicago Funds. (*Id.*)

The pension crisis has already devastated Chicago's finances. Credit rating agencies Moody's and Fitch have downgraded Chicago's ratings repeatedly over the past eighteen months, and the City now has the worst credit rating of any major U.S. city other than Detroit, which just emerged from bankruptcy. (A155-60). The rating agencies have emphasized that these downgrades are the result of the "very large and growing pension liabilities," and that Chicago is at an "inflection point where inaction on pension reform will negatively impact the city's finances and threaten to crowd out spending on city services." (A158-59). Consequently, even after repeatedly downgrading Chicago's general obligation bonds, Moody's and Fitch have also issued Chicago's credit a "negative outlook," an explicit threat of future downgrades if the pension problem is not fixed. (*Id.*) Further ratings downgrades could require Chicago to pay hundreds of millions of dollars in additional interest over the life of the City's bonds, \$300 million in fees under contracts linked to credit ratings, and replace up to nearly \$3 billion in existing credit. (*Id.*)

The bottom line is that Chicago needs to solve the crisis confronting

the Chicago Funds as soon as possible. Delay only exacerbates the problem.

C. SB1922 Saves Two Of The Four Chicago Funds From Insolvency, Provided It Is Not Ruled Unconstitutional.

The General Assembly passed SB1922 to save MEABF and LABF from insolvency. The General Assembly found that the “overall financial condition of these two City pension funds is so dire, even under the most optimistic assumptions, that a balanced increase in funding, both from the City and from employees, combined with a modification of annual adjustments for both current and future retirees, is necessary to stabilize and fund the pension funds.” (A20). The General Assembly also found that the City “cannot feasibly reduce its other expenses to address this serious problem without an unprecedented reduction in basic City services” and that any attempt to resolve the pension crisis “through increased funding alone” would have “draconian” consequences for the City and its residents. (A21-22).

SB1922 requires the City to nearly quadruple its contributions to MEABF and LABF, although on a more gradual and sustainable path than SB3538 does for PABF and FABF. Specifically, SB1922 requires an increase in City contributions to MEABF and LABF over time, from \$177 million in 2014 to more than \$650 million in 2020. (A24-25). After 2020, the City will be required to fund MEABF and LABF on an actuarial basis, such that the Funds will be 90% funded by 2055. (*Id.*)

The length of time required to fix the problem reflects its magnitude.

As described above, the annual underfunding of MEABF and LABF created by pre-SB1922 law was nearly \$900 million. (A5-6). Thus, even with the massively increased City contributions required by SB1922, the unfunded liabilities for MEABF and LABF will still continue to increase (although at a far slower pace) until approximately 2036. (A17). Only at that point will increased contributions from Chicago and employees begin to make a dent in the \$10 billion in unfunded liabilities currently on the books. (*Id.*)

To ensure that these dramatically increased City contributions are paid into MEABF and LABF, SB1922 provides for two new independent enforcement mechanisms. First, if the City fails to make the payments required by SB1922, the State has a statutory obligation to redirect state grants that would otherwise be paid to the City into the Funds to make up any shortfall. Second, SB1922 authorizes each Fund's board to bring an expedited and summary mandamus action in the Circuit Court of Cook County to force the City to make the required payments. Neither of these enforcement mechanisms existed prior to SB1922.

Not only does SB1922 dramatically increase the City's contributions and create new mechanisms to ensure that the contributions are made, but it also provides a means to achieve full funding with the smallest possible impact on participants. SB1922 does not reduce the annuity amounts owed or change how "Final Average Salary" is determined for purposes of calculating the annual amounts. It also does not increase the retirement age.

Instead, SB1922 makes modest changes to existing automatic annual increases (“AAIs”) to reflect the true purpose of a cost of living adjustment (“COLA”). Before SB1922, “Tier 1” retirees (those hired prior to January 1, 2011) received AAIs of 3%, compounded, reflecting the fact that in the 1980s, when these AAIs were enacted, inflation had been (and was expected to remain) well in excess of 3%. Under SB1922, consistent with the purchasing power protection required by the much lower inflation rates in recent years, AAIs will be the lesser of 3%, or half the inflation rate, non-compounded.⁵ Retirees will also no longer receive an increase in the first year of retirement, or in 2017, 2019, or 2025. In all other years, retirees will receive AAIs, albeit at a rate more commensurate with the economic purpose of a COLA.

SB1922 also requires current City employees to increase their contributions, but these changes are likewise modest and will be phased in

⁵ This issue is not unique to Illinois. Many states that enacted “COLA” adjustments of approximately 3% in the 1980s, when inflation rates were far higher than 3% and expected to remain so, have since reduced these annual COLAs to make them more consistent with recent actual and projected inflation rates. See, e.g., *Justus v. State*, 336 P.3d 202 (Colo. 2014) (upholding COLA reductions from 3.5% to a formula capped at 2%); *Puckett v. Lexington-Fayette Urban Cnty. Gov’t*, No. 5:13-295-KKC, 2014 WL 5093420 (E.D. Ky. Oct. 8, 2014) (upholding reduction in COLA from 2-5% to 1-2%); *Maine Ass’n of Retirees v. Board of Trustees of Maine Pub. Employees Ret. Sys.*, 758 F.3d 23 (1st Cir. 2014) (upholding statute that eliminated COLA payments in certain years, reduced cap on COLAs from 4% to 3%, and provided that COLAs would apply only to first \$20,000 of benefits); *Bartlett v. Cameron*, 316 P.3d 889 (N.M. 2013) (upholding statute reducing COLAs); *Washington Educ. Ass’n v. Washington Dept. of Ret. Sys.*, 181 Wash.2d 233, 332 P.3d 439 (Wash. 2014) (upholding reduction in COLAs from a 3% cap to a freeze at 2010 levels); *Scott v. Williams*, 107 So.3d 379 (Fla. 2013) (upholding reduction from 3% COLA to no COLA for service performed after June 2011).

over time to lessen their impact. Employee contributions will increase by a half percentage point (.5%) annually for five years to reach 11% of salary in 2020, a total increase of 2.5% from the pre-SB1922 8.5%.

The result of these changes is that MEABF and LABF participants are far better off with SB1922 than without it. For every \$1 of new employee contributions and AAI reductions, SB1922 creates an enforceable mandate requiring the City to contribute more than \$2 in new funding. (A26-27). In other words, SB1922 requires new City funding to fill 70% of the funding gap, with the remainder filled by modestly increased employee contributions (9%) and reductions in the rates of future AAIs (21%). (*Id.*)

Prior to SB1922, MEABF and LABF were projected to become insolvent in 2026 and 2029, respectively. (A13-14). With SB1922, the Funds not only avoid insolvency, but are put on a path to achieve a 90% funding ratio by 2055. (*Id.*) In short, SB1922 will result in a massive net benefit for fund participants. Indeed, thirty of thirty-three affected collective bargaining units did not oppose the passage of SB1922 precisely because participants are far better off with it than without it.

D. The Circuit Court's Decision Puts Chicago's Pension Reform At Risk.

Chicago believes that SB1922 should survive challenge regardless of the outcome of this appeal. As described above, SB1922 resolves the underfunding crisis for MEABF and LABF. The alternative is worse for both the Funds and their participants: if SB1922 is declared unconstitutional, the

City's only contributions to MEABF and LABF will be those amounts the City paid prior to SB1922, which are inadequate. MEABF and LABF's unfunded liabilities will continue to increase by \$2.5 million every day; the funds' assets will continue to be depleted; and the funds will run out of money, requiring drastic cuts to pension payments. SB1922 thus does not diminish or impair pensions in violation of the Pension Clause, but rather preserves and protects those benefits so that they will actually be paid.

The plaintiffs challenging SB1922 have nonetheless claimed that “the analysis that doomed Public Act 98-6599 applies with equal force to the diminishment and impairment of pension benefits in [SB1922].” (A169.) Chicago disagrees, but if SB1922 were found to diminish or impair the pension benefits that retirees would otherwise receive, Chicago and the Funds should be allowed to raise—and attempt to prove—that SB1922 was a constitutionally permitted exercise of the State's police powers. Legislation that impairs a contract will be upheld where it is “reasonable and necessary to serve an important public purpose.” *Consiglio v. Dep't of Fin. & Prof. Reg.*, 2013 IL App. (1st) 121142, ¶ 37 (April 8, 2013); *see also Stelzer v. Matthews Roofing Co.*, 117 Ill. 2d 186, 190-91 (1991) (same). Application of this test depends on the severity of the alleged impairment; the lower the “impairment,” the more readily the State's action will be upheld. *See Felt v. Board of Trustees of Judges Ret. Sys.*, 107 Ill. 2d 158, 166 (1985) (“The severity of the impairment measures the height of the hurdle the state

legislation must clear”); *Sanelli v. Glenview State Bank*, 108 Ill. 2d 1, 21 (1985) (same).

Chicago’s situation presents precisely the extraordinary circumstances that justify the State’s exercise of its police powers and illustrate why the Circuit Court’s extreme interpretation of the Pension Clause should be rejected. SB1922 is not merely a “reasonable” exercise of the State’s sovereign police powers; it is essential to avoiding a catastrophic outcome for the City and retirees alike. SB1922 serves numerous important public purposes. First, it prevents MEABF and LABF from running out of money. The General Assembly found that these Funds face “an immediate funding crisis that threatens the solvency and sustainability of the public pension systems.” (A70). And without reform, “the benefits currently promised by the Pension Funds are at risk.” (A20-21). These findings are entitled to deference (*see, e.g., Empress Casino Joliet Corp. v. Giannoulis*, 231 Ill. 2d 62, 75 (2008); *Polich v. Chicago Sch. Fin. Auth.*, 79 Ill. 2d 188, 201-02 (1980)), and are buttressed by actuarial analysis confirming that, absent SB1922, MEABF and LABF will be insolvent in a matter of years. (A13-14).

Second, SB1922 will help stabilize the City’s finances and credit rating. As discussed previously, due to the underfunding crisis confronting the Chicago Funds, the City’s credit rating has been repeatedly downgraded and is currently lower than all major U.S. cities other than Detroit. (A155). Without SB1922, there is a significant risk that the City will suffer further

downgrades, which would materially increase its cost of borrowing money essential to funding basic operations, and could make the City immediately liable to pay hundreds of millions of dollars as a result of defaults and early termination of debt-related obligations. (A162-65). Averting these consequences is undeniably an important public purpose.

At the same time, SB1922 is also a reasonable exercise of the State's police powers, a conclusion confirmed by looking at SB1922's effect on participants. SB1922 does not impact accrued benefits. No person retiring after SB1922 will receive a lower pension than if he or she had retired earlier. Instead, SB1922 addresses the staggering unfunded liability by reducing automatic future increases in those benefits. And the reductions in these increases reflect the fact that 3% annual, compounded increases exceed the purchasing power protection intended when they were enacted in the 1980s. At that time, inflation was (and was expected to remain) well above the 3% "automatic" increases, but in recent years it has been (and is expected to remain) materially lower. SB1922 thus ties a major cause of the pension underfunding crisis—the unanticipated benefit to retirees (and cost to the Funds) created by 3% compounded AAls—to the solution, providing a targeted fix to the problem. A contractual impairment is insubstantial as a matter of law where, as here, it limits a party to the benefits "reasonably to be expected from the contract" when adopted and eliminates "unforeseen and unintended . . . windfall benefits." *U.S. Trust Co. of New York v. New Jersey*,

431 U.S. 1, 31 (1977); see *City of El Paso v. Simmons*, 379 U.S. 497, 515 (1965) (“Laws which restrict a party to those gains reasonably to be expected from the contract are not subject to attack under the Contract Clause.”).

Finally, neither the City, nor other local governmental entities across Illinois that either are confronting, or will confront, similar crises, has any feasible alternatives to the police powers exception. If there is a “Plan B,” we have not been able to find it.

In particular, the so-called “consideration” argument⁶ does not work legally, economically, or practicably. Consideration requires the agreement of the party giving up a right in exchange for the consideration.⁷ As a legal matter, it is, at best, uncertain how that concept would apply here. If, as plaintiffs contend and the Circuit Court assumed, the Pension Clause creates an individual constitutional right, any reform would require the individual

⁶ See “Illinois Pension Bills: Cullerton’s Union-Backed Plan Advances In Senate As Showdown Looms,” REUTERS May 8, 2013, *available at* http://www.huffingtonpost.com/2013/05/09/union-backed-pension-fix_n_3241438.html (this “approach offers an incentive—called a ‘consideration’ in pension parlance—designed to persuade workers to accept changes in their pension benefits”).

⁷ See, e.g., *JPMorgan Chase Bank, N.A. v. Asia Pulp & Paper Co.*, 707 F.3d 853, 866 (7th Cir. 2013) (“[c]onsideration is ‘a bargained-for exchange, whereby the promisor . . . receives some benefit, or the promise . . . suffers detriment’”) (quoting *Vassilkovska v. Woodfield Nissan, Inc.*, 358 Ill. App. 3d 20, 26 (2005)); *Bauer v. Qwest Commc’ns Co.*, 743 F.3d 221, 227 (7th Cir. 2014); *Acad. Chicago Publishers v. Cheever*, 144 Ill. 2d 24, 30, (1991) (“An enforceable contract must include a meeting of the minds or mutual assent as to the terms of the contract.”); *Echo, Inc. v. Whitson Co.*, 121 F.3d 1099, 1103 (7th Cir. 1997) (quoting *Zinni v. Royal Lincoln-Mercury, Inc.*, 84 Ill. App. 3d 1093, 1095 (1980) (“Absent an acceptance by the defendant, no contract existed between the parties.”)).

consent of tens of thousands of individual employees and retirees. There is no precedent to guide how such agreement would be obtained logistically or procedurally. And to the extent individuals did not agree, the reform proposal would fail and the changes necessary to save the fund would fail, to the detriment of all participants.

It is also at best unclear whether unions could waive their members' rights under the Pension Clause. But even if they could, such waiver would be limited to active employees.⁸ In the case of the Chicago Funds, retirees and other former (and non-represented) employees constitute more than 60% of the Funds' \$20 billion in unfunded accrued liabilities. (A54). Rescuing the Funds from insolvency would be impossible without their agreement.

Nor would "consideration" work from an economic standpoint. To give participants (or their legal representatives) an incentive to agree, the value of such consideration would need to be similar to the value of the benefits given up. But this would involve trading one obligation for another and by definition would not solve the problem that neither the fund nor the governmental entity has enough money to pay the benefits promised.

The original version of the statute before the Court demonstrates these problems. The original bill was grounded on a "consideration" theory and proposed to reform State pensions by first abolishing retiree health care, and

⁸ See, e.g., *Marconi v. City of Joliet*, 2013 IL App (3d) 110865, ¶ 31 (May 2, 2013) ("when negotiating a new collective bargaining agreement, unions only represent the interests of active employees, not employees who have already retired") (citing cases).

then giving retirees the choice of (1) maintaining their current pension benefits but not receiving retiree health care, or (2) agreeing to pension benefit reforms in consideration for being re-granted State-provided retiree health care.⁹ As a threshold legal matter, it is unsettled (and far from clear) whether taking away an existing right and then giving it back can constitute consideration, whether or not that right is constitutionally protected. In any event, this Court's decision in *Kanerva v. Weems*, 2014 IL 115811 (July 3, 2014), foreclosed any such argument by holding that the State's promise of lifetime retiree health care benefits fell within the purview of the Pension Clause and, therefore, could not be taken away. And, even if this "consideration" were constitutional, it is unclear how many participants would accept it and, to the extent they did not, full funding would not be available and the funds would not be saved, to the detriment of all participants.

A related, more recent suggestion of requiring unions to accept either a pay freeze or pension reform once their contract comes up for renewal suffers from similar problems.¹⁰ It assumes that unions may waive the rights of

⁹ See, e.g., Thomas Frisbie, *Illinois Business Leaders: Reject Pension Reform Bill SB1*, CHICAGO SUN-TIMES, March 13, 2013, available at <http://voices.suntimes.com/early-and-often/backtalk/illinois-business-leaders-reje/>; Ray Long and Rafael Guerra, *Savings from Senate pension plan cut by half*, CHICAGO TRIBUNE, May 22, 2013, available at http://articles.chicagotribune.com/2013-05-22/news/ct-met-illinois-legislature-0522-20130522_1_cullerton-plan-pension-reform-proposal-pension-system.

¹⁰ Brendan Bond, *John Cullerton Has A Backup Plan For Pension Reform That Just Might Work*, REBOOT ILLINOIS, available at <http://www>.

their members under the Pension Clause, which, as discussed previously, is at best unclear. Regardless, the approach could potentially affect only active employees because retirees are not represented by unions negotiating going-forward contracts. Thus, this approach is also doomed to failure because retirees make up a substantial percentage of the Chicago Funds' participants and their \$20 billion in unfunded accrued liabilities. (A5-6).

In sum, the availability of the police powers exception is essential to solving the underfunding crisis confronting numerous Illinois pension funds and saving those funds from insolvency and defaulting on their obligations. Indeed, in many, if not most, cases, it is the only legal theory available.

E. The Circuit Court's Decision Puts Other Pension Reform Laws And Proposals At Risk.

The Circuit Court's ruling also jeopardizes badly needed pension reform for other Illinois municipalities and governmental entities, many of which are likely to become insolvent or, at a minimum, cease providing essential services absent reform of their pension funds. This includes municipalities throughout the State that have severely underfunded police and fire funds and face a dramatic increase in their annual contributions similar to Chicago's.

Because actuarial funding has already been legislatively required for these municipalities and their funds, reform will mean not only a reduction in

rebootillinois.com/2014/07/25/editors-picks/brendanbond/john-cullerton-right-illinois-pension-reform-right/21393/.

benefits, but a reduction in the municipalities' existing funding obligations. Accordingly, they will not be able to argue that the legislation provides new funding resulting in a net benefit to fund participants and, therefore, does not "diminish or impair" pension benefits, but rather preserves and protects them. Instead, a critical defense of legislation essential to these municipalities' and agencies' solvency and ability to deliver essential public safety and other services likely will be that the legislation represents a reasonable and necessary exercise of the police powers.

As explained in the *amicus* brief filed by the Illinois Municipal League, if the Circuit Court's decision is affirmed and the police powers defense is foreclosed, the result will be that either the increased payments will not be made, the funds will become insolvent, and the benefits promised will not be paid, or the increased payments will be made but they will displace spending for police, fire and other essential services. Indeed, even prior to the Circuit Court's decision below, "[s]ome Illinois communities [were] already shrinking their police and fire departments in the face of growing pension underfunding."¹¹ Without the ability to invoke the police powers exception, numerous Illinois municipalities are facing the prospect of bankruptcy.¹²

As discussed in the *amicus* brief filed by the Chicago Public Schools ("CPS"), the same thing is true for CPS and its pension fund, the Public

¹¹ See *Amicus Curiae* Brief of the Illinois Municipal League, at p. 12-13.

¹² *Id.* at p. 14-15.

School Teachers' Pension and Retirement Fund of Chicago ("CTPF").¹³ CPS is already subject to legislation that imposes an actuarial funding requirement—CPTF is to be 90% funded by 2059. *See* Public Act 96-0889; 40 ILCS 5/17-129(b)(iv). Accordingly, CPS's contribution obligation increased by \$405 million in 2014, and is projected to balloon by another \$100 million over the next two years.¹⁴ CPS simply does not have the funds to make these ever-escalating contributions.

The Circuit Court's ruling that pension benefits can never be subject to the police power also puts at risk previously-enacted legislation that addressed underfunding of the Chicago Transit Authority ("CTA") and the Chicago Park District ("CPD")'s respective pension funds and has successfully stabilized and put both funds on a path to full actuarial funding. The CTA uniquely has always had a statutory obligation to fund the CTA Retirement Plan. The pension underfunding crisis became apparent for CTA earlier than for other Illinois governmental entities, as its funded ratio had dropped to 34% by 2006.¹⁵ That crisis was addressed in 2008, through a combination of increased employer and employee contributions. While that legislation has not been challenged, the 10-year statute of limitations for claims arising from a written contract has not yet expired. If such a challenge were filed, and the

¹³ *See Amicus Curiae* Brief of the Chicago Transit Authority, the Chicago Park District District, and the Public Schools, at p. 5-10.

¹⁴ *Id.* at 5-7.

¹⁵ *Id.* at 12.

increased employee contributions were found to violate the Pension Clause (as plaintiffs in both this litigation and the challenge to SB1922 have argued), the police power exception likely would be the CTA's only defense. And without pension reform, the CTA would have no choice but to make devastating cuts to critical public services.¹⁶

Finally, legislation saving the CPD's pension fund from insolvency was signed into law in January 2014. *See* Public Act 98-0622. Like SB1922, it was the result of extensive negotiation and compromise between labor and the CPD. The terms of the legislation are similar to those in SB1922, and it is thus subject to the same arguments raised by plaintiffs challenging the constitutionality of SB1922.¹⁷ If Public Act 98-0622 were found to diminish or impair participants' pension benefits, the Park District's and its pension fund's only defense would likely be that the legislation is a reasonable and necessary exercise of the State's police powers to advance important public purposes, including saving the fund from insolvency. And, as with MEABF and LABF, the only alternative to reform is inevitable insolvency.

More broadly, all of these governmental entities—Chicago, CPS, CPD, and CTA, as well as Cook County, which likewise confronts a pension underfunding crisis—share the same taxpayers. The total sum of unfunded obligations for their respective pension funds is nearly \$40 billion. The

¹⁶ *Id.* at 14-16.

¹⁷ *Id.* at 18-19.

cumulative effect of these separate crises confirms that this massive, immediate, and exponentially growing problem cannot be solved by relying on increased contributions from these entities alone. Doing so would not only result in a failure to provide essential public services and irreparable harm to Chicago and the State's economy,¹⁸ but would also ultimately result in the funds' insolvency and failure to pay the bulk of the benefits promised.

II. THE ILLINOIS CONSTITUTION DOES NOT EXEMPT PENSIONS FROM THE SOVEREIGN POLICE POWER.

The Circuit Court's holding that "[t]he Pension Clause contains no exception, restriction or limitation for an exercise of the State's police powers or reserved sovereign powers" (SR4-6) is inconsistent with the plain language of the Illinois Constitution, its drafting history, and this Court's precedent.

First, as detailed in Sections A and B below, the Pension Clause¹⁹ expressly states that "membership in any pension or retirement system ... shall be an enforceable contractual relationship." This Court and the United

¹⁸ Economic activity in the Chicago metropolitan area represents more than 80% of the State's gross domestic product. According to the U.S. Commerce Department's Bureau of Economic Analysis, the Chicago metropolitan area accounted for \$550,793,000,000 of the State of Illinois' \$671,407,000,000 in GDP in 2013. *See* Bureau of Economic Analysis, Metropolitan Area GDP Report, September 9, 2014, Table 2, *available at* http://www.bea.gov/newsreleases/regional/gdp_metro/2014/pdf/gdp_metro0914.pdf; Bureau of Economic Analysis, State GDP Report, June 11, 2014, Table 1, *available at* http://www.bea.gov/newsreleases/regional/gdp_state/2014/pdf/gsp0614.pdf.

¹⁹ The Pension Clause provides that "Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired." Ill. Const. 1970, art. XIII, § 5.

States Supreme Court have repeatedly confirmed that all contracts are subject to the State's sovereign police power. Moreover, there is no precedent in Illinois or in any federal court for a "super contract" exempt from that sovereign power. Exactly the opposite is true; both Illinois and federal courts have repeatedly and uniformly held that the State's police power is an inherent, essential, and inalienable attribute of State sovereignty that cannot be surrendered. An implied term in every contract is that it is subject to the appropriate exercise of the State's police powers.

Second, as further articulated in Section C below, the debates leading to the Pension Clause confirm that its drafters did not purport to abrogate the State's police powers. To the contrary, the drafters reaffirmed that the State's police powers would "appl[y] to every section [of the Constitution] whether it is stated or not." PROCEEDINGS OF THE SIXTH ILL. CONSTITUTIONAL CONVENTION 1689 (1970) (comments of Delegate Foster). The drafters of the Pension Clause intended only to ensure that pensions were treated as contractual relationships, which Illinois courts had recognized for more than a century were expressly subject to the State's police powers.

Third, as explained in Section D below, the Circuit Court's decision is contrary to this Court's precedent, which has recognized that, like all contracts, pensions are subject to the State's police powers. More generally, this Court has repeatedly recognized that the Pension Clause is subject to other implied exceptions that preclude the Circuit Court's absolutist

interpretation.

Fourth, as set forth in Section E below, the Circuit Court's decision is both unprecedented and extreme. Caselaw nationwide confirms that all contracts, including public pensions, are subject to the State's police powers. The Circuit Court's contrary decision would require pension payments even where doing so would devastate all other governmental interests, including public safety, education, health and welfare, which is not and cannot be the law.

A. More Than 150 Years Of Illinois Law Holds That The State Can Use Its Police Powers To Modify Contracts.

A State's police power is an "essential attribute of its sovereignty," *U.S. Trust*, 431 U.S. at 23, "inherent in every government," *Mem'l Gardens Ass'n, Inc. v. Smith*, 16 Ill. 2d 116, 123 (1959). It cannot be abdicated or bargained away, no matter how important the contractual right in question. See *Atlantic Coast Line R.R. Co. v. City of Goldsboro*, 232 U.S. 548, 558 (1914) ("[T]he power of the state to establish all regulations that are reasonably necessary to secure the health, safety, good order, comfort, or general welfare of the community ... can neither be abdicated nor bargained away, as is inalienable even by express grant."); *Chicago v. Chicago Union Traction Co.*, 199 Ill. 259, 270 (1902) (same).

As a result, "[a]ll contracts . . . made by the state itself, . . . are subject to ... subsequent statutes enacted in the bona fide exercise of the police power." *Hite v. Cincinnati, I. & W.R. Co.*, 284 Ill. 297, 299 (1918). Thus,

while both the Illinois and federal Constitutions prohibit the State from impairing the obligations of contracts, this is qualified by the State's ability to act through "a reasonable exercise of the police power to secure an important public interest." *Stelzer*, 117 Ill. 2d at 190-91. "Both United States Supreme Court decisions and decisions of this court have held that the contract clause does not immunize contractual obligations from every conceivable kind of impairment or from the effect of a reasonable exercise by the States of their police power." *George D. Hardin, Inc. v. Vill. of Mt. Prospect*, 99 Ill. 2d 96, 103 (1983). The State's right to exercise its police powers is "an implied condition of every contract and, as such, as much part of the contract as though it were written into it" *East N.Y. Sav. Bank v. Hahn*, 326 U.S. 230, 232 (1945).

In short, for more than 150 years, both this Court and the United States Supreme court have held that "a contract . . . is always subject to an implied reservation in favor of the sovereign power" that may be exercised "whenever the public good requires, or the exigencies of the State demand it." *Mills v. St. Clair Cnty.*, 7 Ill. 197, 227 (1845). See also *Atlantic Coast*, 232 U.S. at 558 ("[I]t is settled that neither the 'contract' clause nor the 'due process' clause has the effect of overriding the power of the state to establish all regulations that are reasonably necessary to secure the health, safety, good order, comfort, or general welfare of the community; that this power can neither be abdicated nor bargained away, and is inalienable even by express

grant; and that all contract and property rights are held subject to its fair exercise.”); *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234, 240 (1978) (same); *City of Chicago*, 199 Ill. at 270 (“No contract can be made which assumes to surrender or alienate a strictly governmental power which is required to continue in existence for the welfare of the public. This is especially true of the police power, for it is incapable of alienation.”); *Meegan v. Vill. of Tinley Park*, 52 Ill. 2d 354, 357-58 (1972) (“[R]ights granted by contracts ... are subject to the reasonable and legitimate exercise of the police power by the State.”); *Sanelli*, 108 Ill. 2d at 23 (“All contracts are made subject to the authority of the State to safeguard the interests of the people. Such authority ... extends to economic needs as well.”).

B. The Pension Clause Does Not Purport To, And Could Not, Nullify The State’s Sovereign Police Power.

These principles form the background against which the Pension Clause was drafted. The Pension Clause tracks the language of the Contracts Clause of Article I, § 16 of the Illinois Constitution,²⁰ providing that “membership in any pension or retirement system ... shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired.” Ill. Const. 1970, art. XIII, § 5. As the Constitutional Commentary accompanying the Pension Clause (co-authored by Delegate Whalen) states: “This provision states explicitly what is found in

²⁰ That provision states: “No ex post facto law, or law impairing the obligation of contracts or making an irrevocable grant of special privileges or immunities, shall be passed.” Ill. Const. 1970, art. I, § 16.

the more general language of Section 16 Article I” – *i.e.*, the Pension Clause repeats and particularizes to pensions the more general guarantee reflected in the Contracts Clause, a guarantee that this Court had held was subject to the appropriate exercise of the State’s police powers for more than a century. Robert A. Helman & Wayne W. Whalen, CONSTITUTIONAL COMMENTARY, SMITH-HURD ILLINOIS COMPILED STATUTES ANNOTATED (1993).

There is nothing in the plain language of the clause purporting to abrogate the State’s police powers. Nor could there be. As described above, this Court and the U.S. Supreme Court have long underscored that the police power is an “inalienable” power of government that “can neither be abdicated nor bargained away.” *Atlantic Coast*, 232 U.S. at 558. Government is “invested with power to enact and enforce all ordinances necessary to prescribe regulations and restrictions needful for the preservation of the health, safety, and comfort of the people. The exercise of this power affects the public, and becomes a duty, the performance of which is obligatory.” *City of Chicago*, 199 Ill. at 270. The State cannot “deprive itself of this power or relieve itself of this duty.” *Id.*

In fact, the plain language of the Pension Clause—language that both plaintiffs and the Circuit Court simply ignored—demonstrates that the police powers exception does apply to pensions, just like other contractual relationships. The Clause explicitly states that “membership in any pension or retirement system . . . shall be an enforceable contractual relationship.”

Ill. Const. 1970, art. XIII, § 5. This Court has explained that the purpose of the Clause was to make clear that government pensions are contracts.

Before the Pension Clause was adopted, “[w]here an employee’s participation in a pension plan was mandatory, the rights created in the relationship were considered in the nature of a gratuity that could be revoked at will.” *People ex rel. Sklodowski v. State*, 182 Ill. 2d 220, 228 (1998). Even where the legislature had expressly created a “vested interest” in pension benefits, that interest did not create any contractual rights in mandatory plans, but rather was considered merely a gift. *See Keegan v. Bd. of Trustees of Ill. Mun. Ret. Fund*, 412 Ill. 430, 435-36 (1952). The Pension Clause resolves this discrepancy and “guarantees that all pension benefits will be determined under a contractual theory rather than being treated as ‘bounties’ or ‘gratuities,’ as some pensions were previously.” *Buddell v. Bd. of Trustees, State Univ. Ret. Sys. of Ill.*, 118 2d 99, 102 (1987) (citations omitted). As Justice Freeman observed in his concurrence in *Sklodowski*, “the primary reason the drafters of our constitution elevated pension membership to contract status was simply to eliminate [the] distinction between mandatory and optional participation plans,” and thus “[t]he protection against impairment of State pension benefits is co-extensive with the protection afforded all contracts under article I, section 16, of the constitution.” *People ex rel Sklodowski v. State*, 162 Ill. 2d 117, 147-48 (1994) (Freeman, J., concurring in part and dissenting in part).

In holding that pensions enjoy “super contract” status under which they are immune from the police power, the Circuit Court’s decision reads the express language stating that pensions shall be treated as “an enforceable contractual relationship” out of the Pension Clause. Under its reading, the Clause would be rewritten to provide that the benefits of “membership in any pension or retirement system of the State shall not be diminished or impaired.” But that is not what the language states, and the Circuit Court’s interpretation violates the fundamental rule that a law shall be construed “to avoid rendering any part of it meaningless.” *Blum v. Koster*, 235 Ill. 2d 21, 29 (2009).

Nor does the “diminish or impair” language on which the Circuit Court focused purport to annul the State’s police powers. In fact, this Court has held that the use of the work “impair” in the Contracts Clause “does not immunize contractual obligations from every conceivable kind of impairment or from the effect of a reasonable exercise by the States of their police power.” *George D. Hardin*, 99 Ill. 2d at 103; see *Energy Reserves Grp. v. Kansas Power & Light Co.*, 459 U.S. 400, 410 (1983) (construing federal Contracts Clause).

The Pension Clause’s addition of the term “diminish” does not change the analysis. This term reinforces and emphasizes the prohibition on impairment of pension obligations. It does not purport to change or deviate from 150 years of settled Illinois and federal law concerning the police power. Indeed, the terms “diminish” and “impair” are commonly used

interchangeably, both in common parlance and in law. Black's Law Dictionary defines "impair" as: "[t]o *diminish* the value of (property or a property right)."²¹ Merriam-Webster defines it similarly: "impair" means "to damage or make worse by or as if by *diminishing* in some material respect."²² Consequently, even before the adoption of the Pension Clause, this Court had repeatedly described the constitutional prohibition against "impairing" contracts by using the term "diminish" or its variants. See, e.g., *Geweke v. Vill. of Niles*, 368 Ill. 463, 466 (1938) ("a statute which diminishes the power of a village to meet a certain obligation is invalid as affecting the obligation of contracts"); *Peoria, D. & E.R. Co. v. People ex rel. Scott*, 116 Ill. 401, 408 (1886) (stating that the invalidity "of an act that will impair or substantially diminish the means of enforcing a contract is too well settled to admit of serious discussion"). The framers of the Pension Clause are presumed to have known of this Court's use of these terms interchangeably when interpreting the Contracts Clause, and there is no evidence that the framers intended to depart from that in using the same terms in the Pension Clause. Likewise, there is no evidence that the framers somehow and silently intended the word "diminish" to negate 150 years of settled precedent that all contractual relationships, including those with the government, are subject to

²¹ BLACK'S LAW DICTIONARY (9th ed. 2009) (emphasis added).

²² <http://www.merriam-webster.com/dictionary/impair> (emphasis added).

the government's police powers.²³

Other courts construing similar clauses have reached the same conclusion. For example, the court presiding over Detroit's bankruptcy recently construed a similarly worded clause in the Michigan Constitution. *See In re City of Detroit, Mich.*, 504 B.R. 97, 151 (Bankr. E.D. Mich. 2013). The court found that the Michigan provision (like the Pension Clause here) was adopted in response to case law holding that pensions were "gratuitous allowances that could be revoked at will," and not contracts. *Id.* The clause was thus designed to confer on pensions the "status of a 'contractual obligation,'" language the court held was "inconsistent with the greater protection" that the plaintiffs advocated. *Id.* at 152; *see also Sklodowski*, 162 Ill. 2d at 147-48 (Freeman, J., concurring in part and dissenting in part) ("The protection against impairment of State pension benefits is co-extensive with the protection afforded all contracts under article I, section 16, of the

²³ The Pension Code confirms that "diminish" is a type of "impairment." *See* 40 ILCS 5/1-123 ("no retirement annuity or other benefit of that person under Article 18 is subject to *forfeiture, diminishment, suspension, or other impairment* solely by virtue of that service"); 40 ILCS 5/1-122 (same); 40 ILCS 5/18-127 (same); 45 ILCS 140/1 ("Nothing in this compact: 1) abrogates or limits the applicability of any act of Congress or *diminishes or otherwise impairs* the jurisdiction of any federal agency expressly conferred thereon by the Congress") (emphasis added in each provision).

Moreover, numerous other provisions in Illinois law contain two adjacent words that were intended to be read as largely overlapping. Ill. Const. 1980, art. IV, § 3 ("force and effect"); Ill. Const. 1970, art. XIII, § 7 ("provide for, aid, and assist"); 625 ILCS 5/4-214, 310 ILCS 10/25.04 ("aid and abet"); 205 ILCS 405/29.5 ("cease and desist"); 760 ILCS 55/4 ("duties and obligations"); 705 ILCS 405/2-10, 4-9 ("fit and proper"); 65 ILCS 5/9-3-48 ("free and clear"); 735 ILCS 5/3-110 ("true and correct").

constitution.”) “If the Michigan Constitution were meant to give the kind of absolute protection for which the Plans argue, the language in [Michigan’s pension clause] simply would not have referred to pension benefits as a ‘contractual obligation.’ It also would not have been constructed by simply copying the verb from the contracts clause—‘impair’— and then adding a lesser verb—‘diminish’ in the disjunctive.” *Detroit*, 504 B.R. at 152. The court found that “linguistically, there is no functional difference in meaning between ‘impair’ and ‘impair or diminish,’” and “if [the] Court gives these terms—‘diminish’ and ‘impair’—their plain and ordinary meanings ..., those meanings would not be substantively different from each other.” *Id.* at 153.

In short, reading “diminish” as a type of “impairment” does not read either word out of the Pension Clause. Nor does the addition of “diminish,” which is encompassed in “impair,” show that pension legislation is exempt from the principles governing all other contractual obligations.

C. The Drafting History Confirms That The Framers Did Not Intend To Nullify The State’s Police Powers, But Rather Sought to Place Pensions On The Same Footing As Other Contractual Relationships.

While the language of the Pension Clause is unambiguous, the drafting history further confirms that the drafters did not intend to abrogate the State’s police powers. The drafters of the Pension Clause are presumed to have been aware of longstanding authority, *see Kanerva*, 2014 IL 115811, ¶ 41 (“the drafters of a constitutional provision are presumed to know about existing laws and constitutional provisions and to have drafted their

provision accordingly”), and that includes the numerous cases holding that the State’s police power is inalienable and that each contract contains an implied reservation in favor of the sovereign power. Indeed, the plain language and history of the Pension Clause establishes that they were. As noted above, the drafters expressly reaffirmed that the State’s police powers would “appl[y] to every section [of the Constitution] whether it is stated or not.” 4 PROCEEDINGS at 1689 (comments of Delegate Foster). The Circuit Court’s decision endowing pensions with “super contract” status is directly at odds with this history.

The debates further confirm that the delegates simply—but importantly, given prior case law—sought to confer upon all pensions the same protection as ordinary contractual relationships. The drafters noted that “all [the Pension Clause] does is say that the pension is a contractual interest which the pensioner has; and the line of cases again has repeatedly held that this is a contractual right and may be subject to any contingency built into the contract.” *Id.* at 2930 (comments of Delegate Whalen). One such implied contingency was the exercise of the State’s sovereign police powers, which was firmly established as an implied term in every contract long before the debates over the Pension Clause.

As Delegate Green, one of the sponsors of the Clause, explained, “the Illinois courts have generally ruled that pension benefits under mandatory participation plans were in the nature of bounties which could be changed or

even recalled as a matter of complete legislative discretion,” and the Pension Clause would remedy this discrepancy by making pension memberships “enforceable contracts.” *Id.* at 2925. As Delegate Whalen observed, the purpose of the provision was to “lock in the contractual line of cases into the constitution.” *Id.* at 2929.

No participant in the constitutional debates stated that the Pension Clause would immunize public pensions from the State’s police powers. If the delegates intended to depart from this well-settled precedent, and create a new and unique species of “super contract” not subject to the State’s police powers, they would have said so. They did not, and no indication of any such intent appears in the debates. To the contrary, the debates uniformly evidence the delegates’ intent to elevate public pensions to the status of ordinary contracts—nothing more and nothing less.

More generally, the debates refute the Circuit Court’s absolutist interpretation of the Pension Clause by demonstrating that its intended scope was circumscribed and limited. For example, the delegates repeatedly observed that the clause would impose no funding obligations on anyone. The Pension Clause did not purport to affect the Legislature’s appropriations power, even though a pension fund’s inability to pay benefits promised is the most extreme form of impairment possible. As the co-sponsor of the measure, Delegate Kinney, stated: “it was not intended to require 100 percent funding or 50 percent or 30 percent funding to get into any of those problems, aside

from the very slim area where a court might judicially determine that imminent bankruptcy would really be impairment.” *Id.* at 2929. Other delegates agreed. *See, e.g., id.* (“I agree with Delegate Kinney, that as I read section 16, it doesn’t require the funding of any pensions”) (Delegate Whalen); *id.* (“It does not refer to upfunding, nor does it seek to establish some sort of an administrative elite to administer these funds.”) (Delegate Lyons).

Similarly, delegates noted that the Pension Clause did not prevent the Legislature from imposing conditions on the receipt of pension benefits. As Delegate Whalen observed, “[a]ll it [the Pension Clause] does is say that the pension is a contractual interest which the pensioner has, and the line of cases again has repeatedly held that this is a contractual right and may be subject to any contingency built into the contract.” *Id.* at 2930. Likewise, Delegate Kinney confirmed that “a statute that provided for a contingency for lowering the benefits at some future time” would not violate the clause. *Id.*

Finally, the delegates expressly rejected calls to elevate pensions to a higher status, rejecting a proposed amendment that would have preserved the possibility that pensioners had “proprietary” rights. As Delegate Whalen observed, while there was “one line of cases which characterizes pension benefits as being contractual rights,” there was “another line of cases which characterizes pension benefits as being proprietary rights of the person receiving the benefit.” *Id.* at 2929. He maintained that “lock[ing] in the contractual line of cases into the constitution,” as the Pension Clause did,

might not “benefit the people that we seek to benefit” because “the person receiving the pension benefits would stand a better chance of receiving full payment if the benefit were characterized as proprietary rather than contractual.” *Id.* Accordingly, “in the long run it may be more advisable for the pensioner to have a proprietary right here.” *Id.* Delegate Whalen therefore recommended that the Convention simply add language to the Contracts Clause encompassing pensions since “the contract clause gives the pensioner the protection against the diminishing or impairing of his contractual rights, which the proponents of this amendment seek to achieve,” while leaving open the possibility that pensions might be entitled to greater rights and thereby avoiding “the problem of characterizing all pensions as contractual rights rather than propriety rights,” as the Pension Clause would. *Id.* But his recommendation was not adopted, and the language stating that pensions were simply “contractual relationships” remained.

D. This Court’s Decisions Establish That The Pension Clause Did Not Nullify The State’s Police Powers.

Consistent with the Pension Clause’s plain language and drafting history, this Court has previously suggested that the State’s police power does in fact apply to public pension obligations. Specifically, in *Felt*, this Court entertained claims that a “reduction in ... retirement” benefits was “within the State’s police power.” 107 Ill. 2d at 165. There, the plaintiff judges challenged a change to the method of calculating retirement annuities based on their average salary over the last year of service rather than the

last day of service, because it resulted in a lower pension benefit when there had been a salary increase in the year before retirement. In analyzing the defendants' police power argument, this Court never once suggested that the Pension Clause immunized pensions from the State's police power or that the police powers did not apply to pensions. Rather, this Court unambiguously treated pension benefits as subject to the State's exercise of its police powers, but found that its requirements had not been satisfied under the facts in that case, holding that the legislation "on the record here is not defensible as a reasonable exercise of the State's police powers." *Id.* at 167.

When analyzing the constitutionality of the legislation in *Felt*, the Court applied the well-settled framework developed in cases arising under the Contracts Clause, and expressly recognized that the Pension Clause did "not immunize contractual obligations from every conceivable kind of impairment or from the effect of a reasonable exercise by the States of their police power." *Id.* at 165-66. The Court nonetheless found that, given the record before it, the reduction in retirement benefits "was not defensible as a reasonable exercise of police power." *Id.* While the Court recognized that "[t]he legislature has an undeniable interest and responsibility in ensuring the adequate funding of State pension systems," it determined that there was "no indication in the record before us" that basing the calculation of retirement annuities on an average salary of the last year of service rather than the last day of service would alleviate underfunding since there was no

evidence “that a significant number of judges, or the plaintiffs themselves, retired shortly after salary increases or that such retirements are a cause of the retirement system’s underfunding.” *Id.* at 166.

In short, in *Felt* this Court expressly recognized that the State’s police power applied to pensions and proceeded to ascertain whether the State had engaged in a reasonable and necessary exercise of that power. The Circuit Court’s assertion that *Felt* did the opposite (SR6) is simply wrong. Indeed, *Felt* alone provides a basis to reverse the Circuit Court’s categorical holding that the police powers doctrine can never apply to the Pension Clause. No Illinois decision (until the Circuit Court’s decision here) has ever even suggested, let alone held, that the Pension Clause somehow abrogated the State’s sovereign police powers.

This Court’s other decisions also demonstrate that the Circuit Court’s characterization of the Pension Clause as providing “protection against the diminishment or impairment of pension benefits [that] is absolute and without exception” (SR5-6) is wrong. For example, consistent with its drafting history, the Court has repeatedly held that the Pension Clause does not abrogate or interfere with the State’s power to manage its finances or require that the State adopt a particular level of pension funding.

In *People ex rel. Illinois Federation of Teachers v. Lindberg*, for example, the Court held that “the convention debates do not establish the intent to constitutionally require a specific level of pension appropriations

during a fiscal period.” 60 Ill. 2d 266, 272 (1975). In addition to analyzing the language of the provision, the Court relied on the drafting history, which made clear that it did not purport to interfere with the legislature’s power to control funding. *Id.* at 271-72. In *Skłodowski*, the Court again rejected this claim, holding that plaintiffs’ “allegations of underfunding are insufficient as a matter of law to constitute an impairment of benefits.” 182 Ill. 2d at 233. Finally, in *McNamee v. State*, the Court rejected plaintiffs’ contention that a refinancing amendment “diminishes and impairs the pension benefits of participants because it will allow municipalities to contribute lower initial annual contributions to the police pension funds, thereby making the funds less secure.” 173 Ill. 2d 433, 436 (1996). The Court held that the Pension Clause did not “require any particular level of funding.” *Id.* at 444. Rather, “[t]he primary purpose behind the inclusion of section 5 of article XIII was to eliminate the uncertainty surrounding public pension benefits created by the distinction between mandatory and optional pension plans.” *Id.* at 440. As the Court observed, prior to 1970, “[w]here an employee’s participation in a pension plan was mandatory, the rights created in the relationship were considered in the nature of a gratuity that could be revoked at will. However, where the employee’s participation in a pension plan was optional, the pension was considered enforceable under contract principles.” *Id.* at 439. “[T]he framers of the Illinois Constitution set out only to put state and municipal governments on notice that they may not abandon their pension

obligations on the belief that such payments were gratuities.” *Id.* at 444.

In sum, nothing in this Court’s precedents suggests, let alone supports, the proposition that pensions are “super contracts” uniquely exempt from the State’s police powers. Rather, this Court’s precedents confirm that pensions are contracts, nothing more and nothing less.

E. The Circuit Court’s Decision Is Unprecedented And Draconian.

The Circuit Court’s decision is unprecedented. No Illinois or federal court has ever held that there is some species of contract that is not subject to the State’s police power. The consistent rule is just the opposite: States may impair all contracts in the limited circumstances where it is reasonable and necessary to serve an important public purpose.

For example, in *City of Detroit*, pension plans for the City of Detroit sought to avoid the bankruptcy court’s power to modify pension obligations by “asserting that under the Michigan Constitution, pension debt has greater protection than ordinary contract debt.” 504 B.R. at 150. The court rejected that argument. After surveying relevant state court precedent and analyzing the relevant constitutional language, it concluded that the effect of the Michigan Constitution was to give pension rights, which like Illinois were formerly treated as “gratuitous allowances that could be revoked at will,” the status of a “contractual right.” *Id.* at 151. “[T]he pension clause in the Michigan Constitution gives pension rights the protection of contract rights,” not “rights that are greater than contract rights.” *Id.* at 194, 196.

Similarly, in *Hernandez v. Commonwealth*, the Supreme Court of Puerto Rico upheld pension reform that froze benefits, increased employee contributions, and moved employees to a new, defined contribution plan. CT-2013-0008-10, 2013 WL 3586616, at *1 (P.R. June 24, 2013). The Court adopted and followed the United States Supreme Court's decision in *U.S. Trust*, finding that the State's exercise of its police powers in passing the law would be upheld if it was necessary and reasonable. *Id.* at *850 & n.10 (citing *U.S. Trust*, 431 U.S. at 1). In sustaining the law, the court relied on a legislative memorandum explaining that, without reform, the pension system would run out of funds. *Id.* at *4-5. The court also emphasized that, absent reform, Puerto Rico's credit ratings were likely to deteriorate further, to the detriment of its economy. *Id.* at *5. Based on this evidence, the court upheld pension reform as the only feasible means of ensuring the actuarial solvency of the pension system. *Id.* at *5-6.²⁴

Likewise, in *Maryland State Teachers Association v. Hughes*, the Maryland legislature implemented reform measures to address the potential that state retirement systems would become insolvent as a result of cost of living adjustments. 594 F. Supp. 1353, 1370 (D. Md. 1984). Specifically, the legislature determined that higher than expected inflation and an actuarial

²⁴ The Supreme Court of Puerto Rico subsequently held that reforms to teachers' pensions were unconstitutional, but only because the reforms threatened to undermine the pension funds' solvency. *See Assoc. of Teachers of Puerto Rico v. Teacher Ret. Sys. of Puerto Rico*, Nos. CT-2014-2, CT-2014-3, slip op. at *9-12 (P.R. Apr. 11, 2014).

error relating to the COLA combined to “cause[] the contract to have a substantially different impact in [1984] than when it was adopted in [1979].” *Id.* at 1370. In response, the legislature imposed a cap on the COLA. The district court held that its job was to determine whether these changes were “reasonable and necessary to serve a legitimate or important state purpose.” *Id.* at 1370 (citing *U.S. Trust*, 431 U.S. at 26 and *El Paso*, 379 U.S. at 509). Applying United States Supreme Court caselaw, the court held that the COLA cap was necessary to avoid the fund’s insolvency and that no “evident and more moderate course was available to the legislature.” *Id.* at 1371.²⁵

Apart from being unprecedented, the Circuit Court’s decision is also

²⁵ See also *Buffalo Teachers Fed’n v. Tobe*, 464 F.3d 362, 365 (2d Cir. 2006) (upholding teachers’ salary freeze as a proper exercise of the police powers, noting that the Contracts Clause “does not trump the police power of a state to protect the general welfare of its citizens, a power which is ‘paramount to any rights under contracts between individuals’”); *Baltimore Teachers Union v. Mayor and City Council of Baltimore*, 6 F.3d 1012, 1022 (4th Cir. 1993) (upholding legislation reducing salaries in a government contract to address a budget crisis in Baltimore, “given that the City took what we believe to be needed and measured steps to absorb extraordinary reductions in revenue”); *United Auto., Aerospace, Agric. Implement Workers of Am. Int’l Union v. Fortuno*, 633 F.3d 37, 41 (1st Cir. 2011) (dismissing challenges to Puerto Rico’s reducing benefits under collective bargaining agreements covering government employees to address the Commonwealth’s fiscal crisis because “[a] court’s task is ‘to reconcile the strictures of the Contract Clause with the essential attributes of sovereign power necessarily reserved by the States to safeguard the welfare of their citizens’”).

The only decision plaintiffs offer to the contrary is the Arizona Supreme Court’s opinion in *Fields v. Elected Officials Ret. Plan*, 320 P.3d 1160 (Ariz. 2014), which cursorily addressed Arizona’s very differently worded pension clause in two brief paragraphs without any material analysis. *Fields* is both factually distinguishable and not persuasive, particularly when compared to the myriad authorities holding that pensions are not super-contracts immune from the exercise of the police powers.

extreme. Under the Circuit Court’s approach, pension benefits must be paid no matter how catastrophic the result would be for current or future retirees, current employees who would be terminated for lack of funds to pay them, or municipal residents who would not receive adequate levels of basic services because all revenues are funneled into pensions. This turns the Pension Clause into a suicide pact, and violates the settled and fundamental principle that a promise by one legislature can be modified by another. *See, e.g., Vill. of Rosemont v. Jaffe*, 482 F.3d 926, 937 (7th Cir. 2007) (“[I]t is well established that one Congress, or one legislature, cannot bind a future Congress or legislature with respect to police power legislation.”) (citing *Reichelderfer v. Quinn*, 287 U.S. 315, 318 (1932) (“[T]he will of a particular Congress” “does not impose itself upon those to follow in succeeding years.”)); *A.B.A.T.E. of Illinois, Inc. v. Quinn*, 2011 IL 110611, ¶ 34 (Oct. 27, 2011) (it is “axiomatic that one legislature cannot bind a future legislature”) (quoting *Choose Life Ill., Inc., v. White*, 547 F.3d 853 (7th Cir. 2008)).

Indeed, the Circuit Court’s ruling would require that benefits could not be reduced even if it meant that every penny collected by the government was required to go toward pensions, crowding out all other government functions, and turning government into nothing more than a mechanism to pay pensions, making pensions paramount to all other interests, including public safety, education, health care, and protecting the general welfare.

Respectfully, that is not—indeed, it cannot be—the law.

In contrast, construing the Pension Clause consistent with its text and legislative history would not create a loophole that would allow municipalities to disregard pension promises merely because they were painful or inconvenient. Rather, doing so would simply preserve and apply a narrow exception, which has existed for more than one hundred years and which courts address on a case-by-case basis. Under the police powers exception, legislation that otherwise impairs a contract will be upheld only where it is “reasonable and necessary to serve an important public purpose.” *Consiglio*, 2013 IL App. (1st) 121142, ¶ 37; *see also Stelzer*, 117 Ill. 2d at 190-91. Thus, the law requires the government to show both an “important interest” and a “reasonable exercise” of its police powers, and does not allow government to change pensions or other contracts unless it can satisfy a demanding standard of necessity and reasonableness. *Felt*, 107 Ill. 2d at 158 (holding change to pension benefits unconstitutional because the record did not show that the change was necessary to address underfunding); *United Auto., Aerospace, Agric. Implement Workers*, 633 F.3d at 41 (State’s police powers sustained when the contract modifications were “reasonable and necessary to serve an important government purpose”) (citing *U.S. Trust*, 431 U.S. at 25); *Baltimore Teachers Union*, 6 F.3d at 1014 (same).

In other words, confirming that the State’s police powers apply to pensions like all other contracts will not render the Pension Clause meaningless or return the law of Illinois pensions to the principles that

governed before 1970. Instead, as with any other contract, pension modifications could occur only under limited and extraordinary circumstances, subject to a demanding evidentiary showing of necessity and reasonableness. The State (and Chicago in its respective case) should be afforded the opportunity to demonstrate that their circumstances satisfy these requirements.

CONCLUSION

For the reasons stated herein, and those articulated by the Attorney General, the Circuit Court's decision should be reversed. This Court should confirm that the State's police powers apply to pensions as they do to every other contract, and should remand to the Circuit Court for further consideration of whether the State properly exercised its police powers by enacting Public Act 98-599.

Dated: January 12, 2015

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE PURSUANT TO RULE 341(c)

I certify that this brief conforms to the requirements of Illinois Supreme Court Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 49 pages.

Dated: January 12, 2015



Michael B. Slade

CERTIFICATE OF SUBMISSION AND SERVICE OF MAIL

Michael B. Slade, being duly sworn, deposes and states that on January 12, 2015, he caused a true and correct copy of the foregoing BRIEF OF THE CITY OF CHICAGO AS AMICUS CURIAE IN SUPPORT OF DEFENDANTS-APPELLANTS to be submitted with the Clerk of The Illinois Supreme Court via courier and Counsel listed below via prepaid U.S. mail sent from 300 N. LaSalle, Chicago, Illinois:

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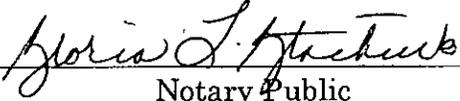
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SUBSCRIBED and SWORN to before me
this 12th day of January, 2015


Notary Public



No. 118585

IN THE
SUPREME COURT OF ILLINOIS

In re: Pension Reform Litigation

Direct Appeal Pursuant to Ill. Sup. Ct. R. 302(b)
from the Circuit Court of Sangamon County, No. 2014 MR 1
Consolidated with Sangamon County, Nos. 2014 CH 3, 2014 CH 48;
Cook County, No. 2013 CH 28406;
Champaign County, No. 2014 MR 207
The Honorable John W. Belz, Judge Presiding

**APPENDIX TO THE BRIEF OF THE CITY OF CHICAGO AS AMICUS
CURIAE IN SUPPORT OF DEFENDANTS-APPELLANTS**

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 SUPPORTING RECORD

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| Senate Bill 1922, An Act Concerning Public Employee Benefits, Ex. E to the City of Chicago's Opposition to Plaintiff Motion for a Temporary Restraining Order and Preliminary Injunctive Relief, <i>Jones v. Mun. Employees' Annuity and Benefit Fund of Chicago</i> , No. 2014 CH 20027 (Cir. Ct. Cook Co. Chan. Ill. Dec. 23, 2014) | A020-022 |
| Affidavit of Alexandra Holt, dated Dec. 23, 2014, Ex. F to the City of Chicago's Opposition to Plaintiff Motion for a Temporary Restraining Order and Preliminary Injunctive Relief, <i>Jones v. Mun. Employees' Annuity and Benefit Fund of Chicago</i> , No. 2014 CH 20027 (Cir. Ct. Cook Co. Chan. Ill. Dec. 23, 2014) | A023-032 |
| Senate Transcript, State of Illinois, 98th General Assembly, Regular Session dated Apr. 8, 2014, Ex. G, to the City of Chicago's Opposition to Plaintiff Motion for a Temporary Restraining Order and Preliminary Injunctive Relief, <i>Jones v. Mun. Employees' Annuity and Benefit Fund of Chicago</i> , No. 2014 CH 20027 (Cir. Ct. Cook Co. Chan. Ill. Dec. 23, 2014) | A033-145 |
| Affidavit of Lois Scott, dated Dec. 23, 2014, Ex. H to the City of Chicago's Opposition to Plaintiff Motion for a Temporary Restraining Order and Preliminary Injunctive Relief, <i>Jones v. Mun. Employees' Annuity and Benefit Fund of Chicago</i> , No. 2014 CH 20027 (Cir. Ct. Cook Co. Chan. Ill. Dec. 23, 2014) | A146-166 |
| Plaintiffs' Memorandum In Support Of Their Motion For A Temporary Restraining Order And Preliminary Injunction, <i>Jones v. Mun. Employees' Annuity and Benefit Fund of Chicago</i> , No. 2014 CH 20027 (Cir. Ct. Cook Co. Chan. Ill. Dec. 16, 2014) | A167-253 |

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CHANCERY DIVISION

MARY J. JONES, LINDA BALLENTINE,)
SYDELL F. HATCHETT, LAVERNE)
WALKER, BERNICE MOORE, BARBARA)
LOMAX, SAMANTHA NEEROSE,)
WYLENE L. FLOWERS, ARLENE)
WILLIAMS, GLORIA E. HIGGINS,)
WILLIE B. WILLIAMS, MARQUETTE)
DUNN, EMMA G. HOLMES, LAGRETTA)
GREEN, AMERICAN FEDERATION OF)
STATE, COUNTY AND MUNICIPAL)
EMPLOYEES COUNCIL 31, CHICAGO)
TEACHERS UNION LOCAL 700 and)
ILLINOIS NURSES ASSOCIATION,)

Plaintiffs,)

v.)

MUNICIPAL EMPLOYEES' ANNUITY)
AND BENEFIT FUND OF CHICAGO and)
BOARD OF TRUSTEES OF THE)
MUNICIPAL EMPLOYEES' ANNUITY)
AND BENEFIT FUND OF CHICAGO,)

Defendants.)

and)

CITY OF CHICAGO,)

Intervenor.)

Case No: 2014 CH 20027

Hon. Judge Rita M. Novak

AFFIDAVIT AND EXPERT REPORT OF MICHAEL D. SCHACHET

I, Michael D. Schachet, being duly sworn, state that I have personal
knowledge of the following facts and, if called, could and would testify to them:

I. Qualifications and Experience

1. Aon Hewitt is a global human capital and management consulting firm, which provides a wide array of consulting, outsourcing, and insurance brokerage services. I am a partner and consulting actuary in Aon Hewitt's retirement practice. My primary role is to provide actuarial services to a broad range of clients, including the City of Chicago. I also serve on Aon Hewitt's National Actuarial Research Team, Aon Hewitt's national Retirement Actuarial Assumptions Review Committee, Aon Hewitt's national Real Deal study team, and the American Academy of Actuaries' Pension Accounting Committee.

2. I have been providing actuarial, consulting, and administrative services to pension sponsors for approximately 34 years and have been with Aon Hewitt, or one of its predecessors, since 1985. Prior to joining Aon Hewitt, I worked at two other actuarial consulting firms, as well as one of the Big 8 accounting firms. I hold a B.S. from Drake University, with majors in actuarial science and accounting. I am a Fellow of the Society of Actuaries (1983), an Enrolled Actuary (1983), and a Member of the American Academy of Actuaries (1986).

II. Summary of Affidavit and Expert Report

3. Employees and retirees of the City of Chicago participate in four defined benefit pension funds: the Municipal Employees, Officers, and Officials Annuity and Benefit Fund of Chicago ("MEABF"); the Laborers and Retirement Board Employees Annuity and Benefit Fund of Chicago ("LABF"); the Policemen's Annuity and Benefit Fund of Chicago ("PABF"); and the Firemen's Annuity and Benefit Fund of Chicago ("FABF"). Each of these four funds is significantly underfunded.

As of December 31, 2013, MEABF was 36.9% funded and LABF was 56.7% funded; the aggregate funding level of the four funds combined was less than 35%.

4. Although both employees and the City have been contributing to the funds according to, and in compliance with, the Illinois Pension Code's requirements, the plans' funded ratios have declined substantially over the past decade. Over the past decade, the aggregate unfunded liability of MEABF and LABF has increased by more than 500%, from approximately \$1.6 billion on December 31, 2003, to approximately \$9.8 billion as of December 31, 2013.

5. Unless something is done to address the underfunding, these trends are projected to continue and the underfunding will rapidly escalate. Based on the funds' own assumptions, MEABF and LABF are projected to run out of money in 2026 and 2029, respectively. Because the unfunded liabilities are projected to increase significantly over the next ten years, the longer the delay in implementing a solution, the more difficult a solution will become. The combined unfunded liabilities of these two funds are projected to increase by an average of \$2.48 million per day, or more than \$900 million per year, from December 31, 2013 to December 31, 2023. This exceeds the \$2.25 million per day increase that occurred from December 31, 2003 to December 31, 2013.

6. The modifications to MEABF and LABF contemplated by Public Act 98-0641, also known as Senate Bill 1922 ("SB1922"), are projected to prevent MEABF

and LABF from running out money. Instead, under SB1922, the two funds are projected to reach actuarial funding percentages of 90% by 2055.¹

III. Summary of Pension Plan Terms

7. MEABF, LABF, PABF, and FABF are defined benefit pension funds. Each is funded through a combination of employee and City contributions, which are set by State law. Employees currently contribute 8.5% - 9.125% (depending on the plan) of their pensionable salary each year into the pension fund. The City contributes a multiple of what the employees contributed to the plan in the third year prior to the year of the City's contribution. The multiple varies from 1.00 to 2.26, depending on the fund.

8. Benefits are provided to employees who retire after reaching a minimum retirement age and completing a minimum number of years' service, in accordance with formulas contained in the Illinois Pension Code. Retirement benefit amounts are generally a function of an employee's average salary, age, and years of service at retirement. Initial benefit amounts are generally capped at either 75% or 80% of the participant's average salary in the four years (eight years for so-called "Tier 2" participants hired after January 1, 2011) prior to retirement. For example, the MEABF formula is 2.4% times the participant's number of years of service times his or her four-year average salary (eight years for Tier 2 participants), with a maximum benefit of 80% of the average salary.

¹ An actuarial funding percentage is the value of plan assets, divided by plan liabilities. A funding percentage of 90% means a plan has \$0.90 for each \$1.00 of plan liabilities. If a plan has a 90% actuarial funding percentage as of a specific date, then plan assets as of that date would be expected to be sufficient to pay 90% of the plan's benefits attributed to service before that date when they become due.

IV. Current Status of MEABF, LABF, PABF, and FABF

9. Table 1 below captures basic data about the participants, assets, liabilities, contributions, and funding status, for each of MEABF, LABF, PABF, and FABF.

All of the information in Table 1 comes from, or is directly derived from, the

December 31, 2013 actuarial valuation reports prepared by the plans' respective actuaries.

| Table 1: Basic Data for City of Chicago Pension Plans | | | | | |
|----------------------------------------------------------------------|---------------|--------------|--------------|--------------|---------------|
| | MEABF | LABF | PABF | FABF | Total |
| 1. 12/31/13 Number of participants | | | | | |
| a. Actives | 30,647 | 2,844 | 12,161 | 4,683 | 50,335 |
| b. Annuitants | 24,602 | 3,954 | 13,159 | 4,642 | 46,357 |
| c. Other inactive | <u>14,254</u> | <u>1,432</u> | <u>654</u> | <u>57</u> | <u>16,397</u> |
| d. Total members | 69,503 | 8,230 | 25,974 | 9,382 | 113,089 |
| 2. 12/31/13 Funded status (\$ in millions) | | | | | |
| a. Actuarial accrued liability (AAL) ² | | | | | |
| i. Active employees | \$5,917 | \$852 | \$3,441 | \$1,554 | \$11,764 |
| ii. Former employees | <u>7,939</u> | <u>1,538</u> | <u>6,640</u> | <u>2,535</u> | <u>18,652</u> |
| iii. Total | \$13,856 | \$2,390 | \$10,081 | \$4,089 | \$30,416 |
| b. Actuarial value of assets | <u>5,114</u> | <u>1,354</u> | <u>3,054</u> | <u>991</u> | <u>10,513</u> |
| c. Unfunded liability [a(iii) – b] | \$8,742 | \$1,036 | \$7,027 | \$3,098 | \$19,903 |
| d. Funded percentage [b / a(iii)] | 36.9% | 56.7% | 30.3% | 24.2% | 34.6% |
| 3. Percentage of AAL for former employees [(2)(a)(ii) / (2)(a)(iii)] | 57.3% | 64.4% | 65.9% | 62.0% | 61.3% |
| 4. 2014 Normal cost ³ | \$253.7 | \$37.8 | \$198.5 | \$78.6 | \$568.6 |
| 5. 2013 Contributions | | | | | |
| a. Employee | \$131.5 | \$16.4 | \$93.3 | \$42.5 | \$283.7 |
| b. City | <u>157.7</u> | <u>14.1</u> | <u>188.9</u> | <u>106.2</u> | <u>466.9</u> |
| c. Total | \$289.2 | \$30.5 | \$282.2 | \$148.7 | \$750.6 |
| 6. 2013 Benefits paid (plus expenses) | \$785.5 | \$151.2 | \$646.2 | \$254.9 | \$1,837.8 |
| 7. 12/31/13 Fair market value of assets (FMV) | \$5,422 | \$1,458 | \$3,265 | \$1,117 | \$11,262 |

² The December 31, 2013 Actuarial Accrued Liability (AAL) is the portion of the actuarial present value of projected benefits that is allocated to years prior to 2014.

³ The 2014 Normal Cost is the portion of the actuarial present value of projected benefits that is allocated to 2014.

| Table 1: Basic Data for City of Chicago Pension Plans | | | | | |
|-------------------------------------------------------|-------|-------|-------|--------|-------|
| | MEABF | LABF | PABF | FABF | Total |
| 8. 12/31/13 FMV of assets / 2013 benefits paid | 6.9 | 9.6 | 5.1 | 4.4 | 6.1 |
| 9. Discount rate assumption | 7.50% | 7.50% | 7.75% | 8.00% | N/A |
| 10. Employee contribution rate (as a % of pay) | 8.50% | 8.50% | 9.00% | 9.125% | N/A |
| 11. City contribution multiplier | 1.25 | 1.00 | 2.00 | 2.26 | N/A |
| 12. Actuarial cost method for lines (2) and (4) | EAN | EAN | PUC | PUC | N/A |

V. Current Funding for MEABF, LABF, PABF, and FABF

10. MEABF, LABF, PABF and FABF receive funds from two sources:

- (i) **Employees:** Employees contribute a percentage of their salary. The percentage varies from 8.5% - 9.125%, depending on the fund.
- (ii) **The City:** The City's current contribution requirements are to levy a tax each year for an amount not to exceed a multiple of what the employees contributed to the plan two years prior. The multiple varies from 1.00 to 2.26, depending on the fund.

11. Based on this contribution methodology, both employee and City contributions will vary with employee payroll. But neither employee nor City contributions currently vary with plan funded status, plan benefit levels, or the amount needed to reach or maintain a particular funded status. This leads to a disconnect between the legislated plan benefit and contribution levels.

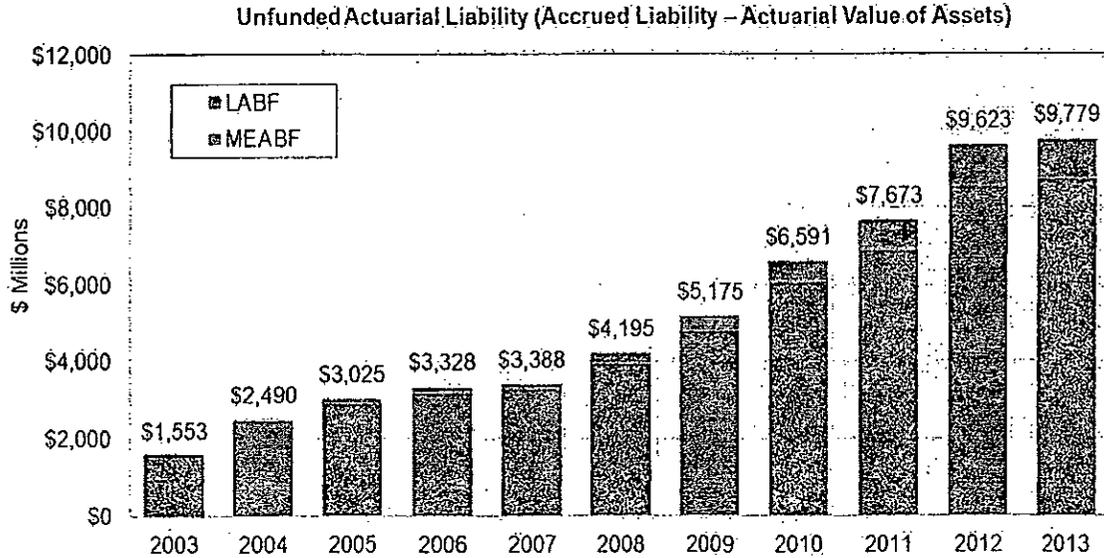
12. For each of the City funds, the cost of the participant benefits has proven, particularly over the last decade and in escalating amounts, to be greater than the legislated contribution levels. Thus, the plans' funded percentages are declining. In addition, the disconnect between the legislated contribution and benefit levels means that there is no self-adjusting feature that automatically corrects when the

level of funding provided for by law is insufficient. Instead, the plan's funded percentage simply keeps decreasing until it either reaches 0%, or there is a correcting event, such as a legislative change to the plan's benefit structure, contribution structure, or both.

13. Indeed, although both the employees and the City have been contributing according to, and in compliance with, the Illinois Pension Code requirements, the plans' funded positions have been declining substantially over the last ten years. Accordingly, the total amount of unfunded liability has increased substantially.

14. Table 2 below illustrates the escalation of the unfunded liabilities for MEABF and LABF since 2003, using the funds' assumptions:

Table 2



As of December 31, 2000, MEABF was more than 90% funded, and LABF was more than 100% funded. Since then, the funded ratios for both funds have decreased

dramatically, even though both the City and fund participants contributed every dollar into the funds that was required by state law.

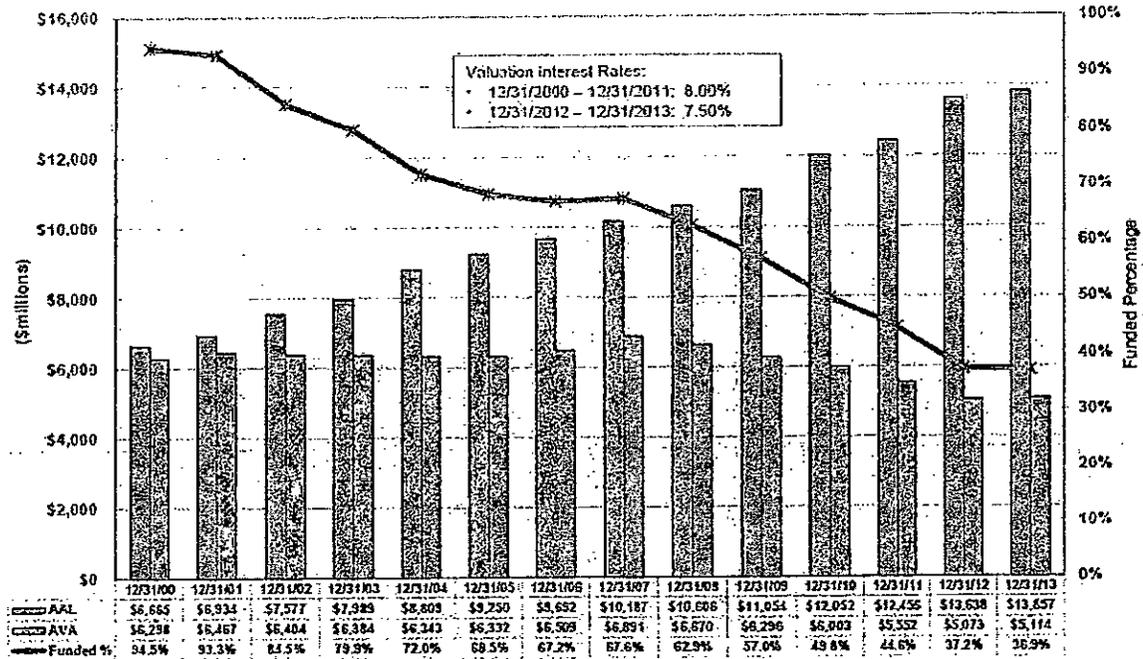
A. MEABF

15. MEABF's funded percentage decreased from 94.5% as of December 31, 2000 to 36.9% as of December 31, 2013. This underfunding resulted from the combination of (i) liabilities increasing by \$7.2 billion over that period, approximately 5.8% per year on average, and (ii) the actuarial value of assets decreasing by \$1.2 billion over that period, approximately 1.6% per year on average. While the active population in MEABF (those currently working for the City) decreased by 15%, the inactive population increased by 35%. This means there are fewer active employees to support an increased number of retirees, which makes it very difficult to significantly reduce the plan's underfunding without reducing the plan's liability for inactive participants.

16. Over the same 13-year period, the actuarial value of assets held by MEABF decreased by \$1.2 billion. This decrease in the actuarial value of assets held by the fund occurred even though approximately \$3.7 billion was contributed to MEABF during that time frame — \$2 billion from the City and \$1.7 billion from employees.

17. Table 3 below shows MEABF's changes in assets ("AVA") in green and liabilities in red ("AAL") between 2000 and 2013, as well as the decrease in funded percentage (the blue line) during that same time period:

TABLE 3



18. We estimate that this \$8.4 billion decrease in MEABF's funded status between 2000 and 2013 occurred for two principal reasons.

19. Approximately 41% of the decline in MEABF's funded status between 2000 and 2013 was due to fund underperformance. The calculation of a pension fund's "funded status," when determining the degree to which a fund has sufficient assets to satisfy projected liabilities, includes assumptions concerning the income that a fund will earn on its investments over time. 41% of the decline in funded status between 2000-2013 is a result of the fund's investments earning less than the fund's assumed return during that time period.

20. Approximately 34% of the decline in MEABF's funded status between 2000 and 2013 was due to a combination of employee and employer contributions that

was less than the anticipated “normal” growth in unfunded status. In other words, while both employees and the City contributed every dollar into MEABF that was required by Illinois law, those contributions were insufficient to meet anticipated growth in MEABF’s liabilities. This is in part the consequence of a legal regime that did not connect the calculation of funding into a pension fund with the benefits that are accruing in that pension fund.

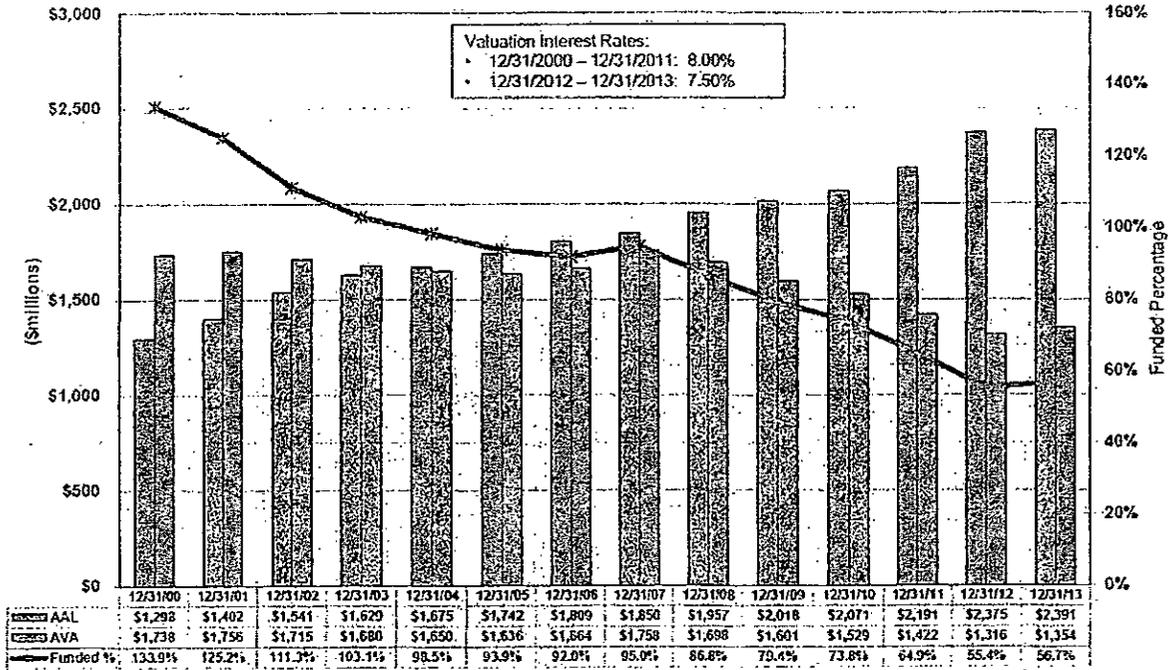
B. LABF

21. LABF’s experience between 2000 and 2013 was similar to MEABF: its funded percentage decreased from 133.9% (substantially overfunded) as of December 31, 2000 to 56.7% funded as of December 31, 2013. This underfunding resulted from the combination of (i) liabilities increasing by \$1.1 billion over that period, an average liability growth of around 4.8% per year, and (ii) the actuarial value of assets decreasing by \$.4 billion over that period, approximately 1.9% per year on average. During this 13-year period, LABF’s active population decreased by 30%, and the inactive population decreased by only 10%. Thus, the number of active participants available to support each retiree has also decreased in the LABF.

22. Over the same 13-year period, the actuarial value of LABF’s assets decreased by \$383 million. This decrease occurred even though approximately \$352 million was contributed to the LABF during that same time period.

23. Table 4 below shows LABF’s changes in assets (“AVA”) in green and liabilities in red (“AAL”) between 2000 and 2013, as well as the decrease in funded percentage (the blue line) during that same time period:

Table 4



24. We estimate that this \$1.5 billion decrease in the LABF's funded status from 2000 to 2013 occurred for two principal reasons.

25. Approximately 58% of the decline in LABF's funded status between 2000 and 2013 was due to fund underperformance. As described above, the calculation of a pension fund's "funded status," when determining the degree to which a fund has sufficient assets to satisfy projected liabilities, includes assumptions concerning the income that a fund will earn on its investments over time. 58% of the decline in LABF's funded status between 2000-2013 was a result of the fund's investments earning less than LABF's calculations assumed return during that time period.

26. Approximately 17% of the decline in LABF's funded status between 2000 and 2013 was due to a combination of employee and employer contributions that

was less than the anticipated “normal” growth in unfunded status. In other words, while both employees and the City contributed every dollar into LABF that was required by Illinois law, those contributions were insufficient to meet anticipated growth in LABF’s liabilities. As with MEABF, this is in part the consequence of a legal regime that did not connect the calculation of funding into a pension fund with the benefits that are accruing in that pension fund.

VI. *SB 3538 Will Greatly Increase The City’s Required Funding for the PABF and FABF in 2016.*

27. Based on current law, the statutory basis for determining required City contributions to PABF and FABF will change for the 2016 fiscal year (2015 levy year). Beginning in 2016 (levy year 2015), Public Act 96-1495, also known as Senate Bill 3538, requires that the City’s contributions to PABF and FABF bring these plans to a 90% funded percentage by December 31, 2040.

28. Senate Bill 3538 will cause the City’s future contributions to significantly exceed amounts required under the current multiplier basis. This is illustrated in Table 5 below:

| Table 5: Effect of PA 96-1495 (All \$ in Millions) | | | | |
|----------------------------------------------------|------------------------------------------------------------------|------------------------------------------------------------|-----------------|---------------------|
| | Multiplier-Based Levy Amount for 2014 Levy Year (2015 Cash Year) | PA 96-1495 Levy Amount for 2015 Levy Year (2016 Cash Year) | Dollar Increase | Percentage Increase |
| PABF | \$188.4 | \$592.9 | \$404.5 | 214.7% |
| FABF | \$112.2 | \$246.1 | \$133.9 | 119.3% |
| Total | \$300.6 | \$839.0 | \$538.4 | 179.1% |

29. Thus, unless it is legislatively modified, SB 3538 will require the City to almost triple its contributions to PABF and FABF starting in 2016.

VII. Without Reform, MEABF and LABF Funding Levels Are Projected to Reach 0% Within 10-15 Years.

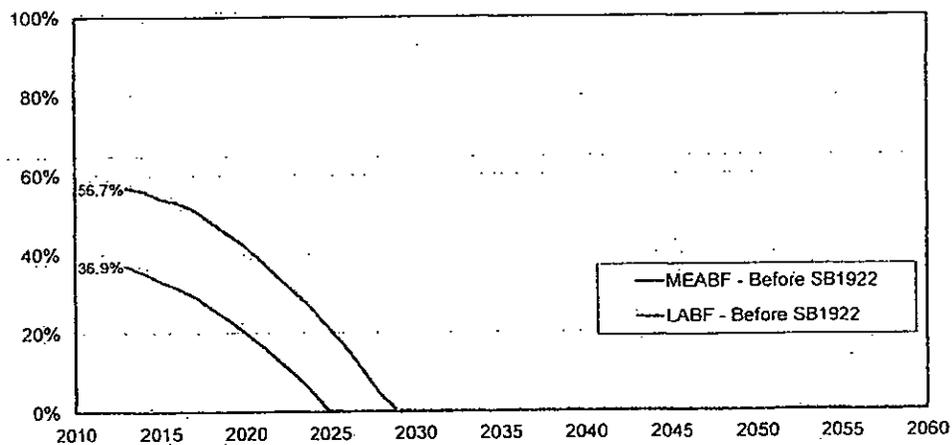
30. Absent SB1922, growth in the unfunded liabilities of the MEABF and LABF plans is expected to continue to exceed the contribution levels required by the Illinois Pension Code. If SB1922 is not implemented, based on the plans' actuarial assumptions, the plans' funded percentages are projected to continue to decrease until they reach 0%.

31. Table 6 below shows that, absent SB1922, the MEABF and LABF trust funds are projected to become completely exhausted by 2026 and 2029, respectively, based on the plans' actuarial assumptions. The table also shows projected years for MEABF and LABF running out of funds given hypothetical rates of return on plan assets that are different than the funds' 7.5% assumption. Higher-than-expected rates of return would delay the projected date of exhaustion, and lower-than-expected rates of return would accelerate the projected exhaustion date. But even a consistent annual return of 10% (offered merely as a hypothetical) would not prevent both MEABF and LABF from becoming exhausted by 2036.

| Table 6: LABF & MEABF Projections Without Reform | | |
|------------------------------------------------------------------------------------|-------|-------|
| | MEABF | LABF |
| 1. 12/31/13 Funded percentage | 36.9% | 56.7% |
| 2. 12/31/13 Ratio of FMV of assets to 2013 benefit payments | 6.9 | 9.6 |
| 3. Projected trust fund exhaustion year if the average annual return on assets is: | | |
| a. 0.0% | 2022 | 2024 |
| b. 5.0% | 2024 | 2027 |
| c. 7.5% (current actuarial assumption) | 2026 | 2029 |
| d. 10.0% | 2029 | 2036 |

32. Based on current data and the funds' own assumptions, these funds will reach 0% funding levels in 2026 and 2029, respectively, if SB1922 is overturned. Table 7, which depicts the current and projected funding percentages of MEABF and LABF, prior to passage of SB1922, appears below:

Table 7



33. Once the funds are exhausted, the incoming level of legislated contributions from active plan participants and the City would be insufficient to pay the legislated level of plan benefits. At that point, participants would not receive all of the benefits to which they are entitled. Sufficient money to provide these benefits simply would not exist within the fund.

34. As a result, the amount of each year's contributions would have to be divided up among the participants eligible for benefits. If incoming contributions in a year totaled 30% of the benefits that were legislated to be paid, then each participant could receive 30% of the benefit defined for them. Other ways could also be devised to allocate the incoming contributions. Regardless of the allocation

method, however, only 30% (in this example) of the total legislated benefits would be paid.

VIII. SB1922 Would Increase LABF and MEABF Funding Ratios to 90%.

A. Overview of SB1922

35. SB1922 changes both the benefits paid from and the contributions made to MEABF and LABF. Primary changes to the benefits provided include the following:

- Automatic Annual Increases (“AAIs”) are paused in 2017, 2019 and 2025.
- In non-paused years, the AAI for Tier 1 participants changes from 3% compound to a simple increase equal to the lesser of 3% and ½ of the Consumer Price Index (“CPI”) (but not less than 0%).
- The initial AAI for Tier 1 and Tier 2 participants starts one year later than it would have.
- Tier 1 participants with an annual annuity of less than \$22,000 receive a minimum AAI of 1% in non-paused years, and exactly 1% in the paused years.
- For Tier 2 participants, retirement eligibility conditions are moved up by two years. Unreduced benefits will be available at age 65 (rather than 67) with 10 years of service, and reduced benefits will be available at age 60 (rather than 62) with 10 years of service. The early retirement reduction of 6% per year will be determined from age 65, rather than 67.
- The employee contribution rate for Tier 1 and Tier 2 participants increases from 8.5% to 11%, gradually between 2015 and 2019 in 0.5% annual increments. The contribution rate would be reduced to 9.75% in any year following a year in which the plan is at least 90% funded.

36. In addition, SB1922 alters the way in which the City’s contributions to MEABF and LABF are calculated and paid. As discussed previously, the City’s contribution into MEABF and LABF is currently a multiple of the employee’s contribution. Under SB1922, from 2016-2020, the City will continue to contribute a multiple of the employee’s contribution, although the multiple will increase

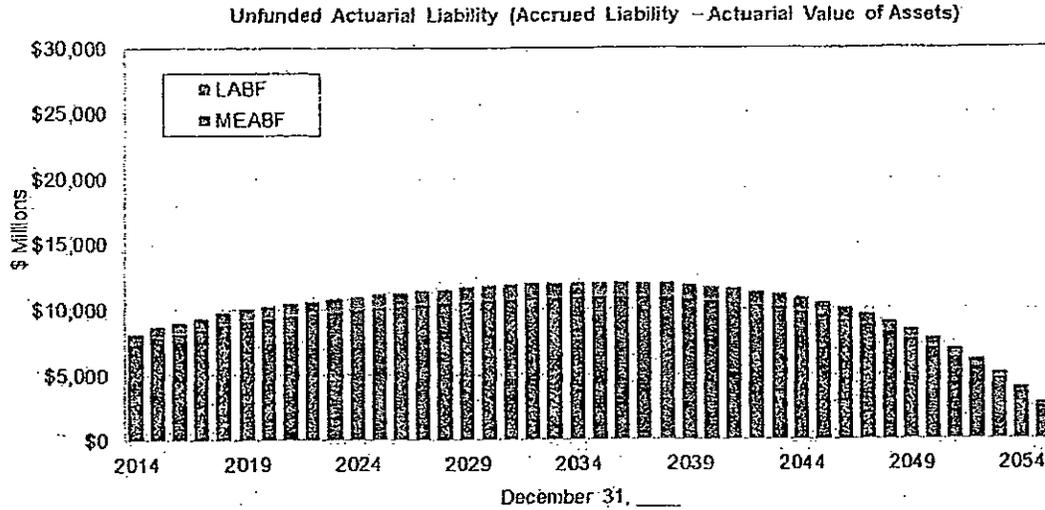
significantly. Beginning in 2021 (levy year 2020), SB1922 changes City funding of MEABF and LABF from a multiplier approach to an actuarial approach. Under SB1922's actuarial approach, the City will be required to fund MEABF and LABF on an actuarial basis, such that the funds will be 90% funded by 2055.

37. SB1922 also includes enforcement mechanisms, absent in prior law, to ensure that the payments are made. Specifically, SB1922 includes an "interceptor" provision which requires the State, in the event that the City does not fund MEABF or LABF as required by SB1922, to divert funds paid in City grants into the pension funds. In addition, SB1922 permits the pension funds to file a direct lawsuit seeking mandamus in the Circuit Court, and provides for a court order requiring the City to make the contributions provided.

B. SB1922 Is Projected To Materially Reduce MEABF and LABF's Unfunded Liabilities and Increase Their Funded Percentages

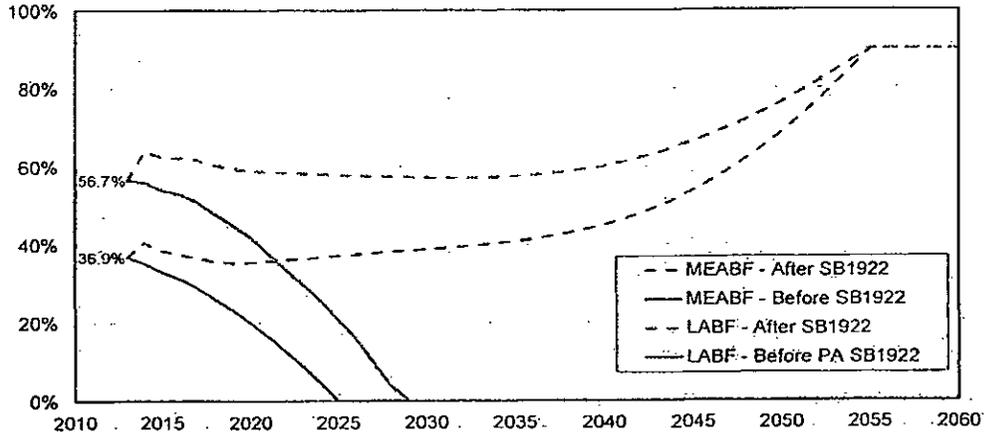
38. The changes contained in SB1922 are projected to prevent MEABF and LABF funds from running out of money. If SB1922 is implemented, substantial additional funds from the City will be provided to the funds, and the funds can expect some additional funds from employees as well. In addition, because future automatic annual increases would be reduced, the funds' obligations would be reduced. Even with the substantial additional funding from the City and SB 1922's changes, the MEABF and LABF's unfunded liabilities are projected to continue to grow until approximately 2035, when they reach the point where the substantial unfunded liabilities begin to decline, as shown in Table 8 below:

Table 8



39. Over time, the net effect of SB1922 would be to materially reduce the total amount of unfunded liabilities in each of the two funds. In other words, SB1922 will alter the current downward trajectory of the funded percentages for both MEABF and LABF. Whereas prior to SB1922, the MEABF and LABF funds were projected to reach 0% funding percentages in 2026 and 2029, respectively, after SB1922 both funds are projected to reach 90% funding levels by 2055, as shown in Table 9 below:

Table 9

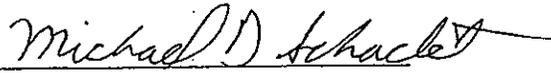


40. Because of SB1922, instead of steadily decreasing to 0%, as the funded percentages are currently projected to do, the plans' funded percentages are expected to reach 90% by December 31, 2055.

41. When available, numerical results shown in this Affidavit were taken directly from reports prepared by the Fund actuaries. When numbers were not available in those reports, they were either calculated or estimated based on numbers in those reports and supplementary information provided by the Fund actuaries. For example, lines (1) and (3)(c) of Table 6 were taken directly from reports prepared by the Fund actuaries; whereas, lines (2), (3)(a), (3)(b), and (3)(d) of that same table were either calculated or estimated based on numbers in those reports and supplementary information provided by the Fund actuaries.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

Dated: December 22, 2014


Michael D. Schachet

Sworn to and subscribed before
me this 22nd day of December 2014



NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires January 26, 2019

1 AN ACT concerning public employee benefits.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Findings. It is the intention of the General
5 Assembly to address an immediate funding crisis that threatens
6 the solvency and sustainability of the public pension systems
7 ("Pension Funds") serving employees of the City of Chicago
8 ("City"). The Pension Funds include the Municipal Employees'
9 Annuity and Benefit Fund of Chicago ("MEABF") and the Laborers'
10 and Retirement Board Employees' Annuity Benefit Fund of Chicago
11 ("LABF"). The General Assembly observes that both the pension
12 benefits provided by these Pension Funds and the City's
13 obligation to contribute to these Pension Funds are established
14 by State law. The General Assembly further observes that the
15 City has continuously made the required contributions to these
16 Pension Funds. After reviewing the condition of the Pension
17 Funds, potential sources of funding, and assessing the need for
18 reform thereof, the General Assembly finds and declares that:

19 1. The overall financial condition of these two City
20 pension funds is so dire, even under the most optimistic
21 assumptions, a balanced increase in funding, both from the City
22 and from its employees, combined with a modification of annual
23 adjustments for both current and future retirees, is necessary
24 to stabilize and fund the pension funds.

1 2. While considering the combined unfunded liabilities of
2 the MEABF and LABF, as well as other pension funding that
3 ultimately relies on funds from the City's property tax base, a
4 combination of modifications to employee contribution rates
5 and annual adjustments and increased revenues are necessary to
6 keep the City funds solvent. The City, even as a home rule
7 unit, lacks the ability and flexibility to raise sufficient
8 revenues to fund the current level of pension benefits of these
9 Pension Funds while at the same time providing important public
10 services essential to the public welfare.

11 3. The General Assembly has been advised by the City that
12 the City cannot feasibly reduce its other expenses to address
13 this serious problem without an unprecedented reduction in
14 basic City services. Personnel costs constitute approximately
15 75% of the non-discretionary appropriations for the City. As
16 such, reductions in City expenditures to fund pensions would
17 necessarily result in substantial cuts to City personnel,
18 including in key services areas such as public safety,
19 sanitation, and construction.

20 4. In sum, the crisis confronting the City and its Funds is
21 so large and immediate that it cannot be addressed through
22 increased funding alone, without modifying employee
23 contribution rates and annual adjustments for current and
24 future retirees. The consequences to the City of attempting to
25 do so would be draconian. Accordingly, the General Assembly
26 concludes that, unless reforms are enacted, the benefits

1 currently promised by the Pension Funds are at risk.

2 Section 10. The Illinois Pension Code is amended by
3 changing Sections 1-160, 8-137, 8-137.1, 8-173, 8-174,
4 11-134.1, 11-134.3, 11-169, and 11-170 and by adding Sections
5 8-173.1, 8-174.2, 11-169.1, and 11-179.1 as follows:

6 (40 ILCS 5/1-160)

7 (Text of Section before amendment by P.A. 98-622)

8 Sec. 1-160. Provisions applicable to new hires.

9 (a) The provisions of this Section apply to a person who,
10 on or after January 1, 2011, first becomes a member or a
11 participant under any reciprocal retirement system or pension
12 fund established under this Code, other than a retirement
13 system or pension fund established under Article 2, 3, 4, 5, 6,
14 15 or 18 of this Code, notwithstanding any other provision of
15 this Code to the contrary, but do not apply to any self-managed
16 plan established under this Code, to any person with respect to
17 service as a sheriff's law enforcement employee under Article
18 7, or to any participant of the retirement plan established
19 under Section 22-101. Notwithstanding anything to the contrary
20 in this Section, for purposes of this Section, a person who
21 participated in a retirement system under Article 15 prior to
22 January 1, 2011 shall be deemed a person who first became a
23 member or participant prior to January 1, 2011 under any
24 retirement system or pension fund subject to this Section. The

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CHANCERY DIVISION**

MARY J. JONES, LINDA BALLENTINE,)
 SYDELL F. HATCHETT, LAVERNE)
 WALKER, BERNICE MOORE, BARBARA)
 LOMAX, SAMANTHA NEEROSE,)
 WYLENE L. FLOWERS, ARLENE)
 WILLIAMS, GLORIA E. HIGGINS,)
 WILLIE B. WILLIAMS, MARQUETTE)
 DUNN, EMMA G. HOLMES, LAGRETTA)
 GREEN, AMERICAN FEDERATION OF)
 STATE, COUNTY AND MUNICIPAL)
 EMPLOYEES COUNCIL 31, CHICAGO)
 TEACHERS UNION LOCAL 700 and)
 ILLINOIS NURSES ASSOCIATION,)

Plaintiffs,)

v.)

MUNICIPAL EMPLOYEES' ANNUITY)
 AND BENEFIT FUND OF CHICAGO and)
 BOARD OF TRUSTEES OF THE)
 MUNICIPAL EMPLOYEES' ANNUITY)
 AND BENEFIT FUND OF CHICAGO,)

Defendants.)

and)

CITY OF CHICAGO,)

Intervenor.)

Case No: 2014 CH 20027

Hon. Judge Rita M. Novak

AFFIDAVIT OF ALEXANDRA HOLT

I, Alexandra Holt, being duly sworn, state that I have personal knowledge of the following facts and, if called, could and would testify to them:

1. I am the Director of the Office of Budget and Management ("OBM") for the City of Chicago (the "City"). I have held this position since 2011.

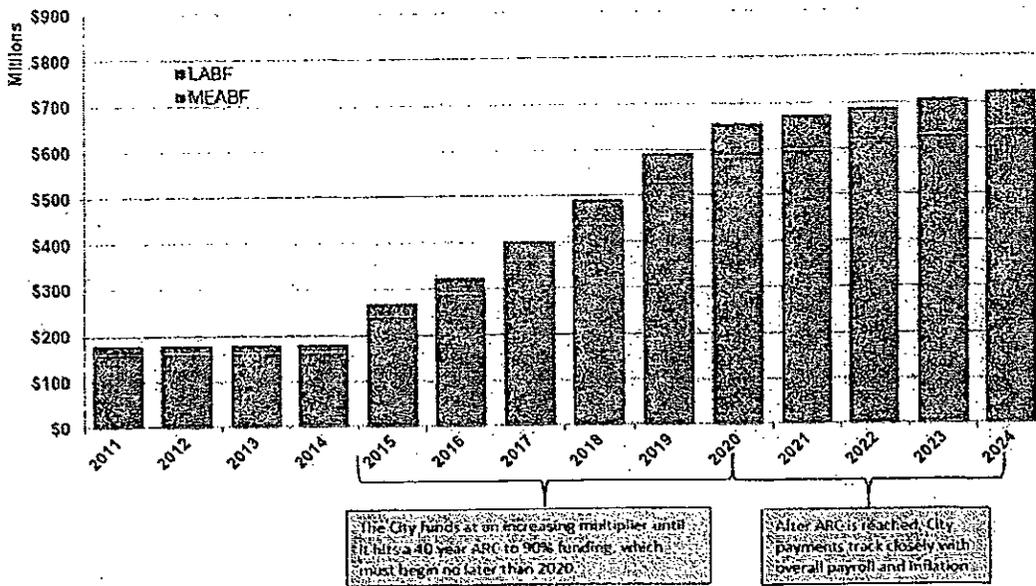
2. I previously spent twelve years in City government, including a decade (1992-2002) in various positions at the City's Department of the Environment, including as Deputy Commissioner, and two years (2002-04) as Managing Deputy Director of OBM. Between my two tenures with the City, I attended law school and worked in the private sector as an attorney at Baker & McKenzie LLP. At Baker & McKenzie, I specialized in real estate, public law, and infrastructure transactions.

3. I received a bachelor's degree from the University of Texas. I later earned both a M.A. in public policy and a J.D. from the University of Chicago.

I. Senate Bill 1922's Requirements For Additional Pension Funding

4. Senate Bill 1922 ("SB1922") provides for a significant increase in the City's annual contributions to the Municipal Employees' Annuity and Benefit Fund ("MEABF") and Laborers' Retirement Board Employees' Annuity Benefit Fund ("LABF"), on both an absolute and a relative basis. The chart below shows these funding increases. It demonstrates that under SB1922, the City's required contributions will increase from \$177 million in 2014 to more than \$650 million in 2020, a level that will ensure that, within the next 40 years, the funds will be 90% funded on an actuarial basis:

SB1922 – Required, MEABF and LABF City Contribution



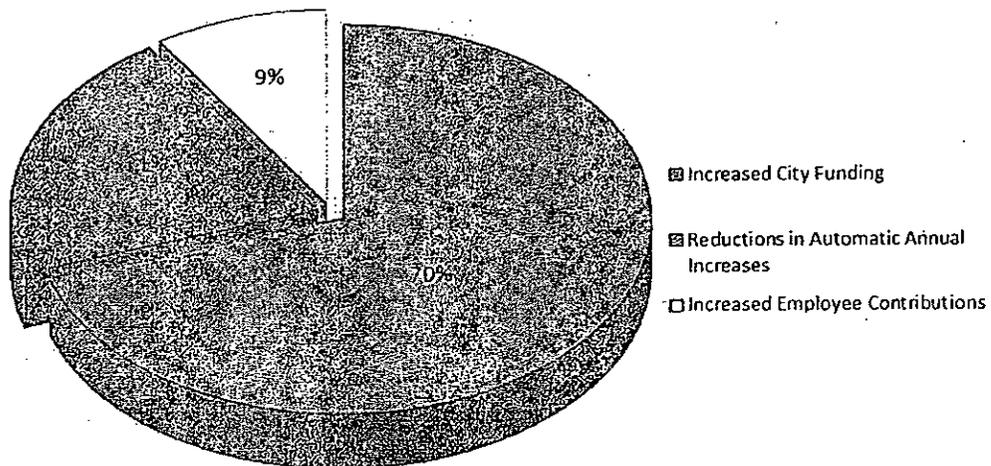
From a relative standpoint, this nearly \$500 million annual increase represents approximately 60% of the City’s entire property tax receipts (\$830 million) in 2015.

5. The City’s annual contribution currently is a multiple of what the employees contribute. The multiplier prior to SB1922 was 1.25 for MEABF and 1.0 for LABF. Under SB1922, the multipliers will increase substantially, to 1.85 in levy year 2015 and 3.05 in 2019 for MEABF and to 1.6 in levy year 2015 and 2.8 in 2019 for LABF. Beginning in levy year 2020, SB1922 changes City funding of MEABF and LABF from a multiplier approach to an actuarial approach. Under SB1922’s actuarial approach, the City will be required to fund MEABF and LABF on an actuarial basis, such that the funds will be 90% funded by 2055.

6. In addition to the significant increases in City contributions discussed above, SB1922 makes modest changes to the automatic annual increase (AAIs) in benefits that retirees will receive starting in 2015. Instead of an annual increase of 3% compounded, the AAI will be the

lesser of 3% or one-half the increase in the CPI, non-compounded. In addition, there will be a one-year delay in the commencement of AAI for new retirees, and retirees will receive no AAIs in 2017, 2019, and 2025. SB1922 does not reduce the annuity amounts owed retirees, change how retirees' annuities are calculated, or increase the retirement ages at which those benefits become available. SB1922's only effect will be to decrease the annual rates at which benefits are increased in the future. In addition, current employees' pension contributions will increase by a half percentage point (0.5%) of salary annually from levy years 2015 to 2019, or a total of 2.5%, from the current 8.5% to 11%.

7. As illustrated in the pie chart below, SB1922 requires that 70% of the solution to the funding crisis confronting MEABF and LABF come from the City's taxpayers, through dramatically increased City contributions, 9% from current employees through a small and gradual increase in their contributions, and 21% from retirees through a modest reduction in future AAIs:



In other words, SB1922 adds more than \$2 in new City funding for every \$1 in combined increases in employee contributions and reduced retiree AAIs, and thereby results in a substantial net benefit to the more than 77,000 participants in these funds.

8. In addition, and separate from the increased funding required by SB1922, current law with respect to the other two pension funds for City employees—the Policeman’s Annuity and Benefit Fund of Chicago (“PABF”) and the Fireman’s Annuity and Benefit Fund of Chicago (“FABF”)—requires massive additional funding increases in the near term pursuant to legislation known as Senate Bill 3538 (“SB3538”). The increases in contributions to PABF and FABF required by SB3538 would increase the City’s payments by nearly \$530 million starting in 2016, increasing further each year thereafter. Again, this is in addition to the financial burdens imposed by SB1922.

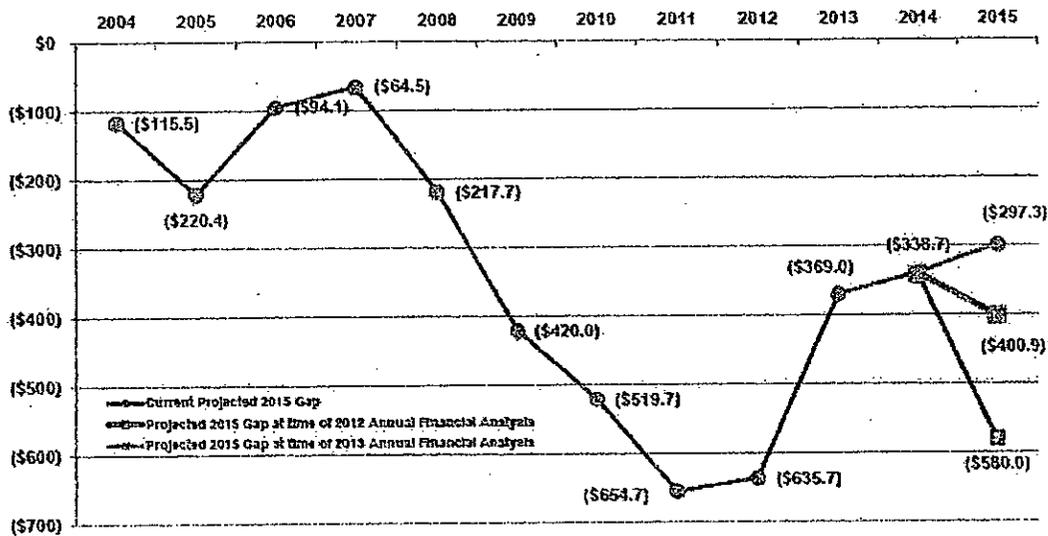
II. The City’s Current Budget Situation

9. It will be a major challenge for the City to find the increased funding required by SB1922, and the City will not be able to fund SB1922 by reducing expenses alone.

10. The City continues to have a significant structural deficit, that is, its annual revenues are insufficient to meet annual expenditures. While the City has made substantial progress since Mayor Emanuel’s election in 2011 in reducing this deficit, the reality is that the City has and will continue to have a structural budget deficit for the foreseeable future, even before considering the additional payments required by SB1922.

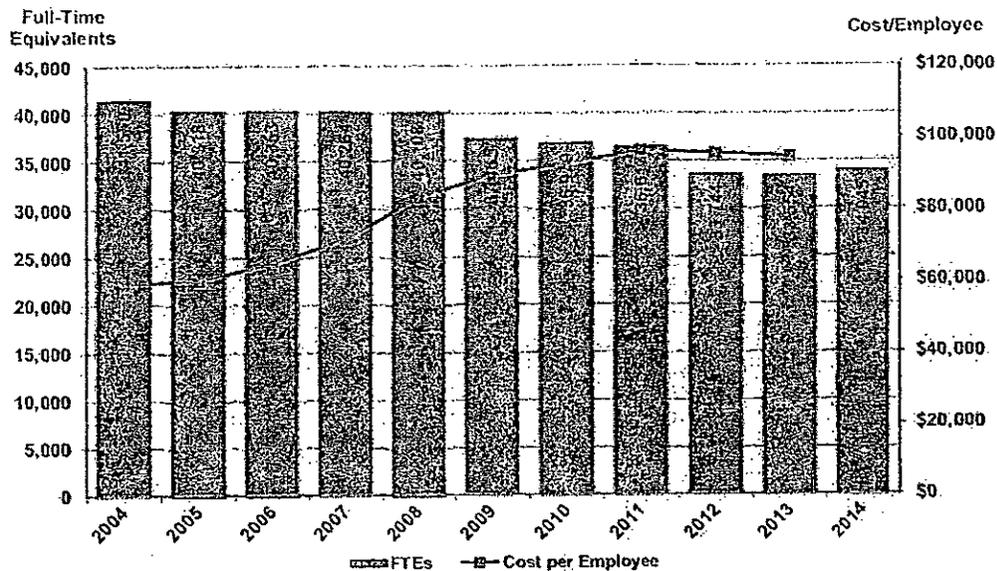
11. The chart below shows the City’s structural budget deficit over time. Among other things, the chart shows that such a deficit has existed every year for at least a decade, both in the so-called “boom years,” as well as during and after the Great Recession. The chart also illustrates the progress that the City has made in reducing this deficit since the current administration took office in mid-2011. The red line on the chart reflects that, at the time of the

City's 2012 Annual Financial Analysis, the City projected that its structural deficit in 2015 would be \$580 million. The green line displays the progress made in reducing this projected 2015 deficit between 2012 and 2013 — a \$180 million reduction, from \$580 million to \$400.9 million. Finally, the blue line shows that, by the time of the City's 2014 Annual Financial Analysis, the 2015 projected structural deficit had been reduced by an additional \$100 million, from \$400.9 million to \$297.3 million.



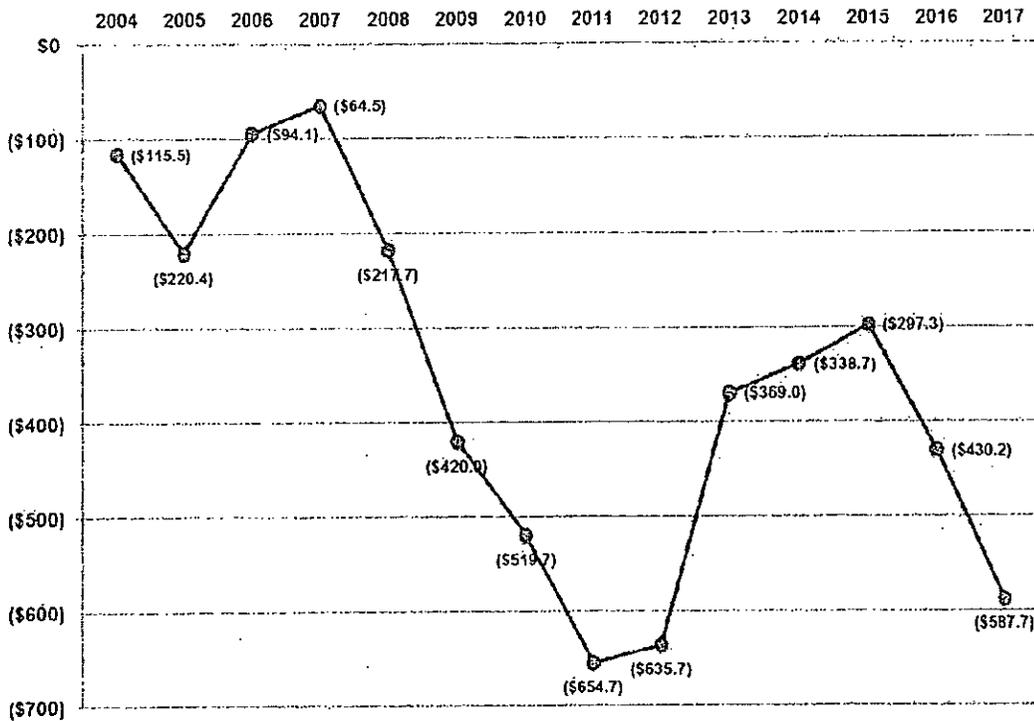
12. Despite the material improvements made by the City over the past three years, the City's structural deficit is projected to continue for a variety of reasons. At the most general level, while City revenues have largely recovered to pre-recession levels, the City's costs (largely salary and benefits costs for the City's unionized employees) have increased. In particular, increased salaries for unionized employees and rising healthcare expenses for all employees have driven total per-employee costs up even though employee headcount has been significantly reduced, as shown by the following chart:

CITY WORKFORCE AND COST PER EMPLOYEE



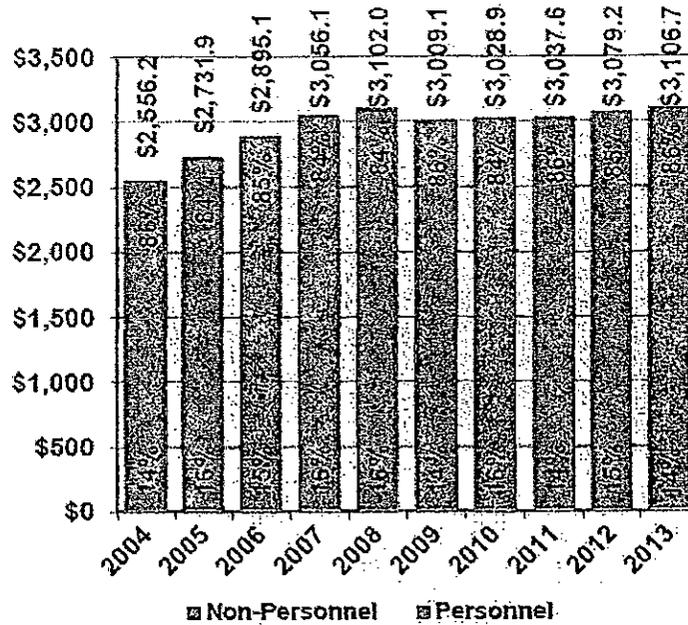
Thus, while the City's workforce has fallen by 18%, from 41,550 full-time equivalent positions in 2004 to 34,045 in 2014, costs per employee have soared from \$59,714 in 2004 to \$94,551 in 2013. These increases are projected to continue.

13. Consequently, the additional contributions that SB1922 requires the City to pay to MEABF and LABF (even without including the additional funding required for PABF and FABF by SB3538) is projected to cause the City's structural deficit to increase to more than \$400 million in 2016 and nearly \$600 million in 2017, as shown in the following chart:



14. In addition to this continuing — and increasing — structural deficit, the City's ability to satisfy the increased contributions required by SB1922 through reductions in expenditures is constrained by the nature of those other expenditures and the fact that they cannot be reduced without cutting essential City services, including police and fire.

15. The overwhelming majority of the City's spending is personnel-related. The corporate fund is the City's core operating fund, and on average, 85% of corporate fund expenses are personnel-related:



16. Moreover, the overwhelming majority of the City's personnel-related corporate expenditures relate to public safety. In 2014, approximately 80% of the salaries and wages in the corporate fund budget are related to public safety. This fact severely limits the City's opportunities for expense reduction.

17. Given the realities of the City's budget, funding the additional City contributions to MEABF and LABF required by SB1922 will be challenging. And that is with the modest reforms (reductions in future AAIs and increased employee contributions) enacted in SB1922. Addressing the funds' underfunding without the modest reforms enacted in SB1922 would require a substantial reduction in essential City services, and the termination of many of the current employees participating in the funds at issue.

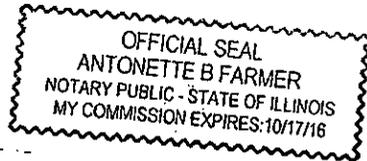
Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

Dated: December 23, 2014

Alexandra Holt
Alexandra Holt

Sworn to and subscribed before
me this 23 day of Dec, 2014

Antonette B. Farmer



STATE OF ILLINOIS
98th GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

107th Legislative Day

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PRESIDING OFFICER: (SENATOR LINK)

The regular Session of the 98th General Assembly will please come to order. Will the Members please be at their desks? Will our guests in the gallery please rise? The invocation today will be given by Reverend Doctor Clifford Hayes, First Presbyterian Church, Springfield, Illinois.

THE REVEREND DR. CLIFFORD HAYES:

(Prayer by the Reverend Dr. Clifford Hayes)

PRESIDING OFFICER: (SENATOR LINK)

Please remain standing for the Pledge Allegiance. Senator Haine.

SENATOR HAINE:

(Pledge of Allegiance, led by Senator Haine)

PRESIDING OFFICER: (SENATOR LINK)

Mr. Secretary, Reading and Approval of the Journal.

SECRETARY ANDERSON:

Senate Journal of Monday, April 7th, 2014.

PRESIDING OFFICER: (SENATOR LINK)

Senator Hunter.

SENATOR HUNTER:

Mr. President, I move to postpone the reading and approval of the Journal just read by the Secretary, pending arrival of the printed transcript.

PRESIDING OFFICER: (SENATOR LINK)

Senator Hunter moves to postpone the reading and approval of the Journal, pending the arrival of the printed transcript. There being no objection, so ordered. Mr. Secretary -- oh! Steve Bourque of WICS-TV requests permission to record video. Seeing no objection, permission granted. Tony Yuscus of Blueroomstream.com

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requests permission to videotape. Seeing no objection, permission granted. Mr. Secretary, Resolutions.

SECRETARY ANDERSON:

Senate Resolution 1077, offered by Senator Jacobs and all Members.

Senate Resolution 1078, offered by Senator McConnaughay and all Members.

Senate Resolution 1079, offered by Senator Hastings and all Members.

They're all death resolutions, Mr. President.

PRESIDING OFFICER: (SENATOR LINK)

Resolution Consent Calendar. Senator McCarter, for what purpose do you rise?

SENATOR McCARTER:

Ladies and Gentlemen of the Senate, I'd like to introduce my Pages for the Day, all from my district, from Breese, Illinois. First, got - I'll go for the ladies - Sidney Thompson, is a senior at Central Community High School. And she plans on going to St. Louis University to study anthropology and medicine. I suspect there'd be a better market in medicine than anthropology, but I'm glad she's choosing two. Then we have Alexis Zanger, who's a senior at Breese Central High School, and she's on the National Honor Society and an Illinois State Scholar. She plans on studying genetics and Spanish in college. I'm feeling uneducated now. So next we have Sidney Thompson, who's a senior at Central -- I'm sorry. This is what happens when you have four Pages at once, you know. Saskia Viehweger. All right. All right. Sorry about that. She's also a senior at Central Breese High School and Honor Society member as well. And she's going to attend Northern Michigan

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University in Marquette, Michigan. So I -- welcome them today. And I appreciate it. Thomas Romine, as well. And Thomas is a senior and going to -- going to study education at Southeast Missouri State. Thank you.

PRESIDING OFFICER: (SENATOR LINK)

Welcome to the Illinois Senate. Mr. Secretary, Committee Reports.

SECRETARY ANDERSON:

Senator Mulroe, Chairperson of the Committee on Public Health, reports Senate Amendment 3 to Senate Bill 741, Senate Amendment 1 to Senate Bill 2928, Senate Amendment 3 to Senate Bill 3409 and Senate Amendment 2 to Senate Bill 3465 Recommend Do Adopt.

Senator Delgado, Chairperson of the Committee on Education, reports Senate Amendment 2 to Senate Bill 2870 and Senate Amendment 3 to Senate Bill 3412 Recommend Do Adopt.

Senator Hunter, Chairperson of the Committee on Human Services, reports Senate Amendment 1 to Senate Bill 221, Senate Amendment 2 to Senate Bill 1999, Senate Amendment 4 to Senate Bill 2586 and Senate Amendment 1 to Senate Bill 3421 Recommend Do Adopt.

Senator Frerichs, Chairperson of the Committee on Higher Education, reports Senate Amendment 1 to Senate Bill 230, Senate Amendment 3 to Senate Bill 2846 and Senate Amendment 3 to Senate Bill 3306 Recommend Do Adopt.

Senator Raoul, Chairperson of the Committee on Judiciary, reports Senate Amendment 1 to Senate Bill 506, Senate Amendment 1 to Senate Bill 978, Senate Amendment 1 to Senate Bill 1098, Senate Amendment 1 to Senate Bill 1099, Senate Amendment 1 to Senate Bill 2002, Senate Amendment 4 to Senate Bill 2829, and Senate Amendment 3 to Senate Bill 3023, Senate Amendment 2 to Senate Bill 3110, and

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Senate Amendment 2 to Senate Bill 3112 Recommend Do Adopt.

Senator Sandoval, Chairperson of the Committee on Transportation, reports Senate Amendment 3 to Senate Bill 927, Senate Amendment 1 to Senate Bill 930, Senate Amendment 2 to Senate Bill 930, Senate Amendment 2 to Senate Bill 3139, Senate Amendment 1 to Senate Bill 3270, Senate Amendment 1 to Senate Bill 3548 Recommend Do Adopt; and House Joint Resolution 86 Be Adopted.

Senator Noland, Chairperson of the Committee on Criminal Law, reports Senate Amendment 1 to Senate Bill 2650, Senate Amendment 1 to Senate Bill 2808, Senate Amendment 1 to Senate Bill 2995, Senate Amendment 2 to Senate Bill 3007, Senate Amendment 1 to Senate Bill 3522, Senate Amendment 2 to Senate Bill 3538, Senate Amendment 2 to Senate Bill 3558 Recommend Do Adopt.

Senator Haine, Chairperson of the Committee on Insurance, reports Senate Amendment 1 to Senate Bill 644, Senate Amendment 1 to Senate Bill 646 and Senate Amendment 3 to Senate Bill 3014 Recommend Do Adopt.

Senator Hutchinson, Chairperson of the Committee on Revenue, reports Senate Amendment 1 to Senate Bill 218, Senate Amendment 2 to Senate Bill 218, Senate Amendment 4 to Senate Bill 3108, Senate Amendment 1 to Senate Bill 3369, Senate Amendment 2 to Senate Bill 3397 and Senate Amendment 2 to Senate Bill 3574 Recommend Do Adopt.

Senator Holmes, Chairperson of the Committee on Environment, reports Senate Amendment 2 to Senate Bill 2727 Recommend Do Adopt.

Senator Jones, Chairperson of the Committee on Local Government, reports Senate Amendment 1 to Senate Bill 504, Senate Amendment 2 to Senate Bill 504, Senate Amendment 1 to Senate Bill 507, Senate Amendment 1 to Senate Bill 585 and Senate Amendment 2 to Senate Bill 3313 Recommend Do Adopt.

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PRESIDING OFFICER: (SENATOR LINK)

Mr. Secretary, Messages from the House.

SECRETARY ANDERSON:

A Message from the House by Mr. Mapes, Clerk.

Mr. President - I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to wit:

House Bill 2544.

We have received like Messages on House Bills 4418, 4636, 4914, 4995, 5613, 5684, 5949. Passed the House, April 8th, 2014. Timothy D. Mapes, Clerk of the House.

Message from the House by Mr. Mapes, Clerk.

Mr. President - I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to wit:

House Joint Resolution 74.

Offered by Senator McCarter, and adopted by the House, April 7th, 2014. Timothy D. Mapes, Clerk of the House. It is substantive, Mr. President.

PRESIDING OFFICER: (SENATOR LINK)

Senator Hunter, for what purpose do you rise?

SENATOR HUNTER:

An announcement, Mr. President.

PRESIDING OFFICER: (SENATOR LINK)

State your announcement.

SENATOR HUNTER:

Senator Koehler is conducting business in the district today

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and will not be here.

PRESIDING OFFICER: (SENATOR LINK)

The record shall reflect. Senator Sullivan, for what purpose do you rise?

SENATOR SULLIVAN:

Thank you, Mr. President. A point of personal privilege.

PRESIDING OFFICER: (SENATOR LINK)

State your point.

SENATOR SULLIVAN:

Ladies and Gentlemen, Mr. President, I have a couple young folks here with me today. They are interns in my Macomb legislative office. They are students, both seniors at Western Illinois University. Dan Fristrom is to my right. He's a poli-sci major. He's from Glendale Heights, which I believe is Senator Cullerton's district, Tom Cullerton's district. He's been with me for two years in my Macomb office. He has applied for a legislative staff internship program here at the University of Illinois at Springfield and would love to spend more time here in Springfield. A political science major. To my left is Canaan Daniels. He's a social work major at WIU. He's also an intern in my Macomb office. He's from Scott County, which is Senator McCann's district, down at Winchester, and he'll be starting a Master's of Science (sic) (Master of Sciences) in College Student Affairs at Eastern Illinois University this fall. I'd like everybody to welcome my two interns here to the State Senate today.

PRESIDING OFFICER: (SENATOR LINK)

Welcome to the Illinois Senate. Mr. Secretary, House Bills 1st Reading. Senator Silverstein, for what purpose do you rise?

SENATOR SILVERSTEIN:

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Point of announcement, Mr. President.

PRESIDING OFFICER: (SENATOR LINK)

State your announcement.

SENATOR SILVERSTEIN:

There'll be a Democratic Caucus, approximately one hour, after we recess.

PRESIDING OFFICER: (SENATOR LINK)

Senator Althoff, for what purpose do you rise?

SENATOR ALTHOFF:

Also point of announcement, please, Mr. President.

PRESIDING OFFICER: (SENATOR LINK)

State your announcement.

SENATOR ALTHOFF:

The Senate Republicans would also like to caucus for about an hour once -- upon recess.

PRESIDING OFFICER: (SENATOR LINK)

Senators Silverstein and Althoff move that the Senate recess for the purpose of a Democrat and Republican Caucus lasting approximately one hour. Seeing no objection, the motion is granted. The Senate now stands in recess to the call of the Chair. After the Senate... The Senate Democratic and Republican Caucuses -- after the caucus, for the purpose -- the Senate will -- will reconvene for the purpose of Floor action. The Senate stands in recess to the call of the Chair.

(SENATE STANDS IN RECESS/SENATE RECONVENES)

PRESIDING OFFICER: (SENATOR LINK)

The Senate will please come to order. Mr. Secretary, Messages

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from the House.

SECRETARY ANDERSON:

A Message from the House by Mr. Mapes, Clerk.

Mr. President - I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to wit:

Senate Bill 1922.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to wit:

House Amendments 2 and 6 to Senate Bill 1922.

Passed the House, as amended, April 8th, 2014. Timothy D. Mapes, Clerk of the House.

PRESIDING OFFICER: (SENATOR LINK)

Mr. Secretary, Introduction of Senate Bills.

SECRETARY ANDERSON:

Senate Bill 3656, offered by Senators {sic} Kotowski and President Cullerton.

(Secretary reads title of bill)

1st Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Will all Senators at the sound of my voice come to the Senate Floor immediately? We will be going to the Order of 2nd Reading for the final time today -- for this -- for this week. Please come to the Floor immediately. If you want your bill moved, this is your last chance of 2nd Readings. We're going to Order of 2nd Reading. Mr. Secretary, Senate Bill 2583. Senator Noland. Out of the record. Senate Bill 2583. Senator Noland. Mr. Secretary, please read the bill.

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SECRETARY ANDERSON:

Senate Bill 2583.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Criminal Law adopted Amendment No. 2.

PRESIDING OFFICER: (SENATOR LINK)

Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 2620. Senator Sandoval. Senator Sandoval. Out of the record. Senate Bill 2674. Leader Harmon. Out of the record. Senate Bill 2758. Senator Biss. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2758.

(Secretary reads title of bill)

2nd Reading of the bill. Committee on Executive adopted Amendments 1, 3, 4, 5, 6 and 7.

PRESIDING OFFICER: (SENATOR LINK)

Have there been any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 2764. Senator Haine. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

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Senate Bill 2764.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Insurance adopted Amendment No. 1.

PRESIDING OFFICER: (SENATOR LINK)

Have there been any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 2, offered by Senator Haine.

PRESIDING OFFICER: (SENATOR LINK)

Senator Haine, on your amendment.

SENATOR HAINE:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. This is an amendment dealing with valuations, actuaries, and -- and it is not intended to be moved from 3rd. It is a discussion that the life insurers of Illinois are having with the Department of Insurance. It will be held over the summer and fall. It is a classic work in progress. I would like to take an hour and a half and explain the details of the proposed amendment. If you suffer from insomnia later, I'd be happy to do that.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. With leave of the Body, we'll go back to Senate

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Bill 2674. Senator Harmon. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2674.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 2929. Senator -- or, Senator Sandoval. Senator Sandoval. Out of the record. Senate Bill 2995. Senator Raoul. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2995.

(Secretary reads title of bill)

2nd Reading of the bill. No committee amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

Have there been any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 1, offered by Senator Raoul.

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul, on your amendment.

SENATOR RAOUL:

Floor Amendment No. 1 essentially becomes the heart of the bill. I'll explain it on 3rd.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, all those in favor, say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

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SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3007. Senator Harmon. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3007.

(Secretary reads title of bill)

2nd Reading of the bill. No committee amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

Have there been any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 2, offered by Senator Harmon.

PRESIDING OFFICER: (SENATOR LINK)

Leader Harmon, on your amendment.

SENATOR HARMON:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Senate Floor Amendment No. 2 becomes the bill and I move for its adoption.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3016. Senator Connelly. Out of

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the record. Senate Bill 3023. Senator Mulroe. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3023.

(Secretary reads title of bill)

2nd Reading of the bill. No committee amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

Are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 3, offered by Senator Mulroe.

PRESIDING OFFICER: (SENATOR LINK)

Senator Mulroe, on your amendment.

SENATOR MULROE:

Thank you, Mr. President, Members of the Senate. The Floor amendment actually removed all opposition. I'd be happy to explain it once we get to 3rd.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3038. Senator Raoul. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3038.

(Secretary reads title of bill)

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2nd Reading of the bill. No committee or Floor amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3052. Senator Biss. Out of the record. Senate Bill 3099. Senator Sandoval. Out of the record. Senate Bill 3108. Senator Noland. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3108.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Revenue adopted Amendment No. 2.

PRESIDING OFFICER: (SENATOR LINK)

Are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 4, offered by Senator Noland.

PRESIDING OFFICER: (SENATOR LINK)

Senator Noland, on your amendment.

SENATOR NOLAND:

Thank you, Mr. President. Floor Amendment No. 4 amends the -- the Local Government {sic} (Governmental) and Governmental Employees Tort Immunity Act. Provides that the funds from certain taxes authorized under the Act may be used for funding of preventative maintenance measures, such as sprinkler systems.

PRESIDING OFFICER: (SENATOR LINK)

Are there any further Floor amendments -- or, all those in favor of the amendment will vote {sic} Aye. Opposed, Nay. The voting -- or, the -- the Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

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SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3109. Senator McGuire. Senator McGuire. Out of the record. Senate Bill 3137. Senator Jones. Out of the record. Senate Bill 3258. Senator Raoul. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3258.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Criminal Law adopted Amendment No. 1.

PRESIDING OFFICER: (SENATOR LINK)

Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3287. Senator Raoul. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3287.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3304. Senator Rose. Out of the record. Senate Bill 3313. Senator Bertino-Tarrant. Mr. Secretary, please read the bill.

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SECRETARY ANDERSON:

Senate Bill 3313.

(Secretary reads title of bill)

2nd Reading of the bill. No committee amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

Are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 2, offered by Senator Bertino-Tarrant.

PRESIDING OFFICER: (SENATOR LINK)

Senator Bertino-Tarrant, on your amendment.

SENATOR BERTINO-TARRANT:

Thank you, Mr. President. The amendment simply codifies some language that allows the -- people who are registered with the ICC to operate a 9-1-1 system.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, all those in favor, say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3316. Senator Muñoz. Out of the record. With leave of the Body, we will return to Senate Bill 3109. Senator McGuire. Mr. Secretary, please read the bill.

ACTING SECRETARY KAISER:

Senate Bill 3109.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments

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reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. With leave of the Body, we'll go back to Senate Bill 3137. Senator Jones. Mr. Secretary, please read the bill.

ACTING SECRETARY KAISER:

Senate Bill 3137.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3338. Senator Connelly. Out of the record. Senate Bill 3382. Senator Muñoz. Out of the record. Senate Bill 3397. Senator Hutchinson. Senator Hutchinson. Mr. Secretary, please read the bill.

ACTING SECRETARY KAISER:

Senate Bill 3397.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Revenue adopted Amendment No. 1.

PRESIDING OFFICER: (SENATOR LINK)

Have there been any further Floor amendments approved for consideration?

ACTING SECRETARY KAISER:

Yes. Floor Amendment No. 2, offered by Senator Hutchinson.

PRESIDING OFFICER: (SENATOR LINK)

Senator Hutchinson, on your amendment.

SENATOR HUTCHINSON:

Thank you, Mr. President, Members of the Senate. The Floor amendment becomes the bill and I'd be happy to discuss that on

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3rd.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

ACTING SECRETARY KAISER:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3398. Senator Hutchinson. Mr. Secretary, please read the bill.

ACTING SECRETARY KAISER:

Senate Bill 3398.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3407. Senator Connelly. Out of the record. Senate Bill 3408. Senator Raoul. Mr. Secretary, please read the bill.

ACTING SECRETARY KAISER:

Senate Bill 3408.

(Secretary reads title of bill)

2nd Reading of the bill. No -- no committee amendments.

PRESIDING OFFICER: (SENATOR LINK)

Are there any Floor amendments approved for consideration?

ACTING SECRETARY KAISER:

Yes, Mr. President. Floor Amendment No. 1, offered by Senator Raoul.

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PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul, on your amendment.

SENATOR RAOUL:

Floor Amendment 1 limits it to Cook County.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

ACTING SECRETARY KAISER:

...further amendments reported, Mr. President.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3419. Senator Cunningham. Out of the record. Senate Bill 3422. Senator Sullivan. Out of the record. Senate Bill 3450. Leader Clayborne. Mr. Secretary, please read the bill.

ACTING SECRETARY KAISER:

Senate Bill 3450.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3451. Senator Frerichs. Out of the record. Senate Bill 3471. Senator LaHood. Mr. Secretary, please read the bill.

ACTING SECRETARY KAISER:

Senate Bill 3471.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Transportation adopted

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Amendment No. 1.

PRESIDING OFFICER: (SENATOR LINK)

Are -- are there any Floor amendments approved for consideration?

ACTING SECRETARY KAISER:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3478. Senator Muñoz. Mr. Secretary, please read the bill.

ACTING SECRETARY KAISER:

Senate Bill 3478.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Executive adopted Amendment No. 1.

PRESIDING OFFICER: (SENATOR LINK)

Are there any Floor amendments approved for consideration?

ACTING SECRETARY KAISER:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading: Senate Bill 3486. Senator Martinez. Out of the record. Senate Bill 3497. Senator Cunningham. Out of the record. Senate Bill 3514. Senator Holmes. Mr. Secretary, please read the bill.

ACTING SECRETARY KAISER:

Senate Bill 3514.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Labor and Commerce adopted Committee Amendment No. 2.

PRESIDING OFFICER: (SENATOR LINK)

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Are there any Floor amendments approved for consideration?

ACTING SECRETARY KAISER:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3530. Senator Stadelman. Mr. Secretary, please read the bill.

ACTING SECRETARY KAISER:

Senate Bill 3530.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Labor and Commerce adopted Amendment No. 1.

PRESIDING OFFICER: (SENATOR LINK)

Are there any Floor amendments approved for consideration?

ACTING SECRETARY KAISER:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3538. Senator Sandoval. Out of the record. Senate Bill 3548. Senator Harmon. Mr. Secretary, please read the bill.

ACTING SECRETARY KAISER:

Senate Bill 3548.

(Secretary reads title of bill)

2nd Reading of the bill. No committee amendments.

PRESIDING OFFICER: (SENATOR LINK)

Have there been any Floor amendments approved for consideration?

ACTING SECRETARY KAISER:

Yes. Floor Amendment No. 1, offered by Senator Harmon.

PRESIDING OFFICER: (SENATOR LINK)

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Senator Harmon, on your amendment.

SENATOR HARMON:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Floor Amendment No. 1 becomes the bill. I move for its adoption.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, all those in favor, say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

ACTING SECRETARY KAISER:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3566. Senator Harmon. Mr. Secretary, please read the bill.

ACTING SECRETARY KAISER:

Senate Bill 3566.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Financial Institutions adopted Amendment No. 1.

PRESIDING OFFICER: (SENATOR LINK)

Are there any Floor amendments approved for consideration?

ACTING SECRETARY KAISER:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3574. Senator Sandoval. Out of the record. Mr. Secretary, Messages from the House.

ACTING SECRETARY KAISER:

A Message from the House by Mr. Mapes, Clerk.

Mr. President - I am directed to inform the Senate that the

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House of Representatives has passed the House Joint Resolution Constitutional Amendment of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to wit:

House Joint Resolution Constitutional Amendment 52.

Offered by President Cullerton, and adopted by the House, April 8th, 2014. Timothy D. Mapes, Clerk of the House. It is substantive, Mr. President.

PRESIDING OFFICER: (SENATOR LINK)

Mr. Secretary, House Bills 1st Reading.

SECRETARY ANDERSON:

House Bill 671, offered by President Cullerton.

(Secretary reads title of bill)

House Bill 2513, offered by Senator Koehler.

(Secretary reads title of bill)

House Bill 2544, offered by Senator Althoff.

(Secretary reads title of bill)

House Bill 3924, offered by Senator Rezin.

(Secretary reads title of bill)

House Bill 4056, offered by Senator Manar.

(Secretary reads title of bill)

House Bill 4266, offered by Senator Haine.

(Secretary reads title of bill)

House Bill 4418, offered by Senator Raoul.

(Secretary reads title of bill)

House Bill 4482, offered by Senator Connelly.

(Secretary reads title of bill)

House Bill 4593, offered by Senator Martinez.

(Secretary reads title of bill)

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House Bill 4598, offered by Senator Jones.

(Secretary reads title of bill)

House Bill 4616, offered by Senator Manar.

(Secretary reads title of bill)

House Bill 4679, offered by Senator Hastings.

(Secretary reads title of bill)

House Bill 4769, offered by Senator Haine.

(Secretary reads title of bill)

House Bill 4781, offered by Senator Hunter.

(Secretary reads title of bill)

House Bill 4782, offered by Senator Steans.

(Secretary reads title of bill)

House Bill 4783, offered by Senator Steans.

(Secretary reads title of bill)

House Bill 4784, offered by Senator Steans.

(Secretary reads title of bill)

House Bill 5278, offered by Senator Raoul.

(Secretary reads title of bill)

House Bill 5325, offered by Senator Martinez.

(Secretary reads title of bill)

House Bill 5326, offered by Senator Cunningham.

(Secretary reads title of bill)

House Bill 5401, offered by Senator Bush.

(Secretary reads title of bill)

House Bill 5454, offered by Senator Manar.

(Secretary reads title of bill)

House Bill 5592, offered by Senator Martinez.

(Secretary reads title of bill)

House Bill 5613, offered by Senator Manar.

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(Secretary reads title of bill)

House Bill 5684, offered by Senator Harmon.

(Secretary reads title of bill)

House Bill 5824, offered by Senator Syverson.

(Secretary reads title of bill)

House Bill 5869, offered by Senator Bush.

(Secretary reads title of bill)

House Bill 5967, offered by Senator Jones.

(Secretary reads title of bill)

1st Reading of the bills.

PRESIDING OFFICER: (SENATOR LINK)

Senator Silverstein in the Chair.

PRESIDING OFFICER: (SENATOR SILVERSTEIN)

With leave of the Body, we're going to go to 2nd Readings.
Bottom of page 3. Senator Martinez. Senate Bill 3486. Mr.
Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3486.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments
reported.

PRESIDING OFFICER: (SENATOR SILVERSTEIN)

3rd Reading. Senator Link in the Chair.

PRESIDING OFFICER: (SENATOR LINK)

All Senators at the sound of my voice, we will be going to
the Order of 3rd Reading, final action. All Senators at the sound
of my voice, we will be going to 3rd Reading, final action. 3rd
Reading, final action. Senate Bill 16. Senator Manar. Out of
the record. Senate Bill 68. Senator Lightford. Out of the

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record. Senate Bill -- Senate Bill 218. Senator Hunter. Senator Hunter... Out of the record. Senate Bill 221. Senator Martinez. Out of the record. Senate Bill 227. Senator Hunter. Out of the record. Can we please keep the noise down in the Chamber? Senate Bill 230. Senator Manar. Out of the record. Senate Bill 344. Senator Morrison. Out of the record. Senate Bill 347. Senator Holmes. Mr. Secretary, please -- Senator Holmes seeks leave of the Body to return Senate Bill 347 to the Order of 2nd Reading. Leave is granted. Now on the Order of 2nd Reading is Senate Bill 347. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 1, offered by Senator Holmes.

PRESIDING OFFICER: (SENATOR LINK)

Senator Holmes, on your amendment.

SENATOR HOLMES:

The amendment becomes the bill. I'll be happy to explain it on 3rds.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, those in favor, vote Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading, Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 347.

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(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Holmes, on your bill.

SENATOR HOLMES:

Thank you -- thank you so much, Mr. President. This is a bill we had passed last year in the Senate 54 to 0; however, it was never called in the House. It basically gives county clerks the option to calculate property tax rates to more than three decimal points in order to be more accurate. Current law requires the rate to be calculated to three decimal points and to round up.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall the Senate -- the question is, shall -- all those in favor, vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 51 Ayes, no Nays, none voting Present. Senate Bill 347, having received the required constitutional amendment (sic), is declared passed. Senate Bill 348. Leader Harmon. Out of the record. Senate Bill 504. Senator Mulroe. Out of the record. Senate Bill 506. Senator Delgado. Mr. -- Senator Delgado seeks leave of the Body to return Senate Bill 506 to the Order of 2nd Reading. Leave is granted. Now on the Order of 2nd Reading is Senate Bill 506. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 1, offered by Senator Delgado.

PRESIDING OFFICER: (SENATOR LINK)

Senator Delgado, on your amendment.

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SENATOR DELGADO:

Thank you, Mr. President, Members of the Senate. On -- Floor Amendment No. 1 requires a coroner with an economic or personal interest that conflicts with his or her official duties as a coroner to disqualify themselves from acting as an investigation -- at an investigation or inquest. And I would ask for its adoption and -- so I could move it to 3rd.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, all those in favor will vote Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill 506. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 506.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Delgado, on your bill.

SENATOR DELGADO:

Thank you, Mr. President. I explained the amendment. I would ask for your Aye vote.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 506 pass. All those in favor, vote Aye. Opposed,

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Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 52 Ayes, no Nays, none voting Present. Senate Bill 506, having received the required constitutional majority, is declared passed. Senate Bill 585. Senator Sullivan. Out of the record. Senate Bill 644. Senator Haine. Senator Haine seeks leave of the Body to return Senate Bill 644 to the Order of 2nd Reading. Leave is granted. On the Order of 2nd Reading is Senate Bill 644. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 1, offered by Senator Haine.

PRESIDING OFFICER: (SENATOR LINK)

Senator Haine, on your amendment.

SENATOR HAINE:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. This is an initiative of the Department of Insurance. It merely codifies a recent Supreme Court case which knocked out the mandatory arbitration on our nonstandard insurance bill a couple years ago.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the amendment? All those -- seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill

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644. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 644.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Haine, on your bill.

SENATOR HAINE:

I repeat, reallege, reiterate, and reemphasize everything I previously said, and ask for an Aye vote.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 644 pass. All those in favor, vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 52 Ayes, no Nays, none voting Present. Senate Bill 644, having received the required constitutional majority, is declared passed. Senate Bill 646. Senator Haine. Out of the record. Will all Members of the Committee on Assignments please report to the President's Anteroom immediately? All Members of the Committee on Assignments, please report to the President's Anteroom immediately. The Senate will stand at ease. (at ease) Senate will come to order. Senator Biss.

SENATOR BISS:

Mr. President, may I make an introduction?

PRESIDING OFFICER: (SENATOR LINK)

Excuse me, after all the noise. Can we keep... Senator Biss.

SENATOR BISS:

Mr. President, I simply wanted to ask if I could make an

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introduction. Would that be all right?

PRESIDING OFFICER: (SENATOR LINK)

State -- state your introduction.

SENATOR BISS:

I'd just like to ask our colleagues to join me in welcoming my family to Springfield. We have with us here Karin Steinbrueck, who has the bizarre misfortune of being married to me, as well as our sons, Elliot, who's five, and Theodore, who's four. They always enjoy their visits down here and enjoy voting on bills. And they particularly enjoy voting against bills, so I'm hoping we'll be considering some of Senator Murphy's legislative measures later on today.

PRESIDING OFFICER: (SENATOR LINK)

Welcome to the Illinois State Senate. Mr. Secretary, Committee Reports.

SECRETARY ANDERSON:

Senator Clayborne, Chairman of the Committee on Assignments, reports the following Legislative Measures have been assigned: Refer to Executive Committee - Floor Amendment 3 to Senate Bill 3318; refer to Labor and Commerce Committee - Floor Amendment 2 to Senate Bill 1103; refer to Licensed Activities and Pensions Committee - Floor Amendment 1 to Senate Bill 452 and Floor Amendment 2 to Senate Bill 452; refer to State Government and -- and Veterans Affairs Committee - Floor Amendment 3 to Senate Bill 218, Floor Amendment 2 to Senate Bill 503, Floor Amendment 3 to Senate Bill 503 and Committee Amendment 1 to Senate Resolution 1002; refer to Transportation Committee - Floor Amendment 1 to Senate Bill 2620, Committee Amendment 1 to Senate Joint Resolution 62; Be Approved for Consideration - Floor Amendment 1 to Senate

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Bill 647, Floor Amendment 2 to Senate Bill 2922, Motion to Concur on House Amendments 2 and 6 to Senate Bill 1922, House Joint Resolution Constitutional Amendment 1 and House Joint Resolution Constitutional Amendment 52. Pursuant to Senate Rule 3-8(b-1), the following amendments will remain in the Committee on Assignments: Floor Amendment 1 to Senate Bill 228, Floor Amendment 1 to Senate Bill 588, Floor Amendment 1 to Senate Bill 589, Floor Amendment 2 to Senate Bill 728, Floor Amendment 1 to Senate Bill 1050, Floor Amendment 4 to Senate Bill 2004, Floor Amendment 1 to Senate Bill 2015, Floor Amendment 3 to Senate Bill 2583 and Floor Amendment 2 to Senate Bill 3414.

Signed, Senator James F. Clayborne, Chairman.

PRESIDING OFFICER: (SENATOR LINK)

For the purposes of announcement - and please listen carefully: Licensed Activity {sic} (Activities) and Pensions in Room 400 at 3:30 today; Labor and Commerce -- Executive in Room 212 at 3:30; State Government and Veterans Affairs in Room 409 at 3:30; Labor and Commerce in Room 212 at 4:45 today; Financial Institutions in Room 400 at 4:45 today; Energy in Room 212 at 9:15 tomorrow; and Transportation in Room 212 at 9:30 tomorrow. One more time: Licensed Activity {sic} and Pensions in Room 400 at 3:30 today; State Government and Veterans Affairs in Room 409 at 3:30 today; Executive in Room 212 at 3:30 today; Labor and Commerce in Room 212 at 4:45 today; Financial Institutions in Room 400 at 4:45 today; Energy in Room 212, 9:15 tomorrow; Transportation in Room 212 at 9:30 tomorrow. Now back to the Order of 3rd Readings on Senate Bills. Senate Bill 741. Senator Trotter. Out of the record. Senate Bill 927. Senator Mulroe. Mr. Secretary, please -- Senator Mulroe seeks permission to -- seeks leave of the Body

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to return Senate Bill 927 to the Order of 2nd Reading. Leave is granted. On the Order of 2nd Reading is Senate Bill 927. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 3, offered by Senator Mulroe.

PRESIDING OFFICER: (SENATOR LINK)

Senator Mulroe, on your amendment.

SENATOR MULROE:

Thank you, Mr. President, Members of the Senate. I'd ask that it be adopted and I'll explain it on 3rd.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, every -- all those in favor will say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are any -- are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill 927. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 927.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Mulroe, on your amendment -- on your bill.

SENATOR MULROE:

Thank you, Mr. President. The amendment deletes all and

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becomes the bill. This bill is in honor of Vincent Petrella, a member of the Illinois State Tollway Authority. He was recently killed in January of -- of this year while assisting a broken-down semi-truck on the Illinois Tollway. The safety of the workers of the Illinois Tollway is in constant jeopardy while performing their duties on the Tollway in order to keep our roads safe and keep those in -- care for the people in need. This bill accomplishes several goals. It establishes that vehicles of the Illinois Tollway Authority identified as Highway Emergency Lane Patrol, or H.E.L.P., are authorized emergency -- emergency vehicles under the Illinois Vehicle Code. It also authorizes the Illinois Tollway H.E.L.P. vehicles to use red lights in accordance with the Vehicle Code. It also clarifies that other authorized Illinois Tollway vehicles can use amber oscillating, flashing, and rotation lights. And finally, it -- the changes made in Senate Bill 927 will ensure that Tollway vehicles are covered under Scott's Law in Illinois. I know of no opposition. I'd ask for your support.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 927 pass. All those in favor, vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, no Nays, none voting Present. Senate Bill 927, having received the required constitutional majority, is declared passed. Senate Bill 930. Senator Sandoval. Out of the record. Senate Bill 977. Senator Martinez. Out of the record. Senate Bill 978. Senator Raoul. Senator Raoul seeks leave of the Body to return Senate Bill 978 to the Order of 2nd Reading. Leave is granted. Now on the Order of 2nd Reading is Senate Bill 978.

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Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 1, offered by Senator Raoul.

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul, on your amendment.

SENATOR RAOUL:

Amendment becomes the bill. I'll explain it on 3rd.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the amendment? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it. Now -- are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill 978. All those in -- Senate Bill -- Senator -- Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 978.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul, on your bill.

SENATOR RAOUL:

I urge an Aye vote. No. Senate Bill 978 creates a new expungement process for juvenile arrest records. This is an initiative of the City of Chicago. This is an effort to have a

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automatic expungement process for juveniles who have been arrested but no petition delinquency has been filed. As a requirement, the minor will have to have reached the age of eighteen and have had six month {sic} (months) pass since the minor's most recent arrest.
PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Senator Rose, for what purpose do you rise?

SENATOR ROSE:

Thank you, Mr. President. Will the sponsor yield for some questions?

PRESIDING OFFICER: (SENATOR LINK)

He indicates he will.

SENATOR ROSE:

Senator Raoul, in the underlying expungement statute that currently exists, there's a number of protections afforded to society before the expungement is granted. For example, you have to have a negative drug test filed with your petition. For example, you have to go in front of a judge and have the parties there to make the various arguments about, yes, we think this is a good idea or, no, we think this is not a good idea and here's why. For example, there has to be a period of -- a -- a definite period of years for which you were not rearrested or later found to be in trouble again before you filed your petition for expungement. Are any of those things in -- in this bill?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

I -- I think the distinction between the expungement that you're talking about and the expungement that we're talking about

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with juvenile offenders who have never been charged, who have -- there hasn't been a petition. These are station adjustments, Senator. So law enforcement has made a decision not to go anywhere with the arrests that they have made. They haven't been referred to court.

PRESIDING OFFICER: (SENATOR LINK)

Senator Rose.

SENATOR ROSE:

Thank you on that. So, if the -- the arrest was made but it did not go forward in juvenile court - correct? - that is what you're expunging? Just those records?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

Yes, that's correct, Senator.

PRESIDING OFFICER: (SENATOR LINK)

Senator Rose.

SENATOR ROSE:

Is there any circumstance where an arrest would have been made and it did go into juvenile court proceedings that that would -- and let me give you an example. Let me -- let me give you this example. Let's say you had someone who was almost treated as a age of majority. Okay? And they had a juvenile court arrest and then the next day they got arrested again and they became adult eligible. Okay? As a plea to that adult charge, this was dismissed. The -- or, in other words, it was never charged. Either it was -- either it was charged or they agreed not to charge it as part of that plea in adult court. Would that still be expungeable?

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PRESIDING OFFICER: (SENATOR LINK)

Before I recognize Senator Raoul, could we keep the noise down and the conversations down a little bit? Senator Raoul.

SENATOR RAOUL:

Under those circumstances, there would have been an arrest within the six months, 'cause there -- there's an arrest right afterwards. If you -- you try to extend more than six months beyond that, then -- then perhaps, but...

PRESIDING OFFICER: (SENATOR LINK)

Senator Rose.

SENATOR ROSE:

So, let's assume you got arrested at sixteen and a half, but it's still part of a pending investigation. Let's assume it was a burglary with several -- several high school kids. Okay? One kid got caught. They're all running; one kid got caught. So he's been arrested. Right? And he is trying to work out an agreement with the prosecution - in return for a leaner sentence, to turn over everybody else who was with him on the burglary. Okay? Now, keep in mind, he's sixteen and a half, or let's just say, for sake of argument, sixteen and three quarters. In the -- as soon as he turns the age of majority -- is this going to apply at seventeen or eighteen?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

This will apply at eighteen, and I remind you, again, the prosecutor doesn't come into play here, 'cause there's no petition filed.

PRESIDING OFFICER: (SENATOR LINK)

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Senator Rose.

SENATOR ROSE:

I -- I understand that no petition may be filed, but you could still have an open investigation pending. And I don't want to have that arrest record timed out simply because somebody had a birthday and now that has been expunged when you have an open investigation pending.

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

Yeah. I guess I don't know the cases that you're familiar with. But I think in my experience as a juvenile prosecutor and -- and as somebody who's done juvenile defense work, cases that are -- are handled with the station adjustments aren't likely to be cases with lengthy investigations. These are station adjustments, Senator.

PRESIDING OFFICER: (SENATOR LINK)

Senator Rose.

SENATOR ROSE:

Right, but if he's arrested the day before his birthday and the charge hasn't been filed, he now turns eighteen, the arrest is now expunged.

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

Again, this bill requires a six-month period. So if a -- an arrest where there's been a station adjustment, the investigation hasn't been referred for a petition within six months, I don't know that case. But if you know that case, point it out to me, in

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the State of Illinois.

PRESIDING OFFICER: (SENATOR LINK)

Senator Rose.

SENATOR ROSE:

Well, first of all, Senator, I would suggest that in the history of the State of Illinois there would have been plenty of people who committed a crime at seventeen and a half and then would not have been charged, or seventeen and three quarters, whatever it is, until after their eighteenth birthday. But I think the six-month period -- and let's make sure we're talking about the right six-month period. Because on page 3, line 3 to 4 and 5, you talk about since the date of the minor's most recent arrest, at least six months should have elapsed without an additional arrest. I'm talking about an initial arrest. So if you get arrested at seventeen and three quarters, it's a pending open investigation. You've never been formally charged; you then time out at eighteen. You're -- I mean, you're essentially creating a new statute of limitations here because the arrest is then expunged. Or, said differently, would you entertain a motion -- or, an amendment -- go ahead.

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

You read the statute correctly. If the arrest was right before the -- the minor turned eighteen, that is his most recent arrest. So there has to be a period of six months that elapses. These are station adjustments. Senator, name me one case. Just name me one case in the history of the State of Illinois handled like that. This is not complicated.

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PRESIDING OFFICER: (SENATOR LINK)

Senator Rose, to wrap up.

SENATOR ROSE:

I'm sure I could probably call home and find a half a dozen cases pretty quickly. But, you know, the -- I guess the point of this is, is there any harm in adding a sentence to this that says "pending investigations are not covered here"? "There's no automatic" -- "automatic expungement if there's a pending investigation."

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

With all due respect, Senator, and I -- I apologize for -- for blowing my top a little bit. I've got a little stress from other matters that I'm dealing with. I'd just like to humbly suggest that what you're worried about is not a concern. Certainly I -- you know, we could delay this and add, but it's unnecessary language. We can have redundant language to all sorts of bills that we present that "tries to cover" situations. And I -- and, again, I invite you to call home and bring forth the -- the six cases that you're referring to, but I -- I really don't -- I think you're -- you're -- you're trying to -- and I appreciate the nature of debate - and that's the beautiful thing about this Chamber, we get to have debate - but I think you're -- you're articulating a problem that does not exist.

PRESIDING OFFICER: (SENATOR LINK)

Senator Rose.

SENATOR ROSE:

So, first of all, no apologies are necessary. I'm used to

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dealing with Lou Lang. This is nothing. So the reality, Senator, though, with -- with all due respect to your opinion on that - and I will check with my folks - but if it is so small, as you state, then it certainly can't hurt to go ahead and exempt pending investigations. I don't think any of us would want an arrest to have been expunged because the pendency of the investigation is still ongoing, the charge has not been filed, and yet the -- the -- the main witness, the suspect, turns eighteen. And I will respectfully be voting No. I would ask for that accommodation. If it -- you do that in the Senate and it comes back, I'd seriously entertain voting Yes. But in the meantime, I will call my folks. And you don't have to worry about apologizing, 'cause between Senator Biss and Lou Lang and Jack Franks, it's always a good time. So, thank you.

PRESIDING OFFICER: (SENATOR LINK)

Senator LaHood, for what purpose do you rise?

SENATOR LaHOOD:

Question of the sponsor.

PRESIDING OFFICER: (SENATOR LINK)

Indicates he will yield.

SENATOR LaHOOD:

Thank you. Chairman Raoul, I'm -- I'm -- I'm trying to understand the practical aspect of how this works. So, as you're well aware, criminal defendants that are adults, when a crime is committed, it's adjudicated and there's a PSI report that comes forth that lays out the history of that particular defendant, criminal history, and -- and will -- will also include, my experience is, juvenile record, to a certain extent, in federal or State court. So, under this bill, when a juvenile, say they're

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sixteen, is under juvenile probation for an offense, let's say robbery, and they get put on probation as a juvenile, and while they're on probation as a juvenile, they pick up three or four other arrests while they're on probation, and as part of the adjudication on those three or four arrests, they decide not to file anything on those new cases and extend the probation to seventeen or eighteen. So, under this scenario, would those arrests that were never filed exist?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

The arrests where there were station adjustments would -- would be expunged. There -- the -- if the juvenile was under probation, there's still that other matter; that's not an automatic expungement. But it's the matter that they elect to do a station adjustment on - which, you know, if there's another armed robbery, there's not going to be a station adjustment.

PRESIDING OFFICER: (SENATOR LINK)

Senator LaHood.

SENATOR LaHOOD:

But -- but I think he answered my question. My experience in -- in juvenile court, and -- and I worked in Cook County, is once they're put on probation and they pick up numerous arrests, those currently exist and can be used later on when they are an adult, and you look at a PSI report, those arrests show up. What you're saying, under this bill, is that if there is a plea agreement as part of that probation and those arrests end up just continuing the probation, those would be gone.

PRESIDING OFFICER: (SENATOR LINK)

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Senator Raoul.

SENATOR RAOUL:

It should be clear that within the bill that it specifically specifies nothing in this Act shall require the physical destruction of internal office records, files, and databases maintained by the State's Attorney's Office or any other prosecutor. So, if they -- if they once had access to that information, they don't have to destroy that -- that access -- destroy those record...(microphone cutoff)... Did you not hear me? The State's Attorney's...

PRESIDING OFFICER: (SENATOR LINK)

Senator...

SENATOR RAOUL:

State's Attorney's Office would not -- would not have to destroy any records they -- they may have. And I assume they would have records if they made that -- that decision.

PRESIDING OFFICER: (SENATOR LINK)

Senator LaHood.

SENATOR LaHOOD:

I -- thank you. I -- I appreciate your -- your statement on that, but making -- you're -- you're saying that you're assuming that. I mean, that's different from the -- the -- what's in a PSI now and having access to those arrests, which are used to determine a sentence, and that's what concerns me here, is the expungement of those and not having that part of the full record when somebody becomes an adult. Thank you. Those are all my questions.

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul, to close.

SENATOR RAOUL:

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I appreciate the concerns of my colleagues on the other side of the aisle. I should note that this bill came about and came through committee with support from the State's Attorney's Office. You know, what we're talking about here, Ladies and Gentlemen of the Senate, are arrests that are handled by the police department as not so serious as to be referred to juvenile court. It's important to understand the distinction between those arrests and the arrests that you would proceed with the referral for a petition to juvenile court. Additionally, it's important to understand that the -- the very fundamental nature of having a distinction between adult prosecution and juvenile delinquency is that you have an opportunity at a fresh start. If we cannot do that for these very basic cases where -- that are handled at the police department as station adjustments, I don't know why we even have a division between juvenile delinquency and criminal -- criminal law. I urge an Aye vote.

PRESIDING OFFICER: (SENATOR LINK)

The question is, shall Senate Bill 978 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 41 Ayes, 13 Nays, 1 voting Present. Senate Bill 978, having received the required constitutional majority, is declared passed. Senator Harmon, for what purpose do you rise?

SENATOR HARMON:

Thank you, Mr. President. I move to waive all notice and posting requirements so that Senate Resolution 1052 can be heard today at 3:30 p.m. in the Senate Executive Committee.

PRESIDING OFFICER: (SENATOR LINK)

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Senator Harmon moves to waive all notices and the posting requirement that -- so that Senate Resolution 1052 can be heard today at -- 3:30 in Executive Committee. All those in favor will say Aye. Opposed, Nay. The Ayes have it, and the -- and all notices and posting requirements have been waived. With leave of the Body, we'll go back to Senate Bill 902. Senator Clayborne. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 902.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Leader Clayborne, on your bill.

SENATOR CLAYBORNE:

Thank you. Floor Amendment 1 to Senate Bill 902 replaces everything after the enacting clause and creates the Herptile-Herbs (sic) (Herptiles-Herps) Act, which is -- which will be administered by DNR. As amended, this Act will be -- this Act will consolidate herptile-related law into one Code, while creating new safeguards to ensure dangerous reptiles and amphibians are being maintained in a manner that protects both the owners and the public from injury. I would ask for your favorable vote.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Senator McCarter, for what purpose do you rise?

SENATOR McCARTER:

Question of the sponsor, please.

PRESIDING OFFICER: (SENATOR LINK)

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Indicates he will yield.

SENATOR McCARTER:

Senator, can you -- can you just give us a couple bullet points as to the difference in what we're doing today versus what we passed, I believe, last year?

PRESIDING OFFICER: (SENATOR LINK)

Leader Clayborne.

SENATOR CLAYBORNE:

Yes. Definitions were made more clear for the term of "culling" and "taxa". Some contraband language removed because considered controversial. Language clarified regarding protocol for herptiles born in captivity from wild-caught adults, allowing captive breeding of wild-caught herptiles to -- for research or recovery efforts only. Any monies that {sic} endangered/threatened species herptiles permits going into wildlife preservations to fund for -- to a fund to be used for endangered/threatened herptile research and recovery. Allows collecting equipment within the U.S. Forest Service LaRue-Pine Hills area only with authorization from {sic} the spring and fall herptile migrations. There are about six more, if you want me to go on, Senator.

PRESIDING OFFICER: (SENATOR LINK)

Senator McCarter.

SENATOR McCARTER:

So, Senator, just -- so just to clarify, it doesn't -- sounds like we're adding to the -- the -- the -- the bill that was passed previously. The bill previously looked -- told retailers how they could go about doing business and what they could house, what they could sell. It doesn't sound like much in this bill has -- will

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change how a retailer can go about business today. Is -- is that correct?

PRESIDING OFFICER: (SENATOR LINK)

Leader Clayborne.

SENATOR CLAYBORNE:

That -- that's correct, except there is a Herpetocultural {sic} (Herpetoculture) permit that will be issued.

PRESIDING OFFICER: (SENATOR LINK)

Senator McCarter.

SENATOR McCARTER:

Just to the bill. Yeah, I -- I'd like you to repeat that three or four times, Senator, if you would, just for our amusement. But, no, I -- I -- I don't -- I agree, this is not going to affect the way retailers do business in this industry today. So I would -- I would support the bill and urge an Aye vote.

PRESIDING OFFICER: (SENATOR LINK)

Is there any further discussion? Leader Clayborne, to close, if you wish. The question is, shall Senate Bill 902 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 49 Ayes, 3 Nays, none voting Present. Senate Bill 902, having received the required constitutional majority, is declared passed. Senate Bill 1098. Senator Harmon. Senator Harmon seeks leave of the Body to return Senate Bill 1098 to the Order of 2nd Reading. Leave is granted. Now on the Order of 2nd Reading is Senate Bill 1098. Mr. Secretary, have there been any Floor amendments approved for consideration?

SECRETARY ANDERSON:

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Floor Amendment No. 1, offered by Senator Harmon.

PRESIDING OFFICER: (SENATOR LINK)

Senator Harmon, on your amendment.

SENATOR HARMON:

Thank you, Mr. President. I want to take just a moment with this amendment, because I think I may have misspoken in committee. This is an initiative of the Institute of Illinois Business Law and it -- it responds to a Supreme Court decision about causes of action arising after the dissolution of a business entity. It does not codify, but it instead attempts to address the -- the infirmity in the statute raised by the court. So I would move for the adoption, but I would ask to hold this bill in the Senate for a day or so to make sure that any misspeaking I did in committee can be addressed.

PRESIDING OFFICER: (SENATOR LINK)

Out of the record.

SENATOR HARMON:

No. No. No.

PRESIDING OFFICER: (SENATOR LINK)

No? Is there any discussion? Seeing none, all those in favor, vote Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. And are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 1099. Senator Harmon. Mr. Secretary -- Senator Harmon seeks leave of the Body to return Senate Bill 1099 to the Order of 2nd Reading. Leave is granted.

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Now on the Order of 2nd Reading is Senate Bill 1099. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 1, offered by Senator Harmon.

PRESIDING OFFICER: (SENATOR LINK)

Senator Harmon, on your amendment.

SENATOR HARMON:

Thank you, Mr. President. The amendment becomes the bill. I move for its adoption.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill 1099. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 1099.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Harmon, on your bill.

SENATOR HARMON:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Senate Bill 1099 is also an initiative of the Institute of Illinois Business Law. It creates uniformity across business types,

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corporations, not-for-profits, LLCs, and the like, in terms of the administrative dissolution provisions. I am not aware of any opposition and I ask for your Aye votes.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 1099 pass. All those in favor, vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 54 Ayes, no Nays, none voting Present. Senate Bill 1099, having received the required constitutional majority, is declared passed. Senate Bill 1626. Senator Sandoval. Out of the record. We'll skip over Senate Bill 1681. Senate Bill 1740. Senator Trotter. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 1740.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Trotter, on your bill.

SENATOR TROTTER:

Thank you very much, Mr. President, Members of the Senate. Senate Bill 1740, as amended, creates the Community Stabilization Assessment Freeze Pilot Program. This is a initiative of the Illinois Housing Authority. It allows for the Cook County Assessor to reduce the assessed value of improvements to residential property for ten years. This freeze will be available in distressed areas of Cook County only. It, again, is a pilot program. Its purpose, of course, is to bring some homes back to the market to deal with the blight and also the -- the -- the

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horrible foreclosures in some communities.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 1740 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 53 Ayes, 1 Nay, 1 -- none voting Present. Senate Bill 1740, having received the required constitutional majority, is declared passed. Senate Bill 1996. Senator McConnaughay. Mr. -- Senator McConnaughay seeks leave of the Body to return Senate Bill 1996 to the Order of 2nd Reading. Leave is granted. On the Order of 2nd Reading is Senate Bill 1996. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 1, offered by Senator McConnaughay.

PRESIDING OFFICER: (SENATOR LINK)

Senator McConnaughay, on your amendment.

SENATOR McCONNAUGHAY:

The amendment becomes the bill. I'd like to explain on 3rd.
PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill

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1996. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 1996.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator McConnaughay, on your bill.

SENATOR McCONNAUGHAY:

Thank you. This bill amends the State's Attorneys Appellate Prosecutor's Act to require the Board of Governors of the Office of the State's Attorney Appellate Prosecutor to establish a committee to evaluate and recommend a best practices protocol on specific issues related to investigation and prosecution of serial -- serious criminal offenses.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 1996 pass. All those in favor will say {sic} Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 55 Ayes, no Nays, none voting Present. Senate Bill 1996, having received the required constitutional majority, is declared passed. Senate Bill 1999. Senator Connelly. Out of the record. Senate Bill 2002. Senator Dillard. Out of the record. Senator McConnaughay, for what purpose do you rise?

SENATOR McCONNAUGHAY:

Thank you, Mr. President. A point of personal privilege.

PRESIDING OFFICER: (SENATOR LINK)

State your point.

SENATOR McCONNAUGHAY:

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I would ask that the Members of the Senate join me today in welcoming Nate Gibbons {sic} (Gibbs), sixth grader from St. Dominic School in Bolingbrook. He loves history and he is a natural-born leader, and someday I imagine he'll be here in this Chamber. Please join me in welcoming him today.

PRESIDING OFFICER: (SENATOR LINK)

Welcome to the Illinois Senate. Senate Bill 2363. Senator Martinez. Out of the record. Senate Bill 2586. Senator Steans. Out of the record. Senate Bill 2590. Senator Haine. Out of the record. Senate Bill 2628. Senator Sandoval. Out of the record. With leave of the Body, we'll go back to Senate Bill 2586. Senator Haine -- or, Senator Steans seeks leave to -- of the Body to return Senate Bill 2586 to the Order of 2nd Reading. Leave is granted. On the Order of 2nd Reading is Senate Bill 2586. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 4, offered by Senator Steans.

PRESIDING OFFICER: (SENATOR LINK)

Senator Steans, on your amendment.

SENATOR STEANS:

Yes, it becomes the bill and I'll discuss it on 3rd.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the amendment? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

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3rd Reading. Now on the Order of 3rd Reading is Senate Bill 2586. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2586.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Steans, on your bill.

SENATOR STEANS:

Yes, thank you, Mr. President, Members of the Senate. This bill has the Governor's Office of Healthcare Information and -- and Innovation and -- let's see, and Transformation {sic} (Health Innovation and Transformation) developing a financing system for community mental health and substance abuse programs. It's also putting on an -- an end date to the task force to come up with the financing plan to ensure that we are actually developing the capacity of our community and mental health and substance abuse providers to provide the appropriate services. We know we have a growing need for mental health care in the State of Illinois. We want to make sure we're trying to address those needs.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 2586 pass. All those in favor, vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 55 Ayes, no Nays, none voting Present. Senate Bill 2586, having received the required constitutional majority, is declared passed. Senate Bill 2647. Senator Althoff. Out of the record. Senate Bill 2650. Senator Silverstein. Mr. --

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Senator Silverstein seeks leave of the Body to return Senate Bill 2650 to the Order of 2nd Reading. Leave is granted. Now on the Order of 2nd Reading is Senate Bill 2650. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 1, offered by Senator Silverstein.

PRESIDING OFFICER: (SENATOR LINK)

Senator Silverstein, on your amendment.

SENATOR SILVERSTEIN:

I'll explain the amendment on 3rd.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the amendment? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill 2650. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2650.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Silverstein, on your bill.

SENATOR SILVERSTEIN:

Thank you, Mr. President. Senate Bill 2650 provides that a defendant whose conviction is reversed by a finding of factual

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innocence is not liable for any costs or fees by the clerk or the circuit court, or any charges incurred while detained in custody.
PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 2650 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, no Nays, none voting Present. Senate Bill 2650, having received the required constitutional majority, is declared passed. Senate Bill 2651. Senator Silverstein. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2651.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Silverstein, on your bill.

SENATOR SILVERSTEIN:

Thank you, Mr. President. Senate Bill 2651 provides that in cases of battery or aggravated battery, the court may consider as part of its sentencing that the defendant committed the offense with the specific intent to cause a victim to lose consciousness.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 2651 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, no Nays, none voting Present. Senate Bill 2651, having received the required constitutional majority,

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is declared passed. Senate Bill 2659. Senator Silverstein. Out of the record. Senate Bill 2664. Senator Hastings. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2664.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Hastings, on your bill.

SENATOR HASTINGS:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Senate Bill 2664 amends the Condominium Property Act to provide notice and cap the total amounts of back assessments a purchaser of a foreclosed condo unit may be responsible to pay. And I'll answer any questions.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Senator Murphy, for what purpose do you rise?

SENATOR MURPHY:

Question of the sponsor.

PRESIDING OFFICER: (SENATOR LINK)

Indicates he will yield.

SENATOR MURPHY:

Senator, the -- the fees and the costs that the condo associations want to continue to be able to collect, does the purchaser of the foreclosed property have the ability to pay those out of a mortgage loan from a bank or does that have to be a separate outlay of cash from the buyer that they can't borrow as part of their mortgage?

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PRESIDING OFFICER: (SENATOR LINK)

Senator Hastings.

SENATOR HASTINGS:

So that's -- those are monies that you cannot finance, Senator Murphy, and part of the reason for bringing this bill is because home buyers -- young home buyers, for that matter, that buy foreclosed condos are surprised when they go ahead and close on the property. And this bill clarifies how much those fees would be and it defines the time periods in which they have to know about 'em.

PRESIDING OFFICER: (SENATOR LINK)

Senator Murphy.

SENATOR MURPHY:

Thank you.

PRESIDING OFFICER: (SENATOR LINK)

Is there any further discussion? Seeing none, the question is, shall Senate Bill 2664 pass. All those in favor, vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 55 Ayes, 1 Nay, none voting Present. Senate Bill 2664, having received the required constitutional majority, is declared passed. Senate Bill 2682. Senator Hastings. Out of the record. We'll skip over that bill. Senate Bill 2717. Senator Sandoval. Senator Sandoval. Mr. Secretary -- oh! Senator Sandoval seeks leave of the Body to return Senate Bill 2717 to the Order of 2nd Reading. Leave is granted. On the Order of 2nd Reading is Senate Bill 2717. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

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Floor Amendment 1, offered by Senator Sandoval.

PRESIDING OFFICER: (SENATOR LINK)

Senator -- out of the record. Senate Bill 2727. Senator Steans. Senator Steans seeks leave of the Body to return Senate Bill 2727 to the Order of 2nd Reading. Leave is granted. On the Order of 2nd Reading is Senate Bill 2727. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 2, offered by Senator Steans.

PRESIDING OFFICER: (SENATOR LINK)

Senator Steans, on your amendment.

SENATOR STEANS:

Yes, this amendment becomes the bill. I'll explain it on 3rd.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the amendment? Seeing none, the question is -- all those in favor will say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill 2727. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2727.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

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Senator Steans, on your bill.

SENATOR STEANS:

Yes, thank you, Mr. President, Members of the Senate. This bill prohibits individuals from manufacturing for sale personal care products that contain plastic microbeads - these are used for exfoliation products - starting by the end of 2017. This -- I really want to thank the environmental groups and the Chemical (Industry) Council and the Manufacturing (sic) (Manufacturers') Association for working together on this bill. It's now an agreed-to bill. You know, these microbeads are being found in the Great Lakes, getting in -- collecting toxins, ingested by fish, and finding their way into the, you know, human system that way as well. Would urge an Aye vote on this.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 2727 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 54 Ayes, no Nays, none voting Present. Senate Bill 2727, having received the required constitutional majority, is declared passed. Senate Bill 2760. Senator Lightford. Out of the record. Senate Bill 2763. Senator Sandoval. Out of the record. We'll skip over to Senate Bill 2775. Senator Lightford. Out of the record. Senate Bill 2793. Senator Hutchinson. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2793.

(Secretary reads title of bill)

3rd Reading of the bill.

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PRESIDING OFFICER: (SENATOR LINK)

Senator Hutchinson, on your bill.

SENATOR HUTCHINSON:

Thank you, Mr. President and Members of the Senate. Senate Bill 2973 {sic}, as amended, requires the State Board of Education to issue a report on school discipline by October 31st, 2015. The report must include data on the issuance of -- of out-of-school suspensions, expulsions, and removals to alternative settings, disaggregated by race and ethnicity, gender, age, grade level, limited English proficiency, incident type, and discipline duration, and data on the use of arrests or criminal citations, disaggregated also by race and ethnicity, gender, and age. The bill also requires districts identified by the State Board as being in the top quartile in terms of number of arrests or racial disproportionality in the number of arrests to submit a school discipline improvement plan it will implement to reduce the use of harsh disciplinary practices. When we discussed this in committee, the one thing that we had a suggestion about, that was made pretty strongly by both Senators {sic} Barickman and Senators {sic} Rose on the Education Committee, was to make sure that we were clear in this bill that this only affected reports and data that come out of the school on school property - not something that happens in the community that the school would not have access to the data to report. We made those corrections in an amendment and we'd like the courtesy of an Aye vote to get this done today. Thank you so much. I'm happy to answer any questions.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Senator Rose, for what purpose do you rise?

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SENATOR ROSE:

Thank you. To the bill, Mr. President.

PRESIDING OFFICER: (SENATOR LINK)

To the bill.

SENATOR ROSE:

Just want to say thank you to the sponsor. We did have an amendment that she was going to bring back to committee and there was a snafu yesterday and that didn't happen. But the lady came over, talked to me and Senator Barickman, 'cause it was our amendment, and we have no problem with it going directly to the Floor. And I just wanted to say how gracious and courteous she was to come talk to us in advance. So thank you for that.

PRESIDING OFFICER: (SENATOR LINK)

Is there any further discussion? Seeing none, the question is, shall Senate Bill 2793 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 55 Ayes, no Nays, none voting Present. Senate Bill 2793, having received the required constitutional majority, is declared passed. Senator Hastings, for what purpose do you rise?

SENATOR HASTINGS:

A point of personal privilege, Mr. President.

PRESIDING OFFICER: (SENATOR LINK)

State your point.

SENATOR HASTINGS:

Today I'd like to welcome members and students from Union School District 81, which is in Joliet. Mayor Tim Baldermann, who is one of my mayors, in New Lenox, is our Superintendent from the

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school, and we have the great students and staff. We got Mickey Grygiel up there. If you guys want to stand up and wave, real quick. We'd like to give 'em a warm Springfield welcome. Welcome to you guys.

PRESIDING OFFICER: (SENATOR LINK)

Welcome to Springfield. Senate Bill 2808. Senator Biss. Senator Biss seeks leave of the Body to return Senate Bill 2808 to the Order of 2nd Reading. Leave is granted. On the Order of 2nd Reading is Senate Bill 2808. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 1, offered by Senator Biss.

PRESIDING OFFICER: (SENATOR LINK)

Senator Biss, on your amendment.

SENATOR BISS:

Thank -- thank you, Mr. President. The amendment becomes the bill. I'm happy to discuss it on 3rd Reading, if we could adopt it with your indulgence.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill 2808. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

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Senate Bill 2808.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Biss, on your bill.

SENATOR BISS:

Thank you, Mr. President, Members of the Senate. Senate Bill 2808 is concerned with the topic of location surveillance using electronic devices. So your cell phone, your GPS, your iPad and lots of other devices that exist in daily life today are able to track your location, which provides an incredible record of where you've been, and therefore, some might argue, what you've done, what you've thought, and what you believe. This bill concerns the use of -- of these technological devices by law enforcement to engage in surveillance, and it basically says that, with a list of exceptions, a law enforcement entity cannot engage in electronic surveillance using these devices for current and future location information without a search warrant. It was carefully negotiated between a number of law enforcement groups and the ACLU. And I want to particularly thank the Cook County State's Attorney's Office for really working closely with us and reaching the point that we're now at that I think is agreeable to most, if not all, sources. Happy to take any questions and I would certainly appreciate your Aye votes on this matter.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 2808 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that

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question, there are 52 Ayes, no Nays, none voting Present. Senate Bill 2808, having received the required constitutional majority, is declared passed. Senator Martinez, for what purpose do you rise?

SENATOR MARTINEZ:

For a point of personal privilege.

PRESIDING OFFICER: (SENATOR LINK)

State your point.

SENATOR MARTINEZ:

Well, today we have -- we're honored by this wonderful guest, and I got to say, I -- we should thank him because I'm here. He made sure that I live where I lived, and today I am the first Latina thanks to our former colleague, our former -- Assistant Majority Leader, our former Senator - once a Senator, always a Senator - Senator Miguel del Valle.

PRESIDING OFFICER: (SENATOR LINK)

A lot of us owe him in debt and -- I ask -- I thank him for the office - that was the best. Senator -- Senate Bill 2846. Senator Haine. Mr. -- Senator Haine seeks leave of the Body to return Senate Bill 2846 to the Order of 2nd Reading. Leave is granted. Now on the Order of 2nd Reading is Senate Bill 2846. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 3, offered by Senator Haine.

PRESIDING OFFICER: (SENATOR LINK)

Senator Haine, on your amendment.

SENATOR HAINE:

Thank you, Mr. President, Ladies and Gentlemen of the Senate.

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Senate Amendment No. 3 becomes the bill. It is an initiative of the Concerned Christians of America {sic} (Concerned Christian Americans) and many evangelical churches, those that operate bible colleges, a Baptist church and a Charismatic church and an independent church. And it does allow them the authority, if they meet certain conditions - if they are a nonprofit institution controlled and operated by a church, a religious denomination, or organization - to issue a religious - and it must state so - a religious degree for certain areas of -- of -- of study having to deal with that denomination's religious beliefs. And their degrees may be religious bachelor's degrees, religious associate's degree, and so on. Their -- their handbook must state these degrees are not approved by the State Board of Higher Education. On the degree itself, it must state in plain letters, not small print - these are not to be written by skillful lawyers; they're to be written by the clergymen - so it should be clearly observable and known to the person reading it that this is a degree which is not approved -- the study of which is not approved by the State Department of Higher Education. And with that, it passed out of committee. And I ask for an Aye vote.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the amendment? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill

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2846. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2846.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Haine, on your bill.

SENATOR HAINE:

Mr. President and Ladies -- Ladies and Gentlemen of the Senate, I repeat, reallege, reaffirm, reiterate, reemphasize what I just stated on the amendment, which is the bill, and I would pray for an Aye vote.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the bill? Seeing none, the question is, shall Senate Bill 2846 pass. All those in favor will say Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 55 Ayes, no Nays, none voting Present. Senate Bill 2846, having received the required constitutional majority, is declared passed. Senate Bill 2870. Senator Silverstein. Out of the record. Senate Bill -- 2889. Senator Althoff. Out of the record. Senate Bill 2922. Senator Haine. Senator Haine seeks leave of the Body to return Senate Bill 2922 to the Order of 2nd Reading. Leave is granted. Now on the Order of 2nd Reading is Senate Bill 2922. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 2, offered by Senator Haine.

PRESIDING OFFICER: (SENATOR LINK)

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Senator Haine, on your amendment.

SENATOR HAINE:

Thank -- thank you, Mr. President, Ladies and Gentlemen of the Senate. This is a initiative of Department of Insurance. It came to the Floor after a subject matter hearing in the committee. And what it does, it becomes the bill. It states that public adjusters may not charge or accept fees in consideration of excess of ten percent if it -- following what is termed a catastrophic event, meaning an occurrence of widespread or severe damage, tornadoes, earthquakes, et cetera. There'll be a following bill addressing the whole waterfront of public adjustment with consumers, but this is the first step. It brings the Department into a position to control what can only be termed as vultures who fly into an area that's beset by tragedy and sign people up to take money that is arguably going to be theirs anyway from insurance carriers.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the amendment? Senator Brady, for what purpose do you rise?

SENATOR BRADY:

Just stand in support of the gentleman's amendment and hope he passes the bill.

PRESIDING OFFICER: (SENATOR LINK)

Is there any further discussion? Seeing none, all those in favor will say Aye. Opposed, Nay. The -- the Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

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PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill 2922. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2922.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Haine, on your bill.

SENATOR HAINE:

Thank you, Mr. President. I would ask for an Aye vote.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the bill? Seeing none, the question is, shall Senate Bill 2922 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 54 Ayes, no Nays, none voting Present. Senate Bill 2922, having received the required constitutional majority, is declared passed. Senate Bill 2932. Senator Sullivan. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2932.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Leader Sullivan, on your bill.

SENATOR SULLIVAN:

Thank you, Mr. President, Members of the Senate. The legislation prohibits a towing service from removing a commercial

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motor vehicle under that vehicle's own power without the authorization of a law enforcement officer.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the bill? Seeing none, the question is, shall Senate Bill 2932 pass. All those in favor will say -- vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 29 Aye -- or, 55 Ayes, no Nays, 1 voting Present. Senate Bill 2932, having received the required constitutional majority, is declared passed. Senate Bill 2952. Senator Jacobs. Out of the record. Senate Bill 2979. Senator Muñoz. Out of the record. Senate Bill 2984. Senator Dillard. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2984.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Dillard, on your bill.

SENATOR DILLARD:

Thank you, Mr. President and Members. This is an initiative of the Illinois State Bar Association. It is identical to a bill which passed the Senate last year but was held up in the House, and it comes from the Estates and Trusts Section of the State Bar Association. Makes a change concerning decanting to clarify ways in which trustees can exercise discretion to distribute assets and make other changes for tax purposes. I know of no opposition. And, again, this bill has passed this Chamber once before, and I'd appreciate an Aye roll call.

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PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 2984 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, no Nays, none voting Present. Senate Bill 2984, having received the required constitutional majority, is declared passed. Skip over that bill. Senate Bill 3004. Senator Lightford. Out of the -- Senate -- out of the record. Senate Bill 3014. Senator Haine. Senator Haine seeks leave of the Body to return Senate Bill 3014 to the Order of 2nd Reading. Leave is granted. Now on the Order of 2nd -- now on the Order of 2nd Reading is Senate Bill 3014. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 3, offered by Senator Haine.

PRESIDING OFFICER: (SENATOR LINK)

Senator Haine, on your amendment.

SENATOR HAINÉ:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. This makes technical corrections. It becomes the bill. It makes changes to the Condominium Property Act as to insurance, requiring that insurance coverage to -- provided to a condominium association must be provided in an amount that is not less than the full insurable replacement cost of the insured's property sufficient to rebuild it. Specified coverage for directors and officers liability. Requires a condo board to purchase workers' comp insurance covering the employer's liability, and makes other technical changes. This is a negotiated bill. And it is -- as

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far as I know, there's no opposition. There is an effective date of June 1, and it -- these provisions only apply to policies after the effective date.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is -- all those in favor will say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill 3014. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3014.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Haine, on your bill.

SENATOR HAINE:

I would ask again for an Aye vote. It's a reasonable improvement in the regulations.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 3014 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, no Nays, none voting Present. Senate Bill 3014, having received the required constitutional majority,

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is declared passed. Senator Rezin, for what purpose do you rise?
SENATOR REZIN:

Thank you, Mr. President. For point of personal privilege.

PRESIDING OFFICER: (SENATOR LINK)

State your point.

SENATOR REZIN:

Up here in the gallery, above me, we have the Future Leaders Alliance group with the Illinois Bankers. I had the opportunity to speak to them today. They are young adults who have been identified from -- by their peers and presidents of the banks as futures in that industry. I'd like a warm Springfield welcome for them. Thank you.

PRESIDING OFFICER: (SENATOR LINK)

Welcome to the Illinois Senate. Senate Bill 3033. Senator Frerichs. Out of the record. Senate Bill 3092. Senator Delgado. Out of the record. Senate Bill 3110. Senator Hastings. Senator Hastings seeks leave of the Body to return Senate Bill 3110 to the Order of 2nd Reading. Leave is granted. Now on the Order of 2nd Reading is Senate Bill 3110. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 2, offered by Senator Hastings.

PRESIDING OFFICER: (SENATOR LINK)

Senator Hastings, on your amendment.

SENATOR HASTINGS:

Thank you, Mr. President. Senate Bill 3110 amends the Code of Civil Procedure by adding three exceptions where a physician or surgeon is permitted to disclose information he or -- he or she may have acquired in attending a patient in a professional

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character. The bill was agreed on in -- in the Judiciary Committee and there's no opponents.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the amendment? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill 3110. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3110.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Hastings, on your bill.

SENATOR HASTINGS:

Thank you, Mr. President. As amended, the bill was agreed on with no opponents to it, and I just ask for an Aye vote.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 3110 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, no Nays, none voting Present. Senate Bill 3110, having received the required constitutional majority, is declared passed. Leader Sullivan, for what purpose do you rise?

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SENATOR SULLIVAN:

Thank you, Mr. President. A point of personal privilege.

PRESIDING OFFICER: (SENATOR LINK)

State your point.

SENATOR SULLIVAN:

Ladies and Gentlemen, Mr. President, I have a couple other guests with me here today. They're also students at Western Illinois University. Sabah Kayyal, to my right, is from Mokena, Illinois, which is a constituent of Senator Hastings. She is a student at WIU. And to my left is Kayse Flostrand. She is from Canada and visiting, also a student at Western Illinois. And I thought it'd be an opportunity for everybody to welcome them to the Illinois Senate here today.

PRESIDING OFFICER: (SENATOR LINK)

Welcome to the Illinois Senate. Senate Bill 3112. Senator Althoff. Out of the record. Senate Bill 3139. Senator McCann. Senator McCann seeks leave of the Body to return Senate Bill 3139 to the Order of 2nd Reading. Leave is granted. On the Order of 2nd Reading is Senate Bill 3139. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 2, offered by Senator McCann.

PRESIDING OFFICER: (SENATOR LINK)

Senator McCann, on your amendment.

SENATOR McCANN:

Thank you, Mr. President. The amendment becomes the bill, and what the amendment does is essentially allows propane trucks to travel on State highways, weighing ninety thousand pounds, only when the Governor declares a State of energy emergency, just as he

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did this winter. So that becomes the bill.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the amendment? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill 3139. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3139.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator McCann, on your bill.

SENATOR McCANN:

Thank you, Mr. President. As I stated earlier, this is essentially negotiated language with the Governor's Office. I want to thank Illinois Department of Transportation and Illinois State Police for working with me on this. And I ask for an Aye vote.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 3139 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, no Nays, none voting Present. Senate

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Bill 3139, having received the required constitutional majority, is declared passed. Senate Bill 3144. Senator Syverson. Out of the record. Senate Bill 3171. Senator Trotter. Out of the record. Senate Bill 3176. Senator Trotter. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3176.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Leader Trotter, on your bill.

SENATOR TROTTER:

Thank you very much, Mr. President, Members of the Senate. Senate Bill 3176 is essentially a cleanup bill on -- that I'm presenting on behalf of the Illinois Department of Public Health. The bill changes the title to the Modular Dwelling and Mobile Safety -- Structure Safety Act. And second, it eliminates all reference to mobile homes and the Department of Housing and Urban Development from the Act. Third, the bill clarifies the role that the Department of Public Health has in regulation and certification, inspection and enforcement of penalties under this Act. And finally, the bill establishes the administrative law process that will -- be followed by the Department.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the bill? Seeing none, the question is, shall Senate Bill 3176 pass. All those in favor, vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 39 Ayes, 13 Nays, none

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voting Present. Senate Bill 3176, having received the required constitutional majority, is declared passed. Senate Bill 3225. Senator Morrison. Out of the record. Senate Bill 3255. Senator Tom Cullerton. Out of the record. Senate Bill 3264. Senator Haine. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3264.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Haine, on your bill.

SENATOR HAINE:

Thank you, Mr. President. It's a shell bill. The initial bill that was filed required the maintenance of insurance moneys for a trust in the eventuality the -- the -- the company -- the underlying company that was insured was sued. The -- it was perceived to be unworkable and we shelled the bill to move it to the House to see if better light can prevail.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 3264 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 41 Ayes, 12 Nays, none voting Present. Senate Bill 3264, having received the required constitutional majority, is declared passed. Senate Bill 3270. Senator McConnaughay. Out of the record. Senate Bill 3276. Senator Althoff. Out of the record. Senate Bill 3283. Senator Trotter. Mr. Secretary, please -- out of the record. Senate Bill 3306. Senator Rose. Out of

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the record. Senate Bill 3312. Senator Forby. Out of the record. We'll skip over 3318. Senate Bill 3364. Senator Brady. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3364.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Brady, on your bill.

SENATOR BRADY:

Thank you, Mr. President. This bill simply requires the prosecutors and the State's attorney -- excuse me, the sheriff and the State's attorney and the judge sign off on the boot camp.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Bill 3364 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 54 Ayes, no Nays, none voting Present. Senate Bill 3364, having received the required constitutional majority, is declared passed. Senate Bill 3369. Leader Harmon. Leader Harmon seeks -- seeks leave of the Body to return Senate Bill 3369 to the Order of 2nd Reading. Leave is granted. On the Order of 2nd Reading is Senate Bill 3369. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 1, offered by Senator Harmon.

PRESIDING OFFICER: (SENATOR LINK)

Leader Harmon, on your amendment.

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SENATOR HARMON:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. The underlying bill deals with the taxation of liquefied natural gas. The amendment extends this to propane. I would move for the adoption of the amendment.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the amendment? Seeing none, all those will -- in favor will vote {sic} Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Now on the Order of 3rd Reading is Senate Bill 3369. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3369.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR LINK)

Leader Harmon, on your bill.

SENATOR HARMON:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. The bill, as amended, creates a tax structure for liquefied natural gas and for propane that equalizes the tax based on energy content to a gallon of diesel fuel. It has broad support and no opposition of which I'm aware. I ask for your Aye votes.

PRESIDING OFFICER: (SENATOR LINK)

Is -- is there any discussion on the bill? Seeing none, the

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question is, shall Senate Bill 3369 pass. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 55 Ayes, no Nays, none voting Present. Senate Bill 3369, having received the required constitutional majority, is declared passed. With leave of the Body, we will go to Supplemental Calendar 1. Senate -- Senate Bill 1922. Senator Raoul. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

I move to concur with the House in the adoption of their Amendments 2 and 6 to Senate Bill 1922.

Signed by Senator Raoul.

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul, on your concurrence.

SENATOR RAOUL:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Senate Bill 922 {sic} amends the Chicago Municipal and Laborers' Pension Funds. The bill seeks to do so through the reduction of COLA for Tier 1 employees and retirees from the current three percent compounded to the lesser of three percent and {sic} (or) half of CPI. Similar, but not exactly the same, to what we did with Senate Bill 1. There is a provision in here for lower wage earners. Members with an annuity less than twenty-two thousand will receive at least a one percent COLA each year, including the year of the pauses. All future COLAs will be simple interest, opposed to compounded. Current and future retirees will not receive COLAs in the years 2017, 2019 and 2025, except, again, for those with an annuity less than twenty-two thousand. Future retirees will receive their first COLA one year later than under

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current law. Employee contributions are increased from the current 8.5 percent to eleven percent in .5 percent increments starting in 2015. Employee contribution will decrease to 9.75 percent once the Pension Fund reaches ninety percent funding. The bill reduces Tier 2 retirement age to sixty-five, as opposed to sixty-seven, for normal retirement and to sixty, as opposed to sixty-two, for early retirement with a reduced pension. The bill also increases the employer contributions over a five-year schedule until it reaches the ARC. The ARC is equal to the normal cost plus an amount to get the Pension Fund to ninety percent funded in the year 2055. The bill also creates a funding guarantee similar to that that was in Senate Bill 1 that will allow the funds a right of action. The bill, as opposed to in previous forms, does not grant the City additional taxing authority, nor does it require the City to levy any -- any property tax. The pension -- additionally as -- as an additional guarantee of the City making its payment, the pension boards can intercept State funds sent to the City if they fail to make the required contribution. This proposal is a product of negotiations between the City of Chicago and the affected collective bargaining units. Of the thirty-four collective bargaining units affected, thirty-one of them were in agreement to this proposal. So this proposal, as opposed to what we did in -- with Senate Bill 1, comes by way of agreement of negotiations with labor. It's important to note that the City of Chicago has experienced downgrades and the impact, if we do nothing, is major, not only on the City of Chicago, but I think it will reverberate throughout the State of Illinois. And as a result, I urge your Aye vote on this bill.

PRESIDING OFFICER: (SENATOR LINK)

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Is there any discussion? Senator Murphy, for what purpose do you rise?

SENATOR MURPHY:

Question of the sponsor, Mr. President.

PRESIDING OFFICER: (SENATOR LINK)

Indicates he will yield.

SENATOR MURPHY:

Senator, this bill does not address the massive Chicago police, fire, and teacher pension issues, does it?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

No, it does not. But I think it takes us a step towards resolving those, just as previous pension bills that we've had, such as park district, Met Water and the State funds, have taken us towards the direction of handling this.

PRESIDING OFFICER: (SENATOR LINK)

Senator Murphy.

SENATOR MURPHY:

When the park district and MWRD bills passed, those passed totally outside of the context of a property tax increase, and, in fact, no property tax increase occurred in conjunction with those reforms. Is that correct?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

Correct. And there's no property tax increase in this bill.

PRESIDING OFFICER: (SENATOR LINK)

Senator Murphy.

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SENATOR MURPHY:

The -- this specifically authorizes the City to levy at a higher rate than current law does. So it is -- property tax increase is contemplated in this bill. Is it not?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

This bill just increases their payment, just as we did with MWRD and park district.

PRESIDING OFFICER: (SENATOR LINK)

Senator Murphy.

SENATOR MURPHY:

Unlike the park district and MWRD, the City has made clear they intend to pay that with a property tax increase. Is that correct?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

It's -- I'm not sure exactly who in the City you're talking about. There's nothing -- there's nothing in the bill that I'm bringing forth as Senator Raoul that has a property tax in it. You'd have to talk to the City directly to get that representation.

PRESIDING OFFICER: (SENATOR LINK)

Senator Murphy.

SENATOR MURPHY:

And I -- I appreciate what you're saying in that regard and the City would have to vote on it. Have you heard from representatives of the City or seen any public comments from representatives of the City that they intend to raise property

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taxes to pay for pensions?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

You know, I've heard different things over time, so I don't know what -- I can't -- you know, I'm not on the city council and I'm certainly not Mayor, so I can't comment definitely on what the City will do. They may well -- I mean, they're going to have to have some sort of revenue to -- to make this increased payment. It may very well be a property tax increase. But it's important to note that there's nothing in this bill that suggests or mandates that they do it through one revenue source versus another.

PRESIDING OFFICER: (SENATOR LINK)

Senator Murphy.

SENATOR MURPHY:

I do find it interesting that not even you, their sponsor, is clear on their intentions of what they intend to do with the authority that they're seeking with this legislation, which kind of leads me into my next area of concern. Police, fire, teachers, I assume that's going to require more revenue for the City too. Are you aware of any plans for the City with regard to how they intend to handle those three crises?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

I believe the City intends to negotiate with those affected bargaining units, just as they negotiated with the bargaining units affected here. That's the ideal way of doing things, and I compliment the City for that -- taking the course of negotiating

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with the representatives of the employees who are affected by -- by these changes. With regards to me being the sponsor and not knowing exactly what the City is going to do with regards to revenues, what's more important to me is that we make sure, through the legislation that we pass, that the City makes their full payment. And that's what we're doing here. And -- and to protect the employees affected by this, we put in some -- a funding guarantee and an interceptor clause to make sure the City does what they need to do to protect the retirement funds of the affected employees.

PRESIDING OFFICER: (SENATOR LINK)

Senator Murphy.

SENATOR MURPHY:

And it's great that they're going to negotiate. The negotiation in this bill, which did not -- lead to an agreed bill -- but this requires, as you've acknowledged, more revenue for the City. This negotiated bill right here involves the City somehow coming up with more revenue. It sounds as if the next three are going to require more revenue for the City too. We are being asked, as partners here, to put our blinders on and assume that they're not coming down here asking for that revenue. But just trust us on where we're going to get it. But we're not going to Springfield to pick all the rest of the State's taxpayer's pockets to get it. What is the plan for coming up with the revenue to solve the totality of the City of Chicago's pension problems, rather than just doing this on a piecemeal basis? Do you have any idea how much money they think they need to raise in additional revenue for the other systems and what their plan is to raise that revenue?

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PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

I'm -- I'm certain that the Mayor would take your call and -
- and -- and inform you of that. What I'm dealing with is these
two funds right here. I think, as you've alluded to, there --
there -- there have been some discussions of some avenues of
raising revenue that, quite frankly, are consistent with
recommendations that have come from Members from your side of the
aisle. So -- so I would say that the Mayor's office is listening
to you and you can probably have that conversation and get more
accurate information there.

PRESIDING OFFICER: (SENATOR LINK)

Senator Murphy.

SENATOR MURPHY:

To the bill, Mr. President. Senator...

PRESIDING OFFICER: (SENATOR LINK)

To the bill.

SENATOR MURPHY:

...as always I appreciate your willingness to work pension
reform bills. We have concerns about this. At this point, I have
concerns about this. I don't want that to be misconstrued as
diminishing the -- the effort that's being undertaken. The fact
that these negotiations are going on is a positive thing. The
fact that steps are being taken to try to get the City of Chicago
on better financial footing is a positive thing - not just for the
City, but for this whole State. But we don't know and we've been
asking since this started last week for the whole picture. Give
us the whole picture. We heard last week from the Governor about

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a property tax rebate. And the most curious thing in the world is, a property tax rebate from the State that, based on property values, skews heavily towards benefitting City of Chicago residential property owners, comes just right before the City comes down and says we're going to have to raise property taxes to bail out this pension fund. So what that looks like to me, when it's read together, is a State bailout of the City of Chicago's pension system. And that's just the first one. We have three more of these systems. We've been asking: How are you going to deal with those? Where's the money going to come from to deal with those? We're starting to get a little worried here that you're coming into our pocket for it. We'd like to have some -- some sense of -- of -- of security that, you know, you're not going to come down, try and use your supermajorities down here and jam a big bailout on us. We haven't gotten that information. We haven't been told what the broader plan is. There's been some suggestion that there isn't one, which is scarier even than not telling us. What's the plan? The place is on fire up there. What's the plan? This piecemeal approach does not give us the sense of security we need at this point in time to support this. And one last point: This is a serious issue. We still want to help solve these problems; but the City of Chicago is not going to slink into Lake Michigan between now and when we get back here, when we have a chance to evaluate the totality of your approach to solving this problem, where the revenue is going to come from, and actually engage us like partners, if you want us to be partners, rather than just dictating to us, "Hey, guys, the time's now, go get in your chair and do what you're told." We want to know what the plan is. I respect the fact that you think I should know that too, but right

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now we don't have that information. And so, at this juncture, I would encourage a No vote.

PRESIDING OFFICER: (SENATOR LINK)

Leader Radogno, for what purpose do you rise?

SENATOR RADOGNO:

Thank you, Mr. President. To the bill.

PRESIDING OFFICER: (SENATOR LINK)

To the bill.

SENATOR RADOGNO:

Well, thank you. I am actually glad that we are finally dealing with the Chicago pension issues. It's no secret the City has serious, serious financial problems and, frankly, it's outrageous that it was allowed to get as far as it has. So I'm glad it's on the radar screen. But I was first made aware of this nine days ago and pretty much presented as "This is the way it's going to be." We made some suggestions. I certainly want to give the City credit for taking some of those suggestions, including removing the reference to us forcing the City to raise the property taxes, some tweaking of the findings. So there has been some back and forth. But, as you know, down here nothing occurs in a vacuum. And I think Senator Murphy pointed out a few of our concerns. One being, what's next? There's a six-hundred-million-dollar problem coming for the police and fire. Is it property taxes? Is it -- is it gaming? If it is gaming, then let's talk about what that's going to look like, the governance, who's getting the money. All of this fits in together, which is why we want to have a plan. It's irresponsible on our part to rush in and take action when we don't have the full picture. The beauty of letting something like this lay out there is, as it's out there, we hear more and more

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good ideas of things that we ought to be considering in conjunction with this. There's a lot of energy behind this issue of pensions. There's not so much energy behind the equally important issue of police and fire pensions across the State. There's no reason that these shouldn't be dealt with together. Now I've raised that concern and, to his credit, the Mayor said, absolutely, he's going to partner, but we have absolutely nothing to make sure that happens. And absent that insurance, it would be irresponsible of us just to jump on board, get this done and move on. Issues here are complicated and interrelated, and we're kidding ourselves if we don't think it is. We want to help the City. It's important to all of us. It is the economic engine of this State. But it will be here in two weeks, and we're happy to partner with you, but it must be a true partnership. So I would certainly urge our Members at this point to vote No on this proposal.

PRESIDING OFFICER: (SENATOR LINK)

Senator Sandoval, for what purpose do you rise?

SENATOR SANDOVAL:

Thank you, Mr. President. To the bill.

PRESIDING OFFICER: (SENATOR LINK)

To the bill.

SENATOR SANDOVAL:

Ladies and Gentlemen of the Senate, there's no doubt, from hearing some of the rhetoric this afternoon, that the chickens have come home to roost in the City of Chicago. You've -- you've heard it acknowledged by the Mayor of Chicago. You've heard it acknowledged by our city councilmen in Chicago. For those of you who represent parts of the City of Chicago, you -- for those who don't represent the City of Chicago, I'd ask you to refrain from

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even commenting on this bill. This Mayor -- this issue has been around for three years. For three years, we've been asking the City of Chicago to get with the program, roll up their sleeves and tackle this problem - the pensions, Chicago's livelihood, working people. You know, and it's taken Rahm Emanuel, in a very bold and gutsy move right before an election cycle, to roll his sleeves up and try to get the job done, the same job that we took upon ourselves just last year. You know, I don't want to be involved in micromanaging my city councilmen, my aldermen, or my Mayor in the City of Chicago. That's what they got elected to do. That's what the aldermen got elected to do. We're simply giving them the authority to -- for them to -- to do their jobs and according to the way the people will want them to complete their jobs in the City of Chicago. Who are we to demand and ask, you know, their particular plans and et cetera, as we -- this has been suggested this afternoon? I think it's petty. I think that Mayor Rahm Emanuel should be commended for a bold and gutsy move by asking the Legislature for authority to proceed in taking care of a local problem that exists in the City of Chicago. And I ask a favorable vote.

PRESIDING OFFICER: (SENATOR LINK)

Senator Brady, for what purpose do you rise?

SENATOR BRADY:

Thank you, Mr. President. I stand in opposition to the bill. With all due respect to Senator Sandoval and Senator Raoul, I do understand the complexities and the need for reforms here. And we did work in a very long and arduous process to bring some resolution to the four State systems. But there are problems that affect the municipalities throughout the State of Illinois, not

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just the City of Chicago. And our only leverage in dealing with that is to deal with it in a comprehensive way. The same way we did with the four State pension systems. This issue must be addressed. We know that. We all care, whether we live in deep southern Illinois, like Senator Forby, or -- or the Galena Territories, like Senator Bivins. We all care about Chicago, because as goes Chicago, so goes the State of Illinois; but as goes Illinois, so goes Chicago. We have to work together on this in a comprehensive way. But there's several reasons I oppose this legislation at this time. One is, I firmly believe that those local municipalities need to take responsibility for their own governance. And for us to institute reforms without some -- without some buy-in, formally - and I'm talking about them actually voting to adopt reforms that we may say provide them with some day - needs to be in the bill. They need to be on the record of saying we want these reforms to affect our retirees, because it's not just the people in this bill; it's -- it's State -- it's -- excuse me, it's police officers, it's firefighters and others who will be adversely affected, and -- and they need to have their say not just here at the State level, but at the local level as well. I will compliment the Mayor. I talked to him yesterday and today. He's -- he's actually addressing the issue and trying to deal with it, but I do think that we, like in the past pension reform areas, we can do more to resolve this. But I will also say to you this, I think it's important that the Governor weigh in. For us to pass a bill only to have the Governor veto it, for whatever purposes he may have, is not right. That's not the way we passed pension reform in the past, and that's not the way we should address this pension reform. We need to deal with this comprehensively for the

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whole State, at the local level. We need local buy-in by affirmative vote at the local level and we need the Governor to say he's willing to support this measure. I think those are serious considerations. We have some time left to deal with that yet in this Session, so I would recommend a No vote on this particular piece of legislation this particular day.

PRESIDING OFFICER: (SENATOR LINK)

Senator Biss, for what purpose do you rise?

SENATOR BISS:

To the bill, Mr. President.

PRESIDING OFFICER: (SENATOR LINK)

To the bill.

SENATOR BISS:

Thank you, Mr. President. Members of the Senate, I rise in support of this bill. To -- to be simple about it, it seems to have a few critical ingredients. First of all, it incorporates some truly shared sacrifice in -- in as clear and straightforward a way as I think we've seen in any of the major pension bills that have come before us. Second of all, it's the product of painstaking negotiation. I understand imperfect negotiation. I understand negotiation where ultimately not everyone was in agreement, and that's -- that's short of ideal and -- and important to be noted, but, nonetheless, a significant negotiation with very significant agreement. And -- and finally, it puts us on a path for these two pension systems to get to a place where we have actuarial funding and an affordable system that will be there for its beneficiaries and enable the City of Chicago to do what it needs to do. I just want to comment really briefly on two kinds of arguments I -- I feel like I'm hearing in opposition to this

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bill that I -- I find a little bit baffling. The first is this idea that all of a sudden it seems to be the case that there's no urgency here. There's no rush. It's no big deal. We can go home for a couple weeks and think it over and maybe change our minds and write a different bill and do something else. We have a big problem. The City of Chicago has a very, very large problem. There's a series of major questions on this and other pension systems on revenue for the City of Chicago, on revenue for the State of Illinois that need to get worked out soon. We have to move forward and there is, I would argue, very clearly, significant, significant urgency here. And the other kind of argument that I -- I want to speak about for a moment is this idea that we shouldn't do the right thing now 'cause we're worried that someone else might not do the right thing later. And that -- that's a real recipe to never do the right thing. Yes, this is one step and it will require action from the City. That's true. And, yes, this is one pension fund. I -- I actually -- and I apologize, Senator Sandoval, I don't represent any of the City of Chicago, so I'll try to -- try to shut up soon. I represent ten suburban municipalities and they have -- they have concerns regarding their fire and police pension funds. The City of Chicago has significant concerns regarding its fire and police pension funds. There is -- the concerns regarding the Chicago Teachers' Pension Fund, and so forth. But the truth of the matter is, we have to take steps as rapidly as we can. Adjournment is scheduled for May 31st. This is a bite. It's not the end of the story. It's a big bite. It'll allow us to take further steps afterwards. And if we think that it's critical and a reasonable time frame before it's too late for the City, before it's too late for the

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State, to take the kind of action needed to stabilize our systems, I think it's important that we take this opportunity presented to us today and cast Aye votes. Thank you very much.

PRESIDING OFFICER: (SENATOR LINK)

Leader Harmon, for what purpose do you rise?

SENATOR HARMON:

Thank you, Mr. President. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR LINK)

Indicates he will.

SENATOR HARMON:

Thank you, Mr. President. Senator, could you help me? Can you walk through, with slightly more precision, the provisions relating to the -- the cost-of-living allowance?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

Yes, Senator. The -- the cost-of-living allowance, which currently is at three percent compounded, which I understand rose to that level for at least some of the units in -- in 1999, would be changed to three percent or half of CPI, the lesser of -- of those two.

PRESIDING OFFICER: (SENATOR LINK)

Leader Harmon.

SENATOR HARMON:

Thank you, Mr. President. Could -- could you elaborate on the -- I don't know if I would describe it as a safe harbor or the additional protection for those with -- with small annuities and what that means to the -- the folks who are really most at risk?

PRESIDING OFFICER: (SENATOR LINK)

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Senator Raoul.

SENATOR RAOUL:

Yes, certainly. So, as you know, the consumer price index fluctuates. It can go way high or it can go way low, and it can go -- certainly can go below one percent. What we try to do is to provide a protection for those with the lower wage; that if -- if the CPI goes below one percent, it will not do so for them. In addition, they would get that level of -- of -- of COLA in the years that others would otherwise be -- be delayed.

PRESIDING OFFICER: (SENATOR LINK)

Leader Harmon.

SENATOR HARMON:

Thank you, Mr. President. I'd like to turn now to this -- this specter of -- of a property tax increase. There's nothing in the bill before us today that demands the city council of the City of Chicago to raise property taxes, is there?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

No, there is not, Senator.

PRESIDING OFFICER: (SENATOR LINK)

Leader Harmon.

SENATOR HARMON:

And the City could easily, at least as a -- as a matter of law, if not politics, find another revenue source - a sales tax, some other fee or charge or collection of taxes - besides a property tax. Is -- is that fair?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

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SENATOR RAOUL:

That is correct.

PRESIDING OFFICER: (SENATOR LINK)

Leader Harmon.

SENATOR HARMON:

Could you -- thank you, Mr. President. Could you please tell me a little bit more about the State intercept, the -- the -- the -- the insurance that the bill offers that if the City does not find an adequate revenue source the contributions to the pension funds will still be made?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

Yes, Senator. That intercept is the same as currently exists with the Illinois Municipal Retirement Fund, which is, you know, due in part to that, is, I think, at some ninety-six percent funded.

PRESIDING OFFICER: (SENATOR LINK)

Leader Harmon.

SENATOR HARMON:

Thank you, Mr. President. The last thing I'd like to ask you about is the notion that we are somehow doing this in a piecemeal fashion. My recollection, when we passed the -- when we created a second tier of pension benefits, we did so for the five State systems and for city and county systems other than police and fire. Is that your recollection as well?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

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That is my recollection as well.

PRESIDING OFFICER: (SENATOR LINK)

Leader Harmon.

SENATOR HARMON:

And then when we came back and we -- we -- we subsequently enacted police and fire reforms and similarly when -- but when we did the most recent pension reform here in December, we did them only for four State systems. I don't recall any complaints about piecemeal reform at that point. Do you?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

My recollection is the same as yours, Senator.

PRESIDING OFFICER: (SENATOR LINK)

Leader Harmon.

SENATOR HARMON:

Thank you. Just one last question. We've already begun this process. We've done the Chicago park districts and the Metropolitan Water Reclamation District. So, for folks who are complaining about a piecemeal approach, we've already -- we're already two steps down that path and this is just a third step. Would you fairly characterize it that way as well?

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul.

SENATOR RAOUL:

Yes, I would. And I -- I would note that some of the folks complaining about that piecemeal voted for those piecemeal measures.

PRESIDING OFFICER: (SENATOR LINK)

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Leader Harmon.

SENATOR HARMON:

Thank you, Mr. President. To the bill.

PRESIDING OFFICER: (SENATOR LINK)

To the bill.

SENATOR HARMON:

This is wholly unpleasant business. I -- I don't think there's anyone in the Chamber that takes any joy in doing what we are being asked to do. But it is necessary. The -- we all understand the -- the dramatic political footprint in this building left by the firefighters, by -- by the -- the police unions, by the teachers' unions. I have no doubt in my mind that, when the time comes, they will be able to stand up and fight for a negotiated deal that serves their members. The folks that we are impacting today are the lowest paid and the least politically powerful and this provides a degree of protection and assurance that they will not only get a pension, but also that they -- those at the lowest end of the annuity spectrum will have additional protections. I don't believe that this is piecemeal. We all understand we act when we have the capacity to act. We've done it time and time again on pension reform. We take what we can take and this is the product of a negotiation and a -- an agreement. There's a long list of unions that are neutral on this bill. We all understand the -- the immense significance of a stand of neutral on such a controversial matter. This is unpleasant business. I -- I take comfort, however cold it may be, in that I think history will judge us much more kindly than our current critics do. This is unpleasant, but we are saving the State, we are saving the City, and perhaps most importantly, I -- I truly believe we are saving

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pensions for the folks to whom we have promised them, the folks who are relying upon them, the folks who are sitting home nervous that we are going to take them away. We need to give them a promise that there will be a pension there that secures them in their retirement. I, as unpleasant as it is, urge an Aye vote.

PRESIDING OFFICER: (SENATOR LINK)

Leader Muñoz.

SENATOR MUÑOZ:

Thank you, Mr. President. To the bill.

PRESIDING OFFICER: (SENATOR LINK)

To the bill.

SENATOR MUÑOZ:

Ladies and Gentlemen of the Senate, we -- in this Chamber last Session, we had to do our pension reform bill for the State and there was a lot of debate for a number of hours, not only in this Chamber, in the other Chamber, in the House, where they negotiated for hours and weeks on end. Well, at the end of the day, we passed our pension reform bill. Even though there was a lawsuit filed, guess what? Within two days later, we made national news. Our bond rating went up for the State and they said the State of Illinois passed pension reform. We had no choice. We had to do it. Well, this is the problem that the City is having now. This is their crisis. This is the problem that they are addressing right now with this bill because of underfunding the pensions. I want to commend the unions that came and sat down and did the negotiations with the Mayor and his team. Like our colleagues said, it wasn't easy. It was a lot of hours. Not everybody's happy, but the majority of 'em came together to get this bill done. You know, in the years that I've been here in the

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Senate, my whole district's in the City of Chicago, but a lot of you know when the downstate need me for votes, I'm always there. When my colleagues across the aisle need me, I always work well with you as well. Today, Ladies and Gentlemen, this bill is about the City of Chicago. They're not asking any money from the State right now. The Mayor will address that problem. When the bill passes, he will deal with it with the city council members. This is not off our backs. But I will tell you this, this is a major bill for the City of Chicago. How are we going to be able to tell people that have worked for many, many years and they're -- they don't have a pension? Well, why wait? The time is now to move on it. Please, I ask you to vote Aye on this bill.

PRESIDING OFFICER: (SENATOR LINK)

Our last speaker, President Cullerton.

SENATOR J. CULLERTON:

Thank you, Mr. President, Members of the Senate. Well, as you're aware, this bill represents an example of where a public employer and public sector unions can actually agree to take action requiring shared sacrifice to try and stabilize a public pension system. This bill is similar, very similar, to what occurred with the Chicago Park District bill that we passed and with the Water Reclamation bill that we passed. And in my view, the fact that labor and management can reach an agreement provides the reason why you should vote for this bill. Now, this bill also contains constitutional concerns that were raised by myself. And I articulated them when those other bills passed. But as I said then, I say again, I'm not a member of the Supreme Court and it would be up to the courts to decide if this bill and those other bills that we've passed are constitutional. But we have to pass

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a bill to get it to the court. And we already have a bipartisan effort on this bill. I want to commend the twenty-three Republicans in the House who voted for this bill, and single out Leader Durkin, who was one of those. I also want to thank the thirty unions that sat down and negotiated with the Mayor's representatives and agreed to sacrifice. The plan is to pass this bill. That's the plan. And then the Mayor will sit down with the other unions that represent those other workers and attempt to get an agreement, just as this bill received the support of thirty unions. But we need to start now. I urge an Aye vote.

PRESIDING OFFICER: (SENATOR LINK)

Senator Raoul, to close.

SENATOR RAOUL:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. It's been suggested that it is irresponsible for us to rush and irresponsible for us to take action now. I'd like to suggest that it's irresponsible for us not to act. It's irresponsible for us not to act when, as has been mentioned, labor and employer, labor and the City has come to the table, and while there's not complete agreement with all of the collective bargaining units affected, if you would have told me that this moment would have come where thirty-one out of thirty-four of the collective bargaining units agree to a package that is being submitted to the General Assembly, I would have told you I don't believe that that's going to happen. There's no way that that's going to happen. But that's what we have in front of us today. And I appreciate the concerns of the collective bargaining units who have not come to an agreement on this package. And I -- I appreciate some of the rhetoric and I don't appreciate other rhetoric I've heard with regards to the

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impact on low wage earners. So, to those who suggest that we wait and wait till court decisions have been made or -- or to those who suggest that we wait till some -- some kumbaya, fairytale day, where there's just this big huge omnibus bill that takes in every pension fund in the State and we do it all at once, I'd like to suggest to you that waiting has consequences - real consequences to the very people that people are hanging their hats on saying that they're protecting by voting No to this bill, real consequences that could lead to a lot of those very people not having their jobs as a result of downgrades. And if you're really talking about representing those people, you have to appreciate what you're doing when you cast a No vote on this bill. And I understand that there may be some people who'd like to wait so they can deal make. I'd like to suggest to you that this is too serious of a matter to play that political game with. I urge a Aye vote. I urge you to be responsible.

PRESIDING OFFICER: (SENATOR LINK)

The question is, shall Senate Bill 1922 -- oh, wait. The question is, shall the Senate concur in the House Amendments 2 and 6 on Senate Bill 1922. All those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there 31 Ayes, 23 Nays, 2 voting Present. Senate Bill 1922, having received the required constitutional majority, the Senate does concur with the House Amendments 2 and 6 to Senate Bill 1922. The bill is declared passed. With leave of the Body, we'll go back to Senate Bills 2nd Reading. Senate Bill 2929. Senator Sandoval. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

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Senate Bill 2929.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Human Services adopted Amendment No. 1.

PRESIDING OFFICER: (SENATOR LINK)

Are there any...(microphone cutoff)...approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 2620. Senator Sandoval. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 2620.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3538. Senator Sandoval. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3538.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Criminal Law adopted Amendment No. 1.

PRESIDING OFFICER: (SENATOR LINK)

Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 2, offered by Senator Sandoval.

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PRESIDING OFFICER: (SENATOR LINK)

Senator Sandoval, on your amendment.

SENATOR SANDOVAL:

Thank -- thank you, Mr. President. Senate amendment corrects -- makes some minor changes for nuances like taggers and so forth and so I -- discuss the -- the bill on 3rd Reading.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Senate Bill 3574. Senator Sandoval. Mr. Secretary, please read the bill.

SECRETARY ANDERSON:

Senate Bill 3574.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Revenue adopted Amendment No. 1.

PRESIDING OFFICER: (SENATOR LINK)

Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

Floor Amendment No. 2, offered by Senator Sandoval.

PRESIDING OFFICER: (SENATOR LINK)

Senator Sandoval, on your amendment.

SENATOR SANDOVAL:

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Thank you, Mr. President. The amendment makes some technical changes to the natural gas -- Vehicle Code. I'd ask to move it on 3rd.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion on the amendment? Seeing none, all those in favor will say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY ANDERSON:

No further amendments reported.

PRESIDING OFFICER: (SENATOR LINK)

3rd Reading. Mr. Secretary, Messages from the House.

SECRETARY ANDERSON:

Message from the House by Mr. Mapes, Clerk.

Mr. President - I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to wit:

House Bill 3744.

We have received like Messages on House Bills 4205, 4496, 5290, 5331, 5348, 5438, 5584, 5593, 5657, 5697, 5819, 5852 and 5925. Passed the House, April 8th, 2014. Timothy D. Mapes, Clerk of the House.

PRESIDING OFFICER: (SENATOR LINK)

Mr. Secretary, Senate Bill -- Senate Resolution 1012. Please read the resolution.

SECRETARY ANDERSON:

Senate Resolution 1012, offered by Senator Hutchinson.

PRESIDING OFFICER: (SENATOR LINK)

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Senator Hutchinson, on your resolution.

SENATOR HUTCHINSON:

Thank you, Mr. President and Members of the Senate. Senate Resolution 1012 designates Tuesday, April 8th, 2014, as Pay Equity Day in the State of Illinois to raise awareness about income gender inequity. Today is the day that women catch up. It takes till April 8th of this year for a woman to make the same amount of money on average as a man. Thank you so much for your support.

PRESIDING OFFICER: (SENATOR LINK)

Is there any discussion? Seeing none, the question is, shall Senate Resolution 1012 pass. All those in favor will say Aye. Opposed, Nay. The -- the Ayes have it, and the resolution is adopted. Mr. Secretary, Supplemental Calendar 2. Please read House Joint Resolution Constitutional Amendment 1 for the first time. Mr. Secretary, read House Joint Resolution Constitutional Amendment 1.

SECRETARY ANDERSON:

House Joint Resolution Constitutional Amendment 1.

(Secretary reads HJRCA No. 1)

1st Reading in full of this House joint resolution constitutional amendment.

PRESIDING OFFICER: (SENATOR LINK)

Mr. Secretary, please also read in full for the first time House Joint Resolution Constitutional Amendment 52.

SECRETARY ANDERSON:

House Joint Resolution Constitutional Amendment 52.

(Secretary reads HJRCA No. 52)

1st Reading in full of this House joint resolution constitutional amendment.

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PRESIDING OFFICER: (SENATOR LINK)

Will all Members at the sound of my voice please go directly to the committees -- rooms? Please, all Members at the sound of my voice please go directly to committee rooms. There being no further business to come before the Senate, the Senate stands adjourned till the hour of 10 a.m. on the 9th day of April, 2014. The Senate stands adjourned.

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CHANCERY DIVISION

MARY J. JONES, LINDA BALLENTINE,)
SYDELL F. HATCHETT, LAVERNE)
WALKER, BERNICE MOORE, BARBARA)
LOMAX, SAMANTHA NEEROSE,)
WYLENE L. FLOWERS, ARLENE)
WILLIAMS, GLORIA E. HIGGINS,)
WILLIE B. WILLIAMS, MARQUETTE)
DUNN, EMMA G. HOLMES, LAGRETTA)
GREEN, AMERICAN FEDERATION OF)
STATE, COUNTY AND MUNICIPAL)
EMPLOYEES COUNCIL 31, CHICAGO)
TEACHERS UNION LOCAL 700 and)
ILLINOIS NURSES ASSOCIATION,)

Plaintiffs,)

v.)

MUNICIPAL EMPLOYEES' ANNUITY)
AND BENEFIT FUND OF CHICAGO and)
BOARD OF TRUSTEES OF THE)
MUNICIPAL EMPLOYEES' ANNUITY)
AND BENEFIT FUND OF CHICAGO,)

Defendants.)

and)

CITY OF CHICAGO,)

Intervenor.)

Case No: 2014 CH 20027

Hon. Judge Rita M. Novak

AFFIDAVIT OF LOIS SCOTT

I, Lois Scott, being duly sworn, state that I have personal knowledge of the following facts and, if called, could and would testify to them:

1. I am the Chief Financial Officer ("CFO") for the City of Chicago (the "City"). I have held this position since May 16, 2011.

2. As CFO, my responsibilities include managing the City's \$20-plus billion debt portfolio and other long-term financial liabilities. I also sit on the board of two of the four pension funds for employees and retirees of the City. In addition to my work for the City, I founded the Municipal CFO Forum, an association of the chief financial officers of the top 30 U.S. cities.

3. Prior to joining the City, I had a long career in the financial advisory and capital markets fields. Most recently, I co-founded and served as president of Scott Balice Strategies, a leading financial advisor to governments nationwide. Before that, I ran the Chicago public finance offices for Donaldson, Lufkin, & Jenrette, which was subsequently acquired by Credit Suisse, and for Banc of America Securities. From 1997-1998, I was a White House Fellow, and was selected to serve President Clinton's administration on a range of policy matters. In that capacity, I was assigned to the Chairman of the U.S. Export-Import Bank.

4. I earned a bachelor's of science degree and a Masters of Business Administration from Cornell University.

I. Summary of Affidavit

5. The City's outstanding long-term debt obligations currently total approximately \$21.4 billion, and have increased materially in the last 10 years. This amount of debt is not sustainable over the long term and would need to be addressed independent of the underfunding crisis confronting the four pension funds covering the City's employees and retirees. At the same time, the two problems are related, as the pension funding crisis adversely impacts both the City's access to the capital markets and its borrowing costs, which, in turn, negatively affect the City's efforts to stabilize and reduce its overall debt.

6. The City's ability to access capital markets is critical to its operations. The City's extensive and aging infrastructure requires funding to maintain. The City does not have, and cannot reasonably collect, sufficient revenue within its annual budget process to fund capital

improvement projects in addition to its ongoing operations on a pay-as-you-go basis. Therefore, the City typically borrows money to finance capital improvement and maintenance projects by issuing bonds, which are then paid back over time. For a city as large as Chicago, this is an absolute necessity. The City cannot operate without capital improvement financing.

7. The City's ability to borrow money is hampered by the pension funding crisis, which has reduced the City's credit ratings. Over the past 18 months, the credit ratings on the City's general obligation bonds have been downgraded multiple times, and the ratings agencies have explicitly cited the pension crisis as the reason for the downgrades. As a result of the pension crisis, the City's credit rating currently is lower than any major city other than Detroit, which just exited bankruptcy. Perhaps more ominously, the "negative outlook" placed on the City's credit by all three of the major ratings agencies is an explicit threat of further downgrades if the pension underfunding crisis is not solved.

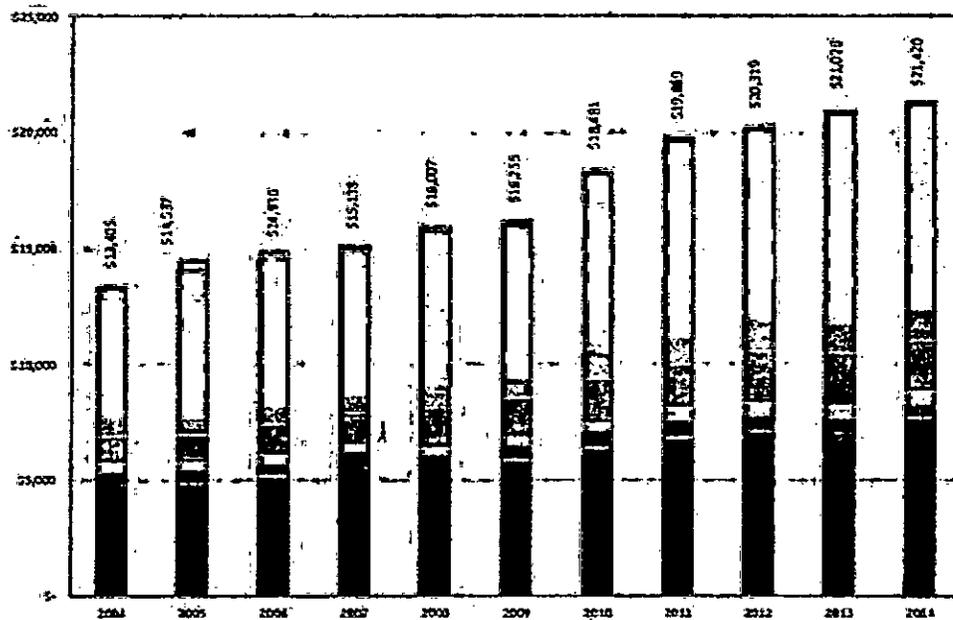
8. If SB1922 were to be enjoined or found unconstitutional, there is a significant risk that the City's credit rating would be further downgraded by one or more notches. The consequences of such downgrades would be material, and irreparable, to the City. The City's borrowing costs would increase, likely costing hundreds of millions of dollars over the terms of bonds issued while the ratings are at the downgraded levels. In addition, depending on the extent of further downgrades, the City could incur up to \$350 million in termination costs and be forced to try to refinance up to \$3.75 billion in various credits, all on substantially worse terms than the City has now. Additional downgrades would also further decrease the number of banks and investors willing to provide credit to the City, which would make raising the money needed for capital projects and essential services even more difficult than it is today.

II. The Current City Debt Burden

9. The City relies on debt for essential City projects and services. The City's primary form of debt is bonds. Each type of bond is paid from a particular source of revenue. General obligation ("G.O.") bonds are funded with property tax revenues or, for a small subset, other sources of revenue. Other bonds are funded by dedicated revenues such as sales taxes, motor fuel taxes, TIF revenue, water and sewer fees, and airport operations revenue.

10. The City's bond obligations are significant, and they have increased substantially over the past decade, reaching over \$21.4 billion in 2014—60% more than in 2004:

OUTSTANDING LONG-TERM DEBT
\$ Millions

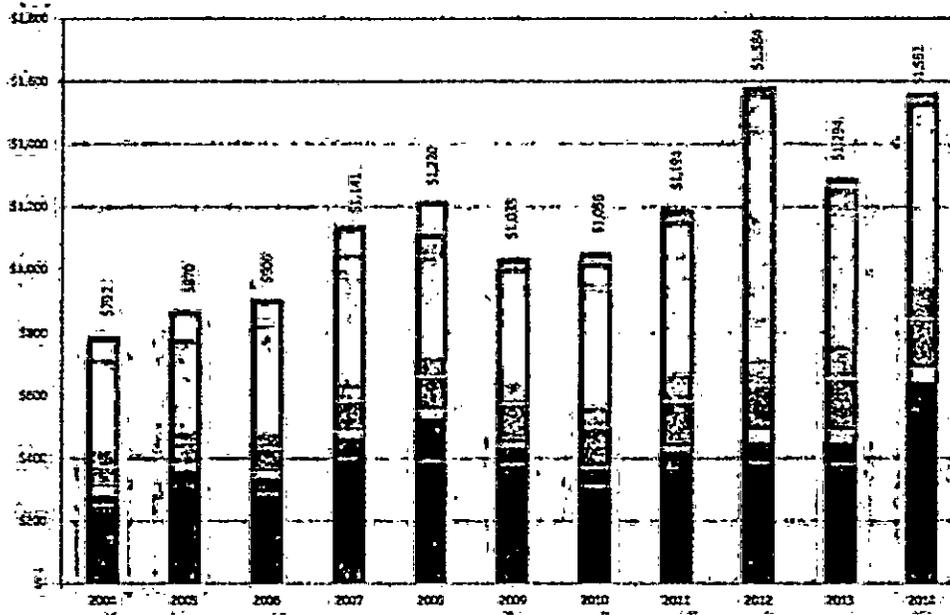


| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|-------------------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| Property Tax Funded G.O. Bonds | \$ 4,796 | \$ 4,835 | \$ 5,361 | \$ 5,536 | \$ 5,474 | \$ 5,819 | \$ 6,345 | \$ 6,838 | \$ 7,078 | \$ 7,005 | \$ 7,032 |
| Open Property Tax Funded G.O. Bonds | \$ - 549 | \$ 547 | \$ - 556 | \$ 672 | \$ 570 | \$ 643 | \$ 787 | \$ 724 | \$ 696 | \$ 656 | \$ 614 |
| Sales Tax Revenue Bonds | \$ 874 | \$ 363 | \$ 361 | \$ 353 | \$ 343 | \$ 356 | \$ 355 | \$ 577 | \$ 562 | \$ 554 | \$ 541 |
| Motor Fuel Tax Revenue Bonds | \$ 160 | \$ 155 | \$ 251 | \$ 247 | \$ 209 | \$ 204 | \$ 199 | \$ 193 | \$ 187 | \$ 282 | \$ 263 |
| Water Revenue Bonds | \$ 1,001 | \$ 991 | \$ 1,293 | \$ 1,264 | \$ 1,429 | \$ 1,460 | \$ 1,698 | \$ 1,656 | \$ 2,012 | \$ 1,971 | \$ 1,928 |
| Sewer Revenue Bonds | \$ 747 | \$ 732 | \$ 771 | \$ 755 | \$ 901 | \$ 877 | \$ 1,099 | \$ 1,072 | \$ 1,320 | \$ 1,284 | \$ 1,248 |
| O'Hare Revenue Bonds | \$ 4,013 | \$ 5,214 | \$ 5,150 | \$ 4,895 | \$ 5,603 | \$ 5,506 | \$ 6,404 | \$ 7,260 | \$ 6,971 | \$ 7,281 | \$ 7,591 |
| Midway Revenue Bonds | \$ 1,279 | \$ 1,272 | \$ 1,258 | \$ 1,244 | \$ 1,207 | \$ 1,185 | \$ 1,461 | \$ 1,425 | \$ 1,383 | \$ 1,413 | \$ 1,505 |
| TIF Bonds | \$ 443 | \$ 387 | \$ 315 | \$ 272 | \$ 195 | \$ 175 | \$ 153 | \$ 124 | \$ 105 | \$ 80 | \$ 65 |
| TOTAL | \$ 13,405 | \$ 14,537 | \$ 14,936 | \$ 15,338 | \$ 16,007 | \$ 16,255 | \$ 18,431 | \$ 19,869 | \$ 20,319 | \$ 21,026 | \$ 21,470 |

* The amounts presented in this table do not include the impact of any new bonds.

11. The City's annual debt service payments (the payment of interest plus repayment of principal) on its various bonds have also increased. Since 2004, the City's debt service payments have increased 97% from \$792 million to over \$1.5 billion:¹

LONG-TERM DEBT SERVICE PAYMENTS
\$ Millions



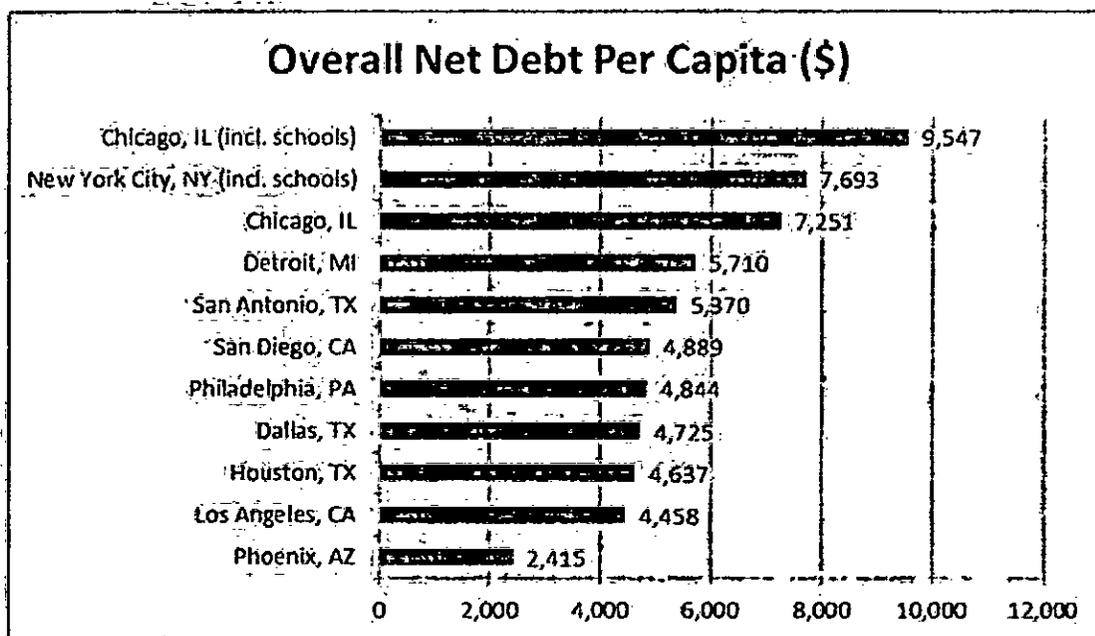
| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|--------------------------------|---------------|---------------|---------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| Property Tax Funded G.O. Bonds | \$ 250 | \$ 312 | \$ 254 | \$ 400 | \$ 390 | \$ 391 | \$ 311 | \$ 365 | \$ 925 | \$ 381 | \$ 355 |
| Non Property Funded G.O. Bonds | \$ 32 | \$ 50 | \$ 53 | \$ 64 | \$ 137 | \$ 53 | \$ 56 | \$ 56 | \$ 60 | \$ 70 | \$ 72 |
| Sales Tax Revenue Bonds | \$ 25 | \$ 22 | \$ 19 | \$ 25 | \$ 25 | \$ 23 | \$ 5 | \$ 25 | \$ 33 | \$ 30 | \$ 29 |
| Motor Fuel Tax Revenue Bonds | \$ 11 | \$ 12 | \$ 12 | \$ 12 | \$ 21 | \$ 16 | \$ 15 | \$ 25 | \$ 25 | \$ 16 | \$ 12 |
| Visitor Revenue Bonds | \$ 56 | \$ 57 | \$ 61 | \$ 82 | \$ 95 | \$ 110 | \$ 110 | \$ 127 | \$ 128 | \$ 148 | \$ 148 |
| Senior Revenue Bonds | \$ 32 | \$ 35 | \$ 48 | \$ 50 | \$ 58 | \$ 64 | \$ 64 | \$ 82 | \$ 82 | \$ 100 | \$ 100 |
| Other Revenue Bonds | \$ 211 | \$ 251 | \$ 272 | \$ 345 | \$ 375 | \$ 292 | \$ 390 | \$ 401 | \$ 732 | \$ 428 | \$ 513 |
| Military Revenue Bonds | \$ 48 | \$ 45 | \$ 68 | \$ 71 | \$ 74 | \$ 77 | \$ 82 | \$ 91 | \$ 114 | \$ 80 | \$ 78 |
| TIF Bonds | \$ 74 | \$ 85 | \$ 80 | \$ 91 | \$ 103 | \$ 32 | \$ 32 | \$ 38 | \$ 24 | \$ 32 | \$ 27 |
| TOTAL | \$ 792 | \$ 870 | \$ 906 | \$ 1,141 | \$ 1,220 | \$ 1,038 | \$ 1,056 | \$ 1,194 | \$ 1,586 | \$ 1,294 | \$ 1,562 |

¹ The amounts presented in this section have been adjusted for any new bonds.

12. While the City has worked to slow the growth of its debt since the current administration took office in 2011 and progress has been made in reducing borrowing for operating (as opposed to capital) needs, the fact remains that the City's overall leverage is high in both absolute and relative terms — and is getting worse over time. According to data

¹ The data in paragraphs 10 and 11 comes from the City of Chicago's Annual Financial Analysis for 2014.

compiled by Moody's Investor Service with respect to taxpayer supported debt (excluding revenue bonds), Chicago has the highest debt per capita of the 10 largest U.S. cities. The only exception is New York City, whose budget includes schools. If the Chicago Public Schools' debt of \$6.2 billion is added to Chicago's debt, the resulting net debt per capita of \$9,547 likewise exceeds New York City's.²



III. The Importance of Ratings Agencies to Chicago's Finances

13. I constantly monitor the various ratings agencies' views of Chicago, particularly those of Moody's Investors Service, Inc. ("Moody's"), Standard & Poor's ("S&P"), and Fitch Ratings Service ("Fitch"). Each of these agencies provides ratings on thousands of municipal and corporate securities, which are used by the market to evaluate and assess credit risk and as a guide to price the securities.

² See Moody's Municipal Financial Ratio Analysis for 2013. The "Chicago, IL (incl. schools)" entry on this chart includes \$6.2 billion of debt for Chicago Public Schools to provide a relevant comparison to New York City.

14. Maintaining strong ratings on Chicago's general obligation bond debt is critical to the City for five principal reasons. Rating downgrades result in: (i) higher borrowing costs; (ii) a substantially greater risk that financial contracts terminate without a funding source to repay the debt; (iii) a smaller pool of investors willing and able to invest in Chicago bonds; (iv) a higher cost for the billions of dollars of bank credit provided to the City; and (v) fewer banks willing to provide such credit.

15. *First*, interest rates are highly correlated with bond ratings. If a particular bond issuance has a lower credit rating, the market will generally require a higher interest rate in order to issue the bonds. Worsening credit ratings caused by the pension funding crisis have already materially increased the City's borrowing costs, and the City's borrowing costs would increase even more if the City's credit rating was downgraded again. Paying additional interest on bond debt as a result of ratings downgrades crowds out spending for essential City services.

16. *Second*, the City has various financial contracts, including a \$2.5 billion portfolio of interest rate management agreements, which provide for termination or acceleration of debt if the City's credit ratings are downgraded to certain levels. This reality is similar to how debt instruments work in the private sector, where rating downgrades (which often signal the market's view that the risks of non-payment have increased) can trigger a creditor's ability to foreclose.

17. *Third*, institutional investors (the largest buyers of Chicago debt) generally have minimum rating requirements for investing their capital. If an issuer's rating falls below the investor's minimum requirement, the institution will not invest in the debt of that issuer. Thus, as the City's ratings decline, the universe of investors willing and able to purchase Chicago's debt shrinks. With fewer eligible investors, costs rise further. As the lowest-rated major city in

America other than Detroit, the City cannot afford further credit deterioration without eroding capital market access.

18. *Fourth*, the banks that provide letters and lines of credit to the City require higher fees as the City's credit ratings decline. As of December 16, 2014, the City had \$3.75 billion of such credit facilities in addition to the \$2.5 billion of interest rate management agreements described above. These facilities provide for higher fees and events of default as ratings decline. For example, since the downgrades in 2013 and 2014, the City's costs for these credits have increased by 20-100 basis points (.2%-1%). Some financial contracts also have required the City to post letters of credit because of the prior downgrades. These higher fees and additional letters of credit currently cost the City approximately \$16 million annually.

19. *Fifth*, as credit ratings deteriorate, fewer banks are willing to provide credit to the City. In recent years, the pool of banks willing to offer credit has shrunk considerably. Of the 44 banks solicited in 2013 to provide credit facilities to the City, only 9 responded to the City's request.

20. Importantly, with each downgrade, all five of these effects occur all at once. If more downgrades occur, the City will face higher interest rates, and the potential termination of financial contracts that provide it with liquidity and stabilize its interest rate payments. Replacing this financing would require the City to approach a smaller group of investors and financial institutions who will demand higher interest rates and fees. Given these realities, additional downgrades could quickly send the City's finances into a downward spiral and leave the City unable to obtain sufficient financing. The result would be massive cuts in spending for infrastructure, capital projects, and essential services, including public safety.

21. Equally important, the downgrades and their effects will persist over a long term. The rating agencies do not simply upgrade a municipality or other issuer if it solves an immediate crisis. Instead, the rating agencies require the issuer to show that the improvement is sustainable, and may not increase the issuer's ratings until years after the event that decreased the issuer's credit rating is resolved. Thus, Chicago's credit rating likely will remain at its current, lower level for years even if SB 1922 is upheld. Likewise, if Chicago's credit rating falls further, it will remain at that lower level for years even if the challenges facing Chicago are resolved. And throughout all of those years of lower credit ratings, the City will be paying higher interest rates and have limited credit. Therefore, credit downgrades will not simply adversely affect the City now; they will adversely impact the City's finances for the foreseeable future.

IV. The Ratings Agencies' Views of Chicago

22. Each of the ratings agencies has its own classification system, with different ratings corresponding to the quality of the debt that is rated. "Prime" or "high grade" debt (often called "investment grade" debt) refers to obligations which the market deems most likely to be repaid. Because the risks are low, borrowers issuing "prime" or "high grade" debt can borrow money at lower interest rates. By contrast, more speculative loans, including those often referred to as "junk bonds," bear substantially higher interest rates because investors demand a premium in order to take the risk of the investment. A chart summarizing the Moody's, Standard & Poor's, and Fitch's municipal bond ratings, and their meaning, appears below:

| | Moody's | S&P | Fitch | Meaning |
|------------------|---------|------|------------|--------------------------------------------|
| Investment Grade | Aaa | AAA | AAA | Prime |
| | Aa1 | AA+ | AA+ | High Grade |
| | Aa2 | AA | AA | |
| | Aa3 | AA- | AA- | |
| | A1 | A+ | A+ | Upper Medium Grade |
| | A2 | A | A | |
| | A3 | A- | A- | |
| | Baa1 | BBB+ | BBB+ | Lower Medium Grade |
| | Baa2 | BBB | BBB | |
| Baa3 | BBB- | BBB- | | |
| Junk | Ba1 | BB+ | BB+ | Non Investment Grade Speculative |
| | Ba2 | BB | BB | |
| | Ba3 | BB- | BB- | |
| | B1 | B+ | B+ | Highly Speculative |
| | B2 | B | B | |
| | B3 | B- | B- | |
| | Caa1 | CCC+ | CCC+ | Substantial Risks |
| | Caa2 | CCC | CCC | Extremely Speculative |
| | Caa3 | CCC- | CCC- | In Default w/ Little Prospect for Recovery |
| | Ca | CC | CC+ | |
| | | C | CC | |
| | | CC- | In Default | |
| D | D | DDD | | |

23. Municipalities usually have very high credit ratings compared to companies in the private sector. General obligation ("G.O.") bonds are backed by the full faith and credit of the issuing municipality, and are generally viewed as extremely safe where the municipality has a strong tax base from which to generate income. A financially healthy municipality with the power to levy and collect taxes is usually deemed to be very likely to repay its debts and therefore a good credit risk. According to Merritt Research Services, LLC, approximately 79% of all rated cities have credit ratings of AA or higher. Depending on the rating agency, Chicago is 3-4 grades below this level, and among large cities (those with over 100,000 residents), Chicago is among the 2.7% that have Moody's ratings below the A category (Chicago's rating is Baa1) and the 1.9% that have Fitch ratings below the A category (Chicago's rating is an A-). And among the 25 largest U.S. cities, Chicago's credit ratings are the worst of any city besides Detroit:

Moody's Ratings for the the 25 Largest U.S. Cities

| Aaa | Aa1 | Aa2 | Aa3 | A2 | Baa1 | -- | Caa3 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|------------------------------------------------------------------------------------|-----------|--------------|---------|----|---------|
| Austin Boston Charlotte Columbus Dallas Denver Fort Worth Indianapolis Phoenix San Antonio San Francisco San Jose Seattle | Jacksonville | Baltimore El Paso Houston Los Angeles Memphis Nashville New York | San Diego | Philadelphia | Chicago | | Detroit |

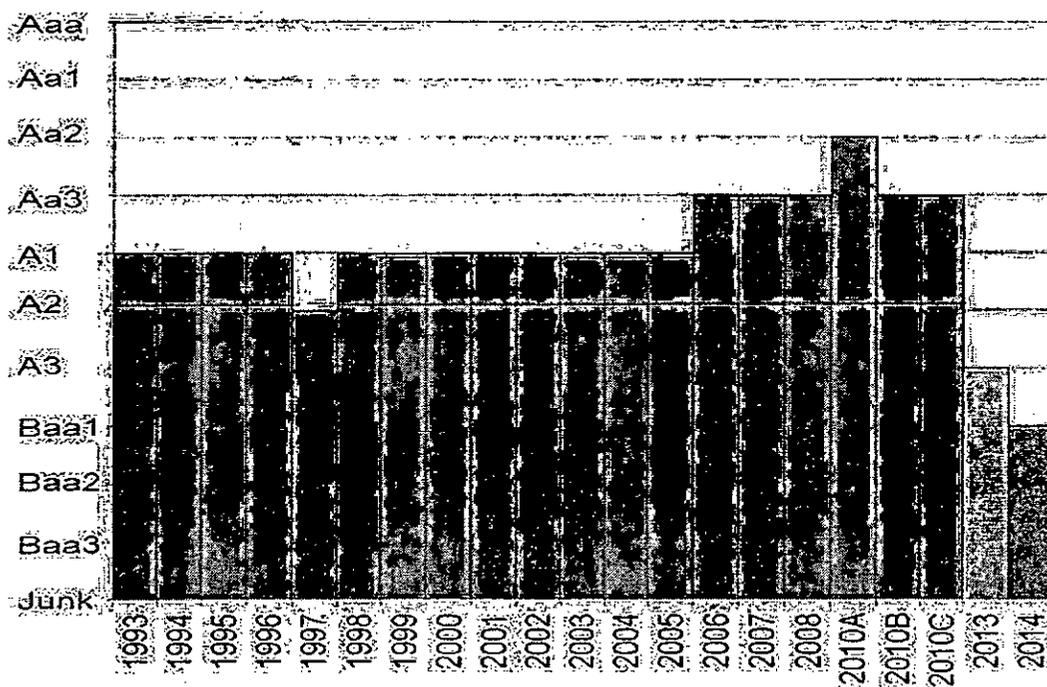
Standard & Poor's Ratings for the 25 Largest U.S. Cities

| AAA | AA+ | AA | AA- | A+ | -- | D |
|------------------------------------------------------------------------------------------------------|---------------------------------------|-------------------------------------------------------------------------------------|------------------------------------------|-------------------------|----|---------|
| Austin Boston Charlotte Columbus Denver Phoenix San Antonio San Jose Seattle | Dallas Fort Worth San Francisco | El Paso Houston Indianapolis Memphis Nashville New York San Diego | Baltimore Jacksonville Los Angeles | Chicago Philadelphia | | Detroit |

Fitch Ratings for the 25 Largest U.S. Cities

| AAA | AA+ | AA | AA- | A+ | A- | -- | D |
|------------------------------------------------------------------------------------------|-----------------------------------|-------------------------------------------------|-------------------------------------|--------------|-------------------------|----|---------|
| Austin Boston Charlotte Columbus Denver Phoenix San Antonio Seattle | Fort Worth Seattle San Jose | El Paso Houston New York San Francisco | Los Angeles Memphis San Diego | Jacksonville | Chicago Philadelphia | | Detroit |

24. This has not always been the case. Historically, the ratings on the City's G.O. bonds have been reasonably strong. But that has not been true since 2013, when rating agencies increased their focus on the massive underfunding of the four pension funds covering City employees and retirees. Since then, Moody's and Fitch have repeatedly downgraded the ratings on Chicago's general obligation bonds. This is reflected in the following chart, which depicts Moody's ratings of Chicago G.O. bonds for the past twenty years:



25. Moody's and Fitch have explicitly stated that concern over the City's pension funding was the reason for these downgrades. In July 2013, Moody's gave the City's G.O. bond rating a triple-notch downgrade, from Aa3 to A3. Moody's stated that: "The downgrade of the rating reflects Chicago's very large and growing pension liabilities and accelerating budget pressures associated with those liabilities. The city's budgetary flexibility is already burdened by high fixed costs, including unrelenting public safety demands and significant debt service payments. The current administration has made efforts to reduce costs and achieve operational efficiencies,

but the magnitude of the city's pension obligations has precluded any meaningful financial improvements." A three-step ratings downgrade is a highly unusual event for municipal bonds, particularly those issued by a city as large and economically vibrant as Chicago.

26. In November 2013, Fitch followed suit, downgrading the City's G.O. bonds and noting that Chicago is approaching an "inflection point where inaction on pension reform will negatively impact the city's finances and threaten to crowd out spending on city services." Fitch listed the following as among its "KEY RATING DRIVERS":

LACK OF PENSION SOLUTION; LIMITED OPTIONS: The downgrade reflects the lack of meaningful solutions to both the near- and long-term burden. The city has been unsuccessful in its attempts to negotiate a solution with labor unions and lobby the state legislature, which ultimately controls the benefit formula. . . .

WEAK DEBT PROFILE & OVERLAPPING PENSION BURDENS EXACERBATE PRESSURE. Pension stress exacerbates the already weak debt profile, which features above-average debt burden and slow payout.

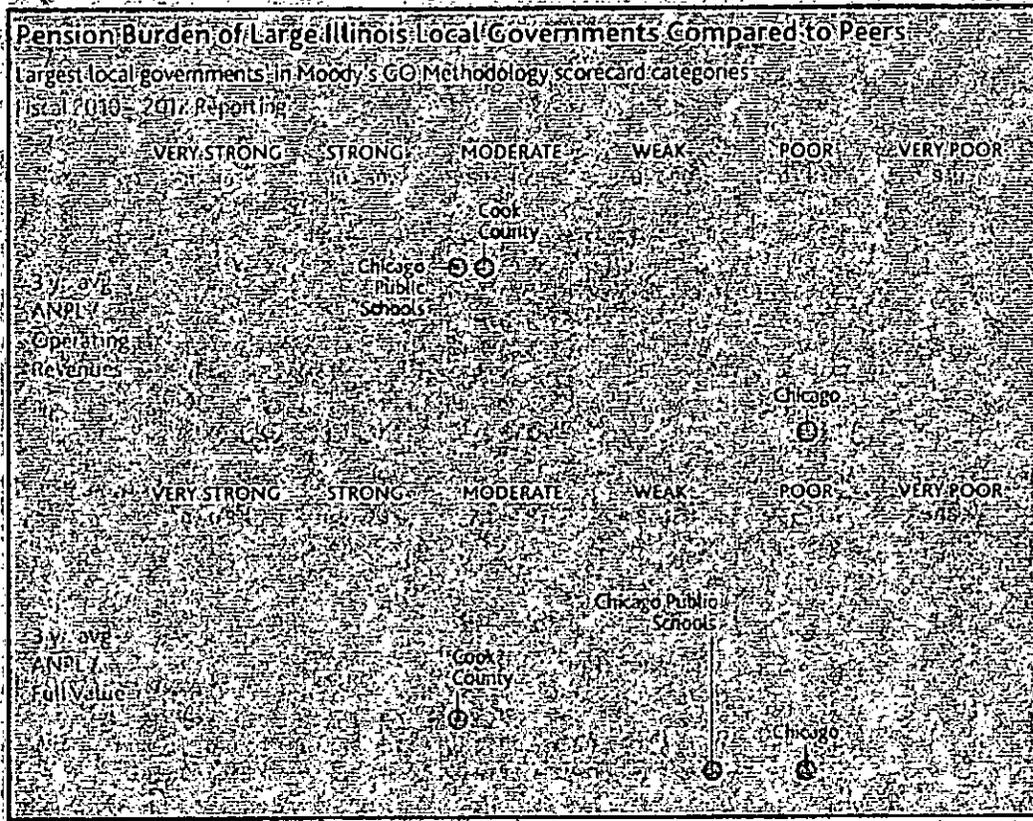
Fitch noted that the City's pension problem was growing, and that while "the combined reported funding ratio for the four plans has declined steadily, reaching a low 35.2% at Dec. 31, 2012 and down from 57.3% five years ago," it believed even those figures were too optimistic, and stated that "Fitch estimates the funding ratio to be a weaker-still 32.9%." Fitch emphasized that, if the City's pension problems were not fixed promptly, it would only get worse:

The amount that would be required to amortize the unfunded liability grows larger as time passes, both in nominal terms and as a percent of governmental spending, threatening to crowd out other city spending priorities.

27. In March 2014, Moody's again downgraded the City's G.O. rating to level Baal (3 levels above junk bond status), once again due to what it characterized as "massive and growing unfunded pension liabilities," which "threaten the city's fiscal solvency absent major revenue and other budgetary adjustments adopted in the near term and sustained for years to come." Moody's reported that: "The size of Chicago's unfunded pension liabilities makes it an extreme

outlier,” representing the highest level of unfunded pension liability “of any rated U.S. local government.”

28. In September 2014, Moody’s issued a report entitled “Illinois State and Local Governments Face Daunting Pension Challenges” that highlights what an outlier Chicago is compared with other governments in Illinois and around the country. Moody’s used two measures to compare local governments. The first began with each government’s average net pension liability (“ANPL”) over the three years between 2010 and 2012, and then divided that average by the government’s operating revenues. The second measure divided the ANPL by the value of the government’s property tax base, or what Moody’s referred to as the “full value.” Both measures are useful in assessing a particular governmental body’s ability to satisfy its pension liabilities. And under both measures, Chicago scored far worse than any other government.



29. Finally, all three major rating agencies have characterized Chicago's outlook as "negative." A "negative" outlook is an explicit threat of further downgrades if the pension crisis confronting MEABF and LABF is not solved. Comments by each rating agency make clear that they are closely following efforts to solve the pension underfunding crisis, including and in particular SB1922. As explained below, there is a significant risk that any action that threatens those efforts will result in further downgrades.

V. Potential Consequences of Further Ratings Agency Downgrades

30. As explained previously, proceeds from bonds are used by the City to pay for capital projects, certain expenses, and repaying the principal of maturing bonds. Continuing access to the capital markets at the lowest possible cost is critical to the City's finances.

31. As discussed above, the City's credit rating has already been downgraded four levels by Moody's since mid-2013. Those downgrades have affected the City's G.O. bonds, and also triggered concurrent downgrades in the City's sales tax bonds, water revenue bonds, and wastewater revenue bonds, as well as downgrades of sister agencies' G.O. debt. If SB1922 were to be enjoined or found unconstitutional, there is a significant risk that Chicago's credit ratings would be further downgraded with negative financial consequences for the City.

32. At a minimum, further downgrades would increase the interest costs the City pays to borrow money. The price the City pays for G.O. bond issuances is highly dependent on the City's credit ratings, and a small change could make a big difference in increased borrowing costs. For example, for each \$100 million that the City borrows at 5% instead of 4% interest, the City ends up paying an *incremental* \$21.7 million over the life of the bond issue.³ At 4% interest, total interest and principal payments on \$100 million of 30-year bonds are \$173.5 million. If rating downgrades push interest rates to 5%, total payments on the same \$100 million of bonds would total \$195.2 million. Thus, a one percentage point change in the interest rate on \$100 million in bonds increases total payments by 22% of the amount of the loan.

33. Each year, the City borrows, on average, approximately \$500 million of general obligation ("G.O.") bonds and approximately \$350 million of water and wastewater bonds. If the interest rate on these bonds rises by 1% as a result of further rating downgrades, taxpayers will have to pay an incremental \$100-plus million for *each year's* G.O. borrowings over the term of the bonds and an incremental \$75 million for *each year's* water and wastewater needs over the

³ This calculation assumes level debt service for 30 years, similar to a conventional mortgage. In fact, the City generally amortizes debt more slowly, so the actual cost of a downgrade would be greater.

term of the bonds. Even if further downgrades lasted for only a few years, the result would be hundreds of millions of dollars in additional interest that the City will never get back.

34. The City's current capital improvement plan calls for \$8.6 billion in expenditures over the period 2014 through 2018. These projects include life safety improvements, new CTA stations, continued rehabilitation of the City's aging water and sewer systems, improving access to the lakefront and river, and improvements to the City's two airports. Approximately \$679.2 million of this funding is expected to come from G.O. bond issuances and an additional \$3.75 billion from water and wastewater revenue bonds. If rating downgrades were to result in a 1% increase in the amount of interest the City must pay for this \$4 billion-plus of bonds, that would result in over \$850 million in additional interest for the capital projects. Once again, this is money that the City can never get back.

35. In addition to increased interest costs, further downgrades could cause the termination of interest rate management agreements, revolving lines of credit, and other credits. The interest rate management agreements relate to variable rate debt that was issued under prior City administrations. Variable rate debt significantly complicates a municipality's budgeting process, as the interest rate — and thus the municipality's payments to investors — can increase unexpectedly. The particular form of variable debt previously issued by the City also allows investors to sell the debt back to the City at any time. The City has entered into various financial contracts, including interest rate management agreements, to stabilize the cost of this variable rate debt.

36. Further downgrades would allow the counterparties to the interest rate management agreements to terminate the contracts. Such terminations would impose an immediate cash cost on the City (which likely would need to be borrowed given the City's structural budget deficit)

and also require the City to either find new credit or bear the risks of the variable rate debt. The termination costs and amount of debt affected depend on how many additional steps the City's credit is downgraded:

- *One-Step Downgrade:* The City would need to pay approximately \$50 million immediately and be exposed to variable interest rates on that portion of the City's debt or replace \$411 million of credit.
- *Two-Step Downgrade:* In addition to the effects of a one-step downgrade described above, the City would need to pay an additional approximately \$12 million immediately and be exposed to variable interest rates on that portion of the City's debt or replace an additional \$245 million of credit.
- *Three-Step Downgrade:* In addition to the effects of both a one- and two-step downgrade described above, the City would need to pay an additional approximately \$81 million immediately and be exposed to variable interest rates on that portion of the City's debt or replace an additional \$783 million of credit, which is not likely.⁴

Replacing these credit facilities would be difficult given the City's low credit rating and the increasingly limited number of counterparties willing to deal with the City.

37. Since certain rating agencies link the ratings of the City's G.O. credit to other credits, including sales tax, water and wastewater credits, the same issues of funding termination payments, exposure to variable interest rates, and replacing credit facilities would occur on a much larger debt portfolio than just the G.O. credit. For many of these other credits, the counterparties can terminate if the various credits suffer another two-step downgrade. Such a two-step downgrade could cost the City over \$150 million in immediate cash payments on these credits and require the City to replace approximately \$750 million in interest rate management agreements, which would be doubtful given the City's credit rating, or be exposed to variable rates on this portion of the City's debt.

⁴ The cost of interest rate management agreement terminations are based on market rates and subject to daily fluctuation. Figures in paragraphs 36 and 37 are based on market rates as of September 30, 2014.

38. In addition to the effect on the City's interest rate management agreements, a three-step downgrade would also qualify as an event of default under three types of facilities. The first type is reimbursement agreements, which provide the City with credit to pay investors who sell the City's variable rate debt back to the City. Upon an event of default, the counterparty could terminate the \$825 million credit facilities. This would require the City to find another \$825 million in credit facilities, which is unlikely.

39. The second type of credit facility is the City's revolving credit agreements, which have a maximum limit of \$900 million. The revolving credit agreements provide lines of credit to the City, which the City uses for interim borrowing between bond deals and to pay various expenses. The City typically has an outstanding balance of \$250 to \$300 million on these lines of credit, though this amount can fluctuate greatly depending on the City's needs. A default would allow the termination of these lines of credit, requiring the City to immediately pay back hundreds of millions of dollars that it does not have.

40. The third type of credit facility is a leveraged lease relating to the Chicago Transit Authority ("CTA") Orange Line. Because of the City's already low credit rating, the City currently is required to post collateral of approximately \$165 million for this lease. A three-step downgrade would allow the counterparty currently providing this collateral to terminate the contract, again requiring the City to either find another provider for this amount of credit or to post the collateral itself.

41. The City's total exposure from the additional effects of a three-step downgrade described in paragraphs 38 to 40 totals nearly \$2 billion dollars. In addition, a three-step downgrade could put the City in default on substantially all of its sales tax, water, and wastewater reimbursement agreements, which include similar downgrade provisions. The

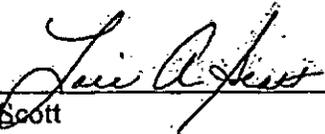
combined impact for all affected credits (excluding O'Hare and Midway which up until this point have not been linked to G.O. credit downgrades) would be a default on roughly \$2.8 billion of credit, with few if any banks likely to replace such facilities. This would necessitate an immediate multi-billion bond financing at junk bond ratings leading to highly distressed interest rates, putting further pressure on the City's finances.

VI. Conclusion

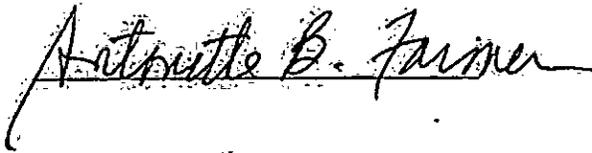
42. The pension underfunding crisis has contributed to multiple downgrades in the City's credit rating over the past 18 months. If SB1922 were enjoined or found unconstitutional, there is a significant risk that the City's credit rating would be further downgraded. Were that to occur, the consequences would include hundreds of millions in additional interest costs; the possible termination of billions of dollars of credits, including the interest rate management agreements that stabilize the City's variable interest rate debt; and ever-increasing difficulty in finding investors and banks willing to provide the City with the credit it needs for capital projects and essential services. These effects would exacerbate the City's current financial struggles to the detriment of the City and all of its residents, including the employees and retirees who are participants in the pension funds.

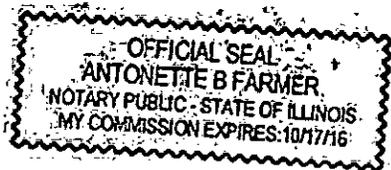
Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true:

Dated: December 23, 2014


Lois Scott

Sworn to and subscribed before
me this 23 day of Dec, 2014





IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

MARY J. JONES, LINDA BALLENTINE,)
SYDELL F. HATCHETT, LAVERNE)
WALKER, BERNICE MOORE, BARBARA)
LOMAX, SAMANTHA NEEROSE, WYLENE)
L. FLOWERS, ARLENE WILLIAMS, GLORIA)
E. HIGGINS, WILLIE B. WILLIAMS,)
MARQUETTE DUNN, EMMA G. HOLMES,)
LAGRETTA GREEN, AMERICAN)
FEDERATION OF STATE, COUNTY AND)
MUNICIPAL EMPLOYEES COUNCIL 31,)
CHICAGO TEACHERS UNION LOCAL 1,)
IFT-AFT, TEAMSTERS LOCAL 700 and)
ILLINOIS NURSES ASSOCIATION,)

Plaintiffs,)

v:)

MUNICIPAL EMPLOYEES' ANNUITY AND)
BENEFIT FUND OF CHICAGO and BOARD)
OF TRUSTEES OF THE MUNICIPAL)
EMPLOYEES' ANNUITY AND BENEFIT)
FUND OF CHICAGO,)

Defendants.)

Case No. 14CH20027

FILED-1
2014 DEC 16 AM 11:15
DOROTHY BROWN
CLERK

RECEIVED
DEC 16 2014
DEPARTMENT OF LAW

**PLAINTIFFS' MEMORANDUM IN SUPPORT OF THEIR MOTION FOR
A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

INTRODUCTION

Plaintiffs filed this lawsuit to protect their constitutional right to the pension benefits that they and other participants in the Municipal Employees' Annuity and Benefit Fund of Chicago ("MEABF") were promised when they chose a career in service to the City of Chicago and its residents. In their Complaint, Plaintiffs show that Public Act 98-0641 ("Act") violates the Illinois Constitution, which mandates that the pension benefits a public employee receives as a

result of membership in a public pension or retirement system – such as the MEABF – cannot be diminished or impaired. Specifically, the Illinois Constitution states:

Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired.

(Ill. Const. 1970, art. XIII, § 5) (the “Pension Protection Clause”).

That constitutional promise is unequivocal. It has no exception. Indeed, this past July the Illinois Supreme Court again confirmed the inviolability of that promise, holding that under the Pension Protection Clause “it is clear that if something qualifies as a benefit of the enforceable contractual relationship resulting from membership in one of the State’s pension or retirement systems, *it cannot be diminished or impaired.*” *Kanerva v. Weems*, 2014 IL 115811, ¶ 38 (emphasis supplied).

Similarly, just a month ago, the Circuit Court of Sangamon County held Public Act 98-0599 unconstitutional under the Pension Protection Clause and made permanent the preliminary injunction the court had entered on May 14, 2014 prohibiting the act’s scheduled implementation on June 1, 2014. *In re: Pension Litigation*, slip op., p 6 (Sangamon Cty. Cir. Court Nov. 21, 2014).¹ Public Act 98-0599 sought to diminish and impair pension benefits of members of four State of Illinois retirement systems. *Id.* ¶ 2. In striking down Public Act 98-0599, the Sangamon County Court specifically noted that the Illinois Supreme Court has consistently invalidated

¹ A copy of the Sangamon County Court’s November 21, 2014 declaring Public Act 98-0599 unconstitutional and void in its entirety is attached hereto as Exhibit 1. A copy of the May 14, 2014 Order entering a temporary restraining order and preliminary injunction that prohibited the defendants in that action from implementing Public Act 98-0599 is attached hereto as Exhibit 2. The defendants in that action did not seek an interlocutory appeal of entry of that injunction even though they asserted that implementation of Public Act 98-0599 is critical to the financial well-being of Illinois and its pension systems. On November 26, 2014, the defendants in the Sangamon County action appealed the ruling directly to the Supreme Court, asking only that the Court remand the case to the Sangamon County Court for proceedings on the merits of the defendants’ reserved sovereign power defense. A copy of the Notice of Appeal is attached hereto as Exhibit 3.

Pension Code changes that diminish benefits in light of the absolute protection that the Pension Protection Clause provides to public pension system members:

The Act without question diminishes and impairs the benefits of members in State retirement systems. Illinois Courts have consistently held over time that the Illinois Pension Clause's protection against the diminishment or impairment of pension benefits is absolute and without exception. The Illinois Supreme Court has "consistently invalidated amendments to the Pension Code where the result is to diminish benefits." *McNamee v. State*, 173 Ill. 2d 433, 445 (1996). In their affirmative matter, the defendants assert that the Act is nonetheless justified as an exercise of the State's reserved sovereign powers or police powers. The Court finds as a matter of law that the defendants' affirmative matter provides no legally valid defense.

Id. ¶ 3.

The analysis that doomed Public Act 98-0599 applies with equal force to the diminishment and impairment of the pension benefits in Public Act 98-0641. Simply stated, Public Act 98-0641 cannot survive scrutiny under the Pension Protection Clause or Supreme Court precedent.

Public Act 98-0641 is scheduled to be implemented on January 1, 2015. With this date looming, Plaintiffs turn to the Court for temporary and preliminary injunctive relief that will protect both pension system members and the pension systems themselves from harm that will result if the Act is permitted to take effect only to have it subsequently declared unconstitutional.

Injunctive relief is warranted for several reasons. First, Plaintiffs have an ascertainable right in need of protection. The Act impairs and diminishes the right of pension system members to receive the pension benefits provided under the Illinois Pension Code at the time the member first enters the pension system – *i.e.*, the first day the member contributes to the system – as well as any enhancement to those benefits Illinois law subsequently provides.

Second, absent an injunction, MEABF participants will suffer irreparable harm for which there is no adequate remedy at law. Unavoidably, the Act's reductions will force participants to

make difficult financial compromises, whether concerning daily living necessities or plans for the future. The consequences of those compromises cannot be unwound or recompensed completely through repayment of amounts owed if the Court agrees that Public Act 98-0641 violates the Constitution.

Third, Plaintiffs have an exceptionally strong case on the merits that the Act violates the Pension Protection Clause. The Court need only consider two salient points. The Pension Protection Clause is unequivocal in its protection of pension benefits from diminishment and impairment. Despite that constitutional protection, the Act nevertheless impairs and diminishes those benefits.

Fourth, even though no balance of hardships is needed where, as here, a defendant acts in contravention of a plaintiff's rights with knowledge of the consequences that might ensue, the balance here weighs decidedly in favor of injunctive relief for several reasons:

a) MEABF participants will suffer irreparable harm that flows from the consequences of financial decisions they will have to make in light of annuity and income reductions the Act imposes. Those consequences can be ameliorated only with a stay of the Act's implementation and, ultimately, a final ruling on the Act's unconstitutionality.

b) The MEABF will be forced to expend resources in order bring their operations into compliance with the Act. The attendant expense will only multiply if the Act is overturned because Defendants will then have to expend additional resources to restore the status quo.

c) Absent an injunction, the harm to MEABF members and the MEABF itself will be immediate. In contrast, to the extent that the Act purports to solve pension system funding issues, those benefits will not be realized until the much longer term.

Plaintiffs and other MEABF members have held up their end of the constitutionally-protected pension contract the Pension Code embodies. Defendants should be required to do so, too, absent a final ruling that the Act's pension benefit reductions in violation of the Pension Protection Clause nevertheless are, somehow, proper. Accordingly, in view of the great likelihood that the Act will not pass constitutional muster and given that the balance of harms tips overwhelmingly in Plaintiffs' favor, Plaintiffs ask the Court to main the status quo by temporarily and preliminarily enjoining implementation of the Act pending a final determination of the Act's constitutionality.

FACTUAL BACKGROUND

In 1970, the citizens of Illinois ratified the Pension Protection Clause to assure public servants that their pension benefits would never be diminished or impaired:

Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired.

(Ill. Const. 1970, art. XIII, § 5). The delegates to the 1970 Illinois Constitutional Convention feared that without this prohibition concerns regarding funding of public pension systems would lead governmental entities to diminish and impair pension benefits or even to abandon payment of those obligations altogether. *See Kraus v. Board of Trustees of Police Pension Fund of Vill. of Niles*, 72 Ill. App. 3d 833, 843 (1st Dist. 1979) (describing constitutional convention history).

In contravention of that constitutional promise, welching on pension benefit obligations is precisely what the Act seeks to accomplish in several ways:

A. Reduction In The Amount Of Automatic Annuity Increases

Presently, the Pension Code provides participants in the MEABF a 3% automatic annuity increase ("AAI"), compounded, each year. (*See* 40 ILCS 5/8-137; 5/8-137.1, prior to Public Act

98-0641.) Upon implementation of Public Act 98-0641, each AAI, including the AAI current retirees receive, would be calculated in an amount equal to the lesser of 3% interest or half the annual unadjusted percentage increase (but not less than zero) in the Consumer Price Index – Urban (CPI-U), simple interest. (See Public Act 98-0641 amendments to 40 ILCS 8-137(b-5)(3); 5/8-137.1(b-5)(2).)

B. Skips Of Automatic Annuity Increases

In addition to reducing the amount of each annual AAI, Public Act 98-0641 requires that MEABF members skip the AAI in certain years as follows:

- current retirees must forgo an AAI in 2017, 2019 and 2025 (see Public Act 98-0641 amendments to 40 ILCS 5/8-137(b-5)(2); 5/8-137.1(b-5)(1));
- upon retirement, current employees who became members of the MEABF prior to January 1, 2011, must forgo an AAI in 2017, 2019 and 2025 (*id.*);
- upon retirement, employees who become members of the MEABF on or after January 1, 2011, must forgo any AAI in 2025 (see Public Act 98-0641 amendment to 40 ILCS 5/1-160(b-5)(e)); and
- employees who retire after June 9, 2014, cannot receive an AAI until one full year after the date on which the employee otherwise would have received her or his initial AAI under the Pension Code prior to Public Act 98-0961. (See Public Act 98-0641 amendments to 40 ILCS 8-137(b-5)(1).)

Retirees who receive a yearly pension of less than \$22,000 are spared the AAI skips, but they are not spared the injustice of an AAI reduction. Rather, they too will receive AAIs that would be substantially less than the AAIs they would receive but for Public Act 98-0641. (See Public Act 98-0641 amendments to 40 ILCS 5/8-137(b-5)(4); 5/8-137.1(b-5)(3).) Stated

otherwise, under Public Act 98-061, the amount of a retiree's pension makes no difference. Each member of the MEABF is subject to one or more unconstitutional diminishments and impairments.

C. Increased Salary Contributions To Pension Systems

Presently, active members of the MEABF contribute 8.5% of their salary toward their pensions. (See 40 ILCS 5/8-174(a); 5/8-182; 5/8-137, prior to implementation of Public Act 98-0641.) Upon implementation of Public Act 98-0641, employee contributions would increase by .05% each year from 2015 to 2019, thereby raising the contribution to 11% in 2019 and each year thereafter. (See Public Act 98-0641's amendment to 40 ILCS 5/8-174(a); see also 5/8-182; 5/8-137.) Should the MEABF obtain a 90% funding ratio, employee contributions would decrease to 9.75% and remain at that amount as long as the fund maintains a 90% funded ratio. (*Id.*) In other words, regardless of the funding ratio, employees would have to pay more during the terms of their employment only to get less in retirement.

Reliance on constitutionally-promised pension benefits is a cornerstone of retirement security for public servants in Illinois. The Act jeopardizes that security for all members of the MEABF. There is no reason to allow the Act's constitutional flaws to undermine that security during the pendency of this litigation. Accordingly, the court should enjoin implementation of the Act until its constitutionality is finally determined.

ARGUMENT

The purpose of a temporary restraining order and preliminary injunction is to preserve the status quo until the Court has an opportunity to issue a decision on the merits. *Keefe-Shea Joint Venture v. City of Evanston*, 332 Ill. App. 3d 163, 169 (1st Dist. 2002); *Gold v. Ziff Communications Co.* 196 Ill. App. 3d 425, 431 (1st Dist. 1989). Here, the status quo is

continuation of the Pension Code as currently written and implemented, prior to implementation of the Act.

Plaintiffs are entitled to injunctive relief to preserve the status quo if they establish: (1) a clear right or interest in need of protection, (2) some likelihood of success on the merits, (3) irreparable harm in the absence of injunctive relief, and (4) no adequate remedy at law. *Citadel Inv. Group, LLC v. Teza Techs. LLC*, 398 Ill. App. 3d 724, 733-34 (1st Dist. 2010) (granting preliminary injunction). In addition, the Court examines whether “the balance of hardships” favors injunctive relief. *Keefe-Shea Joint Venture v. City of Evanston*, 332 Ill. App. 3d 163, 169 (1st Dist. 2002).

Those factors are considered in the context of the purpose behind temporary and preliminary injunctive relief. “Because the purpose of a preliminary injunction is to preserve the status quo pending a decision on the merits, [the movant] does not carry the same burden of proof that is required to prevail on the ultimate issue.” *Keefe-Shea*, 332 Ill. App. 3d at 169; *see also Gold v. Ziff Communications Co.* 196 Ill. App. 3d 425, 431 (1st Dist. 1989). Rather, Plaintiffs “only need show [they] raised a ‘fair question’ about the existence of [pension system members’] rights and that the court should preserve the status quo until the cause can be decided on the merits.” *Schweickart v. Powers*, 245 Ill. App. 3d 281, 290 (2d Dist. 1993); *see also Limestone Dev. Corp. v. Village of Lemont*, 284 Ill. App. 3d 848, 853 (1st Dist. 1996) (“court decide[s] only whether the plaintiff has demonstrated a *prima facie* case that there is a fair question as to the existence of the claimed rights; that the circumstances lead to a reasonable belief that the plaintiff will probably be entitled to the relief sought; and that the status quo should be preserved until the case can be decided on the merits”). This, and more, Plaintiffs have done. Application of those standards to the facts and circumstances overwhelmingly

supports temporary and preliminary injunctive relief in favor of Plaintiffs and all members of the MEABF.

I. PENSION SYSTEM MEMBERS HAVE A PROTECTABLE INTEREST THAT REQUIRES THE PROTECTION OF AN INJUNCTION PENDING A DECISION ON THE MERITS OF THE ACT

MEABF members have an ascertainable interest in their pensions. For purposes of seeking injunctive relief, demonstration of an ascertainable right requires only that the moving party raise a fair question that it has a substantive interest recognized by law at issue. *Limestone Development Corp. v. Village of Lemont*, 284 Ill. App. 3d 848, 854 (1st Dist. 1996); *Continental Cablevision of Cook County, Inc. v. Miller*, 238 Ill. App. 3d 774, 787 (1st Dist. 1992). Plaintiffs exceed that standard.

Illinois courts uniformly hold that a public pension system member has a vested right to receive the pension benefits that existed when she or he entered the system, plus any enhancements subsequently provided under the Pension Code. *See Kanerva*, 2014 IL 115811, ¶ 39; *Di Falco v. Bd. of Trustees of Firemen's Pension Fund of Wood Dale Fire Protection Dist. No. 1*, 122 Ill. 2d 22, 26 (1988) (stating that public pension member's pension rights are "governed by the actual terms of the Pension Code at the time the employee becomes a member of the pension system"); *Miller v. Retirement Bd. of Policeman's Annuity*, 329 Ill. App. 3d 589, 597 (1st Dist. 2001) (stating that Pension Protection Clause "prohibits subsequent amendments to the law from decreasing a party's pension benefits, but allows pension benefits to be enhanced by a subsequent amendment") (quotation omitted); *Carl v. Bd. of Trustees of Police Pension Fund of Peoria*, 158 Ill. App. 3d 7, 8 (3d Dist. 1987) ("Vesting of an employee's rights in the system occurs either at the time the employee entered the system or in 1971, when the Constitution became effective, whichever is later."); *see also McNamee v. State*, 173 Ill. 2d 433,

439 (1996); *Kraus*, 72 Ill. App. 3d at 849. The Act jeopardizes that right for all members of the MEABF.

II. MEABF MEMBERS WILL SUFFER IRREPARABLE INJURY, ABSENT AN INJUNCTION, FOR WHICH THERE IS NO ADEQUATE REMEDY AT LAW

No showing of irreparable harm and inadequate remedy is necessary for the Court to enjoin a violation of the Pension Code. The Pension Code itself provides for injunctive relief “against any act or practice which violates any provision of this Code.” 40 ILCS 5/1-115. Where a statute expressly authorizes injunctive relief, irreparable harm and inadequate remedy are presumed and no separate showing regarding harm or remedy is needed before an injunction will issue. *Roxana Community Unit School Dist. No. 1 v. WRB Refining, LP*, 2012 IL App (4th) 120331, ¶ 24 (4th Dist. 2012).

There is no reasonable dispute that the Act forces Defendants to breach the terms of the enforceable contract embodied in the version of the Pension Code effective prior to the Act. Those terms are protected absolutely under the Pension Protection Clause from the Act’s unilateral diminishments and impairments. The Court should not permit Defendants to use an unlawful legislative action to avoid a statutory provision that otherwise would enable Plaintiffs to enjoin the very same pension diminishments and impairments Defendants would impose now pending a final ruling on the merits of the Act.

Regardless, there can be no dispute that MEABF participants will suffer irreparable harm absent the injunctive relief sought. “Irreparable harm is shown when a curtailment of benefits to retirees and workers is threatened.” *Wheeling-Pittsburgh Steel Corp., et al. v. Pension Benefit Guaranty Corp.*, 103 B.R. 672 (W.D. Pa. 1989); see also *West Indian Co., Ltd. v. Government of Virgin Islands*, 643 F.Supp.2d 869, 882 (D.V.I. 1986) (“Interference with constitutional rights is

considered irreparable injury,” noting that interference with a contractual right in violation of the Contracts Clause, “standing alone, is sufficient to support” irreparable harm).

Distilled to its essence, the issue is the reduction in income promised to MEABF participants, either in the form of an annuity paid to a retiree or the amount of income a current employee must contribute to his or her pension. These individual have bills to pay, family support expenses, mortgage and rent payments, insurance premiums, and other expenses arising from daily living needs. A change in the amount received would wreak havoc on the ability of many affected MEABF participants to meet their financial obligations.

For example, consider the difficult circumstances and choices the following Plaintiffs face. Plaintiff Mary Jones, who worked for the Chicago Public Library, retired in reliance on the constitutional promise that each year she would receive a 3% increase in her pension to help keep up with her living expenses, including support for her mother and grandchildren. Declaration of Mary J. Jones ¶ 5-6, 12 (Exh. 4.) Jones’ pension is her only source of retirement income. *Id.* ¶ 5. In February 2014, Jones had surgery for which she is still paying. *Id.* ¶ 10. Now she needs surgery on her knee, the injury to which hampers her mobility and makes it difficult to care for her mother, provide for her grandchildren and perform other tasks. *Id.* ¶ 9. But Jones cannot get knee surgery until she finishes paying off the bills from her first surgery. *Id.* ¶ 10. At the same time, Jones is unable to keep up with her mortgage payments and likely will lose the home in which she lives with her mother. *Id.* ¶ 10. The impact of the pension diminishment, exacerbated by the \$4,200 increase in her health insurance premium over the past two years, will cause Jones to delay that surgery because it will take her longer to pay her bills. *Id.* ¶ 10. During the pendency of this litigation regarding the Act’s unconstitutionality, Jones

should not have to face the choices between daily living needs and needed medical care, much less suffer the stress, implementation of the Act would cause. *Id.* ¶ 12-13.

Bernice Moore, who worked for the Chicago Police Department, also retired in reliance on the promise that each year she would receive a 3% annuity increase and that the City of Chicago would pay a portion of her health insurance premium. *See* Declaration of Bernice Moore ¶ 5-7 (Exh. 5). Moore's pension is her only retirement security. *Id.* ¶ 5. Now Moore is likely to lose her home if she loses a portion of the pension on which she relies. *Id.* ¶ 8-10. Already, Moore uses approximately one-half of her pension to her pay her monthly mortgage bill and utilities. *Id.* ¶ 9. Like other MEABF retirees, Moore's dire situation is exacerbated by the City's decision to phase out by 2017 any contribution toward health insurance premiums. *Id.* ¶ 7. As a result, even if Moore somehow manages to keep her home, she will have to choose between paying for needed home repairs and other daily living needs. *Id.* ¶ 10-12. During the pendency of this litigation regarding the Act's unconstitutionality, Moore should not have to face the choices between daily living needs, much less suffer the stress, implementation of the Act would cause. *Id.* ¶ 12.

Barbara Lomax, who worked for the Chicago Department of Transportation, similarly retired in reliance on the promise that each year she would receive a 3% annuity increase and that the City of Chicago would pay a portion of her health insurance premium. *See* Declaration of Barbara Lomax ¶ 6-7 (Exh. 6). Recently, Lomax was forced to leave the apartment in which she had lived for 17 years because her landlord increased her rent to an amount she could not afford. *Id.* ¶ 9. As a result, she now pays more for per month in rent than she did prior to being forced to move, putting further strain on her already tight budget. *Id.* Lomax has large monthly medical and prescription bills. *Id.* ¶ 10. In some months, Lomax already is unable to afford the

medication she needs. Implementation of the Act would result in Lomax having to forgo more often purchases of the medications she needs. *Id.* ¶ 10. During the pendency of this litigation regarding the Act's unconstitutionality, Lomax should not have to face the choices between daily living needs and needed medications, much less suffer the stress, implementation of the Act would cause. *Id.* ¶ 12-13.

The impacts of the choices that Jones, Moore, Lomax and, inevitably, numerous other MEABF participants will have to make in the event the Act is allowed to implement before a final ruling on its constitutionality are irreparable. Simply, the impact of and damage done by forgoing medical procedures and skipping medications, losing a home, or choosing one daily living need over another cannot adequately be recompensed by the MEABF's payment to its participants of the amounts wrongly withheld or collected at some distant point after a final judgment declaring the Act unconstitutional.

That is the very threat the Act creates: it undermines standards of living and strips away retirement security. In *University of Hawaii Professional Assembly v. Cayetano*, 183 F.3d 1096 (9th Cir. 1999), the court affirmed entry of a preliminary injunction that prevented implementation of a statute that would have allowed the state to postpone by a three days, at six different times, the date on which state employees were to be paid, pending a decision on the constitutionality of the statute. *Id.* at 1099, 1104-07. The court concluded that even a three-day lag, without any reduction in salary, might jeopardize the ability of employees to satisfy various financial obligations: "Even a brief delay in getting paid can cause financial embarrassment and displacement of varying degrees of magnitude." *Id.* at 1106. This, the court concluded, was sufficient to show irreparable harm, concluding that "if the pay lag is implemented, they likely will suffer irreparable harm and that damages, even if available, will not adequately

compensation Plaintiff for hardships caused by the delay in the receipt of pay.” *Id.* at 1107; *see also Condell v. Bress*, 983 F.2d 415, 419 (2d Cir. 1993) (holding that five days of lag pay, spread over five bi-weekly pay periods, was a substantial impairment “to one confronted with monthly debt payments and daily expenses for food and the other necessities of life” (citation and internal quotation marks omitted)); *Association of Surrogates and Supreme Court Reporters within the City of New York v. State of New York*, 940 F.2d 766 (2d Cir. 1991) (holding that lag payroll whereby state employees would receive nine days’ pay for each ten-day pay period for 10 periods and receive withheld amount at termination created an impairment; finding that a lag in pay would cause “personal financial crises” because “[t]he affected employees have surely relied on full paychecks to pay for such essentials as food and housing” and “[m]any have undoubtedly committed themselves to personal long-term obligations such as mortgages, credit cards, car payments, and the like—obligation which might go unpaid in the month that the lag payroll has immediate impact”).

Moreover, as the circumstance of Jones, Moore, and Lomax demonstrates, the harm MEABF participants would experience upon implementation of the Act is greatly exacerbated by the City of Chicago’s decision to phase out by 2017 any contribution toward retiree healthcare. For almost fifty years, the City had paid up to 55% of the premium for retirees with at least ten years of service, including MEABF participants. (*See* Declaration of Martha Merrill ¶ 3) (Exh. 7). The reduction in the City’s contribution toward retiree health benefits has resulted in massive cost increases for retirees. (*Id.* ¶ 4.)

In 2014, many Medicare-eligible retirees enrolled in the Medicare Supplemental plan, of which there are 6,603 in the MEABF, had a 72% increase in their individual health insurance premiums, from \$768 to \$1,320 annually. (*Id.* ¶ 5.) In 2015, those Medicare-eligible annuitants

will be confronted with another 66% increase in their individual health insurance premium, from \$1,320 to \$2,196 annually, resulting in a premium increase paid by the thousands of affected retirees of 186% over a two-year period. (*Id.* ¶ 6.) For Medicare-eligible annuitants who obtain insurance for their spouses, the premiums will be \$5,052 annually, an approximate 125% increase over the 2013 premium. (*Id.*)

The 2,734 MEABF participants enrolled in insurance who do not qualify for Medicare will be hit even harder in their pocketbooks. (*Id.* ¶ 7.) For most, their annual individual premiums will increase by \$2,100 in 2015 and will have more than doubled from 2013 to 2015 – to an annual cost of \$7,548 for an individual with no dependents. (*Id.*) For non-Medicare annuitants that also have a non-Medicare spouse, the annual cost for health insurance in 2015 for most of those annuitants will be \$15,912, double the cost from 2013 and more than a \$4,000 increase from 2014. (*Id.*) For a retiree with a modest pension, the retiree's 2015 health care premium alone will consume a substantial portion, at least 26% and often much more, of the retiree's retirement income. (*Id.* ¶ 8.) Moreover, the premiums for each Medicare-eligible and non-Medicare eligible MEABF retiree will substantially increase again in each of 2016 and 2017 as the City of Chicago continues to reduce its contribution toward retiree health insurance to reach a total phase out of any contribution as of January 1, 2017. (*Id.* ¶ 9.)

In *United Steelworkers of America, AFL-CIO v. Textron, Inc.*, 836 F.2d 6, 8 (1st Cir. 1987), then Circuit Judge Breyer found that a loss of reimbursement for health insurance premiums and other benefits owed to retirees caused irreparable harm and affirmed entry of a preliminary injunction because “retired workers would likely suffer emotional distress, concern about potential financial disaster, and possibly deprivation of life’s necessities” as a result of having to pay for the insurance premiums in dispute. *Id.* at p. 8. Writing for the panel, Judge

Breyer concluded that the undisputed fact of benefit reductions coupled with “general facts that are commonly believed or which courts have specifically held sufficient to show irreparable harm: such as (1) most retired union members are not rich, (2) most live on fixed incomes . . .,” showed distress about meeting finances, whether for payment of medical care or the ability to pay of other daily living needs as a result of choosing to pay for medical care, that “can support a finding of irreparable harm.” *Id.* at p. 8-9.

These astute observations apply squarely to MEABF participants. For example, in 2013, approximately 2,232 MEABF annuitants, more than 11% of all MEABF annuitants, received a total gross annual pension amount at or below the federal poverty level of \$11,490 for a single individual.² That same year, approximately:

- 4,150 annuitants (20.6% of all MEABF retirees) received a total gross annual pension amount between \$11,491 and \$17,235 (101% - 150% of the federal poverty level);
- 2,026 annuitants (10.1% of all MEABF retirees) received a total gross annual pension amount between \$17,236 and \$22,980 (151% - 200% of the federal poverty level); and
- 2,165 annuitants (10.8% of all MEABF retirees) received a total gross annual pension amount between \$22,981 and \$28,725 (201% - 250% of the federal poverty level).

Stated otherwise, every dollar counts for MEABF participants who rely on their MEABF pension for their retirement security. No MEABF member should have to make important

² The 2013 Federal Poverty Guidelines are attached hereto as Exhibit 8. The 2013 Guidelines also are found at <http://aspe.hhs.gov/poverty/13poverty.cfm>. The statistics concerning the number of MEABF annuitants and the pension amounts they receive are set forth in the MEABF’s Actuarial Valuation Report for the Year Ending December 31, 2013, which the MEABF published in April 2014. The relevant portion of the Actuarial Report is attached hereto as Exhibit 9. The 2013 Actuarial Report is available at http://www.meabf.org/publications/2103_Actuarial_Report.pdf. Plaintiffs cite to the 2013 federal poverty statistics and refer to 2013 MEABF participants demographics because the MEABF has yet to publish its actuarial report for 2014. But even if the most recent Federal Poverty Guidelines were considered the outcome would be the same. The current poverty level for a single person is \$11,670. The 2014 Federal Poverty Guidelines are attached hereto as Exhibit 10. The 2014 Guidelines also are found at <http://aspe.hhs.gov/poverty/14poverty.cfm>.

financial choices concerning daily living necessities during the pendency of this litigation, especially given the great likelihood that the Act will be declared unconstitutional. That is the very essence of irreparable harm. See *Kalbfleisch ex-rel. Kalbfleisch v. Columbia Cmty. Unit Sch. No. 4*, 396 Ill. App. 3d 1105, 1116 (5th Dist. 2009) (irreparable harm is an alleged injury of such nature that the injured party cannot be adequately compensated in damages or when damages cannot be measured by any certain pecuniary standard); *Cross Word Products, Inc. v. Suter*, 97 Ill. App. 3d 282, 286 (1st Dist. 1981) (irreparable harm “encompass[es] not such injury as is beyond the possibility of repair or beyond the possibility of compensation in damages, but that species of injury that ought not be submitted to on the one hand or inflicted on the other”).

Under these circumstances, injunctive relief is appropriate and is required to prevent irreparable harm to pension system members and others that will flow from implementation of the Act before its constitutionality is finally decided.

III. PLAINTIFFS RAISE A “FAIR QUESTION” THAT THE ACT VIOLATES THE PENSION PROTECTION CLAUSE

In the context of a temporary restraining order and preliminary injunction, Plaintiffs demonstrate a likelihood of success if they raise a “fair question” that they will succeed on the merits. *Buzz Barton & Assoc., Inc. v. Giannone*, 108 Ill. 2d 373, 382 (1985); *Fischer v. Brombolich*, 207 Ill. App. 3d 1053, 1066 (5th Dist. 1991). They are not required to prove their case for ultimate relief. *Keefe-Shea*, 332 Ill. App. 3d at 169; *Schweickart*, 245 Ill. App. 3d at 290. Plaintiffs exceed that standard.

A. The Pension Protection Clause Is Unequivocal And Absolute In Its Protection Of Pensions Benefits From Diminishment And Impairment

As noted, the Pension Protection Clause provides that a pension system member's pension with a unit of government is an enforceable contract that the government cannot diminish and impair:

Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired.

(Ill. Const. 1970, art. XIII, § 5.) This constitutional language is “plain” and “unambiguous,” and, therefore, the Pension Protection Clause is “given effect without resort to other aids for construction.” *Kanerva*, 2014 IL 115811, ¶¶ 36, 41-42; *see also Coalition for Political Honesty v. State Bd. Of Elections*, 65 Ill. 2d 453, 464 (1976) (constitutional provision “should be given its plain and commonly understood meaning unless it is clearly evident that a contrary meaning was intended”); *In re: Pension Litigation*, at ¶ 1.

This is precisely why both the Illinois Supreme Court and the Circuit Court of Sangamon County recently confirmed the fundamental principle of Illinois constitutional law that governs this case: “[I]f something qualifies as a benefit of the enforceable contractual relationship resulting from membership in one of the State's pension or retirement systems, *it cannot be diminished or impaired.*” *Kanerva*, 2104 IL 115811, ¶ 38 (emphasis added); *In re: Pension Litigation*, at ¶ 1. As the Sangamon County Court noted, “Illinois Courts have consistently held over time that the Illinois Pension Clause's protection against the diminishment or impairment of pension benefits is absolute and without exception.” *In re: Pension Litigation*, at ¶ 3; *see also McNamee*, 173 Ill. 2d at 445 (Illinois Supreme Court has “consistently invalidated amendments to the Pension Code where the result is to diminish benefits”); *Miller*, 329 Ill. App. 3d at 596-602

(retirement board's cancellation of annuity increase for a specified period "caused plaintiffs' monthly annuity to decrease" and thereby "amounted to a change in the terms of their contract with the pension system and directly diminished their benefits under the contract").

As noted above, under the Pension Protection Clause, a pension system member is promised the pension benefits that existed at the time she or he entered the pension system, plus any enhancement subsequently provided under the Pension Code. *See supra*, p. 9-10. Clearly, the Act contravenes this constitutional promise by reducing the amount of AAI an annuitant receives each year. The same is true of the Act's requirement that active employees contribute more to the MEABF, only to get less in retirement, because the criteria set forth in the Pension Code to determine an employee's eligibility for retirement and pension amount falls within the ambit of the Pension Protection Clause's protections.³ *See Kanerva, 2014 IL 115811, ¶ 41* (stating that the Pension Protection Clause covers "terms of the pension code" and its prohibitions are "expansive"): As one of the primary sponsors of the Pension Protection Clause, Delegate Henry Green, explained:

What we are trying to merely say is that if you mandate the public employees in the state of Illinois to put in their 5 percent or 8 percent or whatever it may be monthly, and you say when you employ these people, "Now, if you do this, when you reach sixty-five, you will receive \$287 a month;" that is, in fact, is what you will get.

Record of Proceedings, Sixth Illinois Constitutional Convention, Verbatim Transcripts, at p. 2931 (July 21, 1970). (Exh. 11.)⁴ Indeed, it would defy commonsense, much less the plain

³ An essential component of that determination is the percentage of compensation that a MEABF member must contribute each year toward her or his pension. As noted above, members of the MEABF presently contribute 8.5% of their salary. (See 40 ILCS 5/8-137; 5/8-138; 5/8-174(a); 5/8-182.) Under Public Act 98-0641, that amount will increase. *See supra*, p. 7.

⁴ The Court may take judicial notice of government records and statements. *See People ex rel. Madigan v. Snyder*, 208 Ill. 2d 457, 468 (2004) (taking judicial notice of governor's public statements); *People ex rel. Director of Finance v. YWCA*, 86 Ill. 2d 219, 240 (1981) (taking judicial notice of resolution by county board); *May Dep't Stores v. Teamsters Union*, 64 Ill. 2d 153, 160 (1976) (taking judicial notice of

language of the Pension Protection Clause, to protect against diminishment and impairment of benefits received post-retirement only to leave unprotected the amount members must contribute toward those benefits pre-retirement. Those benefits of membership in a public pension system are one and the same. *Oregon State Police Officers' Ass'n v. State*, 918 P.2d 765, 775-76 (Or. 1996) (striking down contribution increase, noting that were statute upheld it “would serve notice to any person who might consider embarking on a career in public service that the state’s promises could well prove worthless”). Even if there were an ambiguity – and none exists here – the Pension Protection Clause “must be liberally construed in favor of the rights of the pensioner.” *Kanerva*, 2014 IL 115811, ¶ 39.

At bottom, there is no dispute that Public Act 98-0641 diminishes and impairs pension benefits of Plaintiffs and all other members of the MEABF. As such, Plaintiffs have demonstrated much more than a “fair question” that they will succeed on the merits.

B. The Legislature Has No Authority To Enact A Law That Violates The Pension Protection Clause

During the course of this litigation, Defendants will face a “difficult burden” in attempting to articulate, much less prove, any justification for why the Act does not violate the Pension Protection Clause. *See Coalition for Political Honesty*, 65 Ill. 2d at 464-65 (stating that government has a “difficult burden” to show that constitutional provision “should not be given its natural meaning”). The preamble to the Act refers to the financial condition of the MEABF as reason for diminishing and impairing pension benefits. (Public Act 98-0641, § 1.) But difficult financial conditions cannot justify violations of an unambiguous constitutional provision. *See Jorgensen v. Blagojevich*, 211 Ill.2d 286, 316 (2004) (“No principle of law

letters from director of government agency); *Murdy v. Edgar*, 117 Ill. App. 3d 1091, 1096 (4th Dist. 1983) (“Judicial notice may be taken of facts which are of common and general knowledge and which are established and known within the limits of the jurisdiction of the court.”).

permits us to suspend constitutional requirements for economic reasons, no matter how compelling those reasons may seem”); *People ex rel. Lyle v. City of Chicago*, 360 Ill. 25, 29 (1935) (“Neither the Legislature nor any executive or judicial officer may disregard the provisions of the Constitution even in case of a great emergency”); *People ex rel. Northrup v. City Council of City of Chicago*, 308 Ill. App. 284 (1941) (“an emergency cannot be created by the facts and used as a means of construction of a constitutional provision which has made no reference to any emergency by its terms”).

The Sangamon County Circuit Court rejected the State defendants’ contention that the financial condition of the State pension funds justified violation of the Pension Protection Clause. Citing *Kanerva*, 2014 IL 115811, ¶ 41, among other precedent, the Sangamon County Circuit Court held that such an argument would require the Court to rewrite the Pension Protection Clause to include a justification for such action that does not exist:

The Illinois Supreme Court has “consistently invalidate amendment to the Pension Code where the result is to diminish benefits.” *McNamee v. State*, 173 Ill. 2d 433, 445 (1996). In their affirmative matter, the defendants assert that the Act is nonetheless justified as an exercise of the State’s reserved sovereign powers or police powers. The Court finds as a matter of law that the defendants’ affirmative matter provides no legally valid defense. The Court “may not rewrite the pension protection clause to include restrictions and limitations that the drafters did not express and the citizens of Illinois did not approve.” *Kanerva*, 2014 IL 115811, ¶ 41. The Pension Protection Clause contains no exception, restriction or limitation for an exercise of the State’s police powers or reserved sovereign powers. Illinois courts, therefore, have rejected the argument that the State retains an implied or reserved power to diminish or impair pension benefits. See *Felt v. Bd. of Trustees of Judges Retirement System*, 107 Ill.2d 158, 167-68 (1985) (holding that, to recognize such a power, “we would have to ignore the plain language of the Constitution of Illinois”); *Kraus v. Bd. of Trustees of Police Pension Fund of Vill. of Niles*, 72 Ill. App. 3d 833, 851 (1979).

In re: Pension Litigation, ¶ 3. See also *Felt v. Board of Trustees of the Judges Retirement System*, 107 Ill. 2d 158, 167 (1985) (holding unconstitutional change in the manner in which

judges' final average salaries are calculated and noting that "[i]n order to accept the defendants' argument we would have to ignore the plain language of the Constitution of Illinois").

Should Defendants similarly assert that financial condition justifies the unconstitutional diminishment and impairments the Act imposes, the result would be the same. Such an argument would ignore the long-standing constitutional principle that neither the General Assembly nor any other unit of government has power to do what the Illinois Constitution prohibits, no matter the circumstances. See *O'Brien v. White*, 219 Ill. 2d 86, 100 (2006) ("General Assembly cannot enact legislation that conflicts with specific provisions of the constitution, unless the constitution specifically grants the legislature that authority.") The reason for that restriction on the government's ability to act is well-settled: the Illinois Constitution "does not grant power to the legislature, but rather restricts the legislature's power to act."⁵ *Eden Retirement Center, Inc. v. Department of Revenue*, 213 Ill. 2d 273, 284 (2004); see also *People ex rel. Chicago Bar Ass'n v. State Bd. of Election*, 136 Ill. 2d 513, 526 (1990) ("It is well accepted in this State that the constitution is not regarded as a grant of powers to the legislature but is a limitation upon its authority; the legislature may enact any legislation not expressly prohibited by the constitution."); *Client Follow-Up Co. v. Hynes*, 75 Ill. 2d 208, 215 (1979) ("limitations written into the Constitution are restrictions on legislative power and are enforceable by the courts").

Simply put, any purported benefit that Defendants might claim would derive from upholding the Act would – as a matter of law – make no difference. "If a statute is unconstitutional, courts are obligated to declare it invalid ... [and] this duty cannot be evaded or

⁵ In addition, "the State is free as a matter of its own law to impose greater restrictions on the police power than those held to be necessary upon federal constitutional standards." *Parkway Bank & Trust Co. v. City of Darien*, 43 Ill. App. 3d 400, 406 (1976).

neglected, no matter how desirable or beneficial the legislation may appear to be.” *Maddux v. Blagojevich*, 233 Ill.2d 508, 528 (2009).

Clearly, Plaintiffs raise a “fair question” of their success on the merits. Because they have done so, the Court should enter the injunctive relief they seek.

IV. THE BALANCE OF THE EQUITIES TIPS DECIDEDLY IN FAVOR OF ENJOINING IMPLEMENTATION OF THE ACT

Under the circumstances, no balance of harms analysis is required before the Court may grant Plaintiffs’ Motion and award injunctive relief in Plaintiffs’ favor. Where, as here, a defendant acts in contravention of a plaintiff’s rights with knowledge of the consequences that might ensue, the Court does not engage in a balancing of the harms. *Preferred Meal Systems, Inc. v. Guse*, 199 Ill. App. 3d 710, 727 (1st Dist. 1990) (“It is well-established in Illinois that the [balancing harms] doctrine is inapplicable where a defendant’s actions are done with full knowledge of the plaintiff’s rights and with an understanding of the consequences which might ensue.”). The General Assembly passed Senate Bill 1922, which became the Act, knowing that its constitutionality was in serious question. By that time, the five lawsuits that challenged the unconstitutionality of Public Act 98-0599 had been filed, leaving no doubt as to the rights and protections public pension system annuitants claim under the Pension Protection Clause and the harm they would suffer as a result of a breach of that constitutional promise.⁶

⁶ Moreover, just a few months earlier, Senator Hutchinson explained during the deliberations on the legislation that became Public Act 98-0599 that a member of the General Assembly’s vote in favor of legislation that diminishes and impairs pension benefits would abdicate the oath that member took to uphold the Constitution:

I’m standing here because I’m going to vote No on this bill [The Pension Protection Clause] is in the same Constitution that I raised my right hand and swore to uphold, along with the United States Constitution. I cannot abrogate my responsibility for that here today.

Moreover, the Governor signed the Act into law on June 9, 2014, less than one month after the Sangamon County Court had preliminarily enjoined implementation of Public Act 98-0599. *See In re: Pension Litigation*, slip op., p 2. (Exh. 2). Simply, Defendants cannot claim ignorance as to the constitutional rights at issue or the harm to MEABF members that would result from implementation of the Act. This is why the Sangamon County Court found when it entered a preliminary injunction forbidding implementation of Public Act 98-0599: “Although a balancing of harms is not required under the circumstances, the Court finds that the Plaintiffs have shown that the balance of hardships weigh in their favor.” *Id.*

But even if the Court were to balance the harms, the outcome would be the same – the balance tips decidedly in favor of Plaintiffs and MEABF members. In short, while the constitutionality of the Act remains to be decided, no MEABF member, active or retired, should as a result of the Act:

- lose constitutionally-protected income;
- have to choose between daily living needs as a result of the diminishments and impairments; or
- worry about whether they will have the wherewithal to pay for daily living needs and unexpected circumstances as a result of questionable law.

Defendants should embrace the injunction Plaintiffs seek for those reasons alone. They also should embrace an injunction because it would alleviate the burden and expense MEABF faces changing operations that likely will have to be returned to the status quo following the conclusion of this litigation.

See 98th Ill. Gen. Assem., Senate Proceedings, 1st Spec. Sess., Dec. 3, 2013 at 47. (Exh. 12.) Upholding her oath of office, Senator Hutchinson also voted against the legislation that became the Act. (Exh. 13.)

The interests of the citizens of Illinois also weigh sharply in favor of an injunction. The Illinois Constitution is the “supreme law” of the State and the expression of the will of Illinois citizens. *Coalition for Political Honesty*, 65 Ill. 2d at 460. The public interest favors upholding constitutional rights at all times whether times are good or present difficult challenges. *See People ex rel. Lyle*, 360 Ill. at 29. Legislative acts that violate an express constitutional limitation are an affront to Illinois citizens, undermine the rule of law and damage confidence in the State government. *See Maddux*, 233 Ill.2d at 528 (“If a statute is unconstitutional, courts are obligated to declare it invalid... [and] this duty cannot be evaded or neglected, no matter how desirable or beneficial the legislation may appear to be.”). In light of the likelihood that the Court will declare the Act unconstitutional and invalid, only an injunction that fully stays implementation of the Act pending a final decision on its merits can safeguard the will of the citizens and prevent further erosion of the confidence in the ability of our government to uphold the Constitution.

CONCLUSION

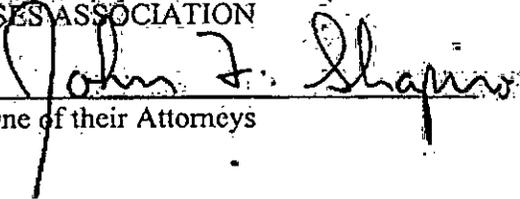
There is no dispute that the changes the Act imposes are precisely the diminishment and impairments the Pension Protection Clause forbids. “[I]t is clear that if something qualifies as a benefit of the enforceable contractual relationship resulting from membership in one of the State’s pension or retirement systems, *it cannot be diminished or impaired.*” *Kanerva*, 2014 IL 115811, ¶ 38 (emphasis supplied). Absent an injunction, that constitutional promise will ring hollow for MEABF members who will face a Hobson’s choice between the daily living needs they can afford. Purchase medications, but forgo housing payments? Undergo medical procedures, but forgo supporting family? Support family, but delay needed medical attention? Pay for daily living needs, but let my home crumble? These are a few of the myriad irreparable

choices between important daily living needs with which MEABF members would have to grapple repeatedly. There is no reason to allow these unjust and unfair situations, for which there are no adequate remedies, to occur during the pendency of this litigation. Accordingly, Plaintiffs request that the Court grant their motion and enter the requested injunction without delay.

Dated: December 16, 2014

Respectfully submitted,

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SYDELL F. HATCHETT, LAVERNE
WALKER, BERNICE MOORE,
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ARLENE WILLIAMS, GLORIA E.
HIGGINS, WILLIE B. WILLIAMS,
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FILED

NOV 21 2014 FAM 8

IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

Scott P. DeLoe

Clerk of the
Circuit Court

IN RE: PENSION LITIGATION

) No. 2014 MR 1
) Hon. John W. Belz
)

ORDER

This matter comes before the Court in these consolidated cases on the plaintiffs' joint motion for partial summary judgment, the *ISEA, RSEA, Heaton and Harrison* plaintiffs' joint motion for judgment on the pleadings as to the affirmative defense, or in the alternative, to strike the affirmative defense, and the *SUAA* plaintiffs' motion to strike the affirmative defense (the "Plaintiffs' Motions").

The plaintiffs in these consolidated cases allege that Public Act 98-0599 (the "Act") violates the Pension Protection Clause of the Illinois Constitution (Article XIII, §5) and that the Act is unconstitutional and void in its entirety. In their affirmative defense, the Defendants assert that the Act is justified as an exercise of the State's reserved sovereign powers or police powers. The Court hereby rules in favor of the plaintiffs on each motion and further finds and orders as follows:

1. The Pension Protection Clause of the Illinois Constitution states: "Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired." (Illinois Constitution, Article XIII, §5.) This constitutional language is "plain" and "unambiguous," and, therefore, the Pension Protection Clause is "given effect without resort to other aids for construction." *Kanerva v. Weems*, 2014 IL 115811, ¶¶ 36, 41-42. Under the Pension Protection Clause, "it is clear that if something qualifies as a benefit of the enforceable contractual relationship resulting from membership in one of the State's pension or retirement systems, it cannot be diminished or impaired." *Id.*, ¶ 38. The Illinois



legislature could not have been more clear that any attempt to diminish or impair pension rights is unconstitutional.

2. The Court finds that, on its face, the Act impairs and diminishes the benefits of membership in State retirement systems in multiple ways, including the following:

a. The Act adds new language to the Pension Code which provides that, on or after the Act's effective date, the 3% compounded automatic annual increases (AAIs) that have been mandated by the Pension Code for many years shall instead be "calculated as 3% of the lesser of (1) the total annuity payable at the time of the increase, including previous increases granted, or (2) \$1,000 multiplied by the number of years of creditable service upon which the annuity is based."

See the Act's amendments to 40 ILCS 5/2-119.1(a-1), 40 ILCS 5/15-136(d-1), 40 ILCS 5/16-133.1(a-1); see also the Act's amendments to 40 ILCS 5/14-114(a-1). The defendants admit that these amendments will reduce the AAI amounts that certain pension system members receive. See, e.g., Answer to *Heaton* Amended Complaint, ¶¶ 43, 45, 47, 51, 55, 57, 61, 65; Answer to *Harrison* Complaint, ¶¶ 93-96, 133-140.

b. The Act also provides that State retirement system members who have not begun to receive a retirement annuity before July 1, 2014, will receive no AAI at all on alternating years for varying lengths of time, depending on their age. See the Act's amendments to 40 ILCS 5/2-119.1(a-2), 40 ILCS 5/14-114(a-2), 40 ILCS 5/15-136(d-2), 40 ILCS 5/16-133.1(a-2). The defendants admit that these amendments will reduce the AAI amounts that certain pension system members receive. See, e.g., Answer to *Heaton* Amended Complaint, ¶¶ 13, 47, 51, 57, 61, 65; Answer to *Harrison* Complaint, ¶ 98; Answer to *SUAA* Amended Complaint, ¶¶ 142-45.

c. The defendants admit that Public Act 98-0599 also imposes a new cap on the

pensionable salary of members of certain State retirement systems. See, e.g., the Act's amendments to 40 ILCS 5/16-121; see also, e.g., Answer to *Harrison* Complaint, ¶¶ 100-04; Answer to *Heaton* Amended Complaint, ¶¶ 49, 67. That cap is the greater of: (1) the salary cap that previously applied only to members who joined the retirement system on or after January 1, 2011; (2) the member's annualized salary as of June 1, 2014; or (3) the member's annualized salary immediately preceding the expiration, renewal, or amendment of an employment contract or collective bargaining agreement in effect on June 1, 2014. See the Act's amendments to 40 ILCS 5/14-103.10(h), 40 ILCS 5/15-111(c), 40 ILCS 5/16-121; see also the Act's amendments to 40 ILCS 5/2-108. The new cap will reduce annuity payments, which are based in part on a pension system member's pensionable salary.

d. Public Act 98-0599 also raises the retirement age for members of certain State retirement systems on a sliding scale based upon one's age. See the Act's amendments to 40 ILCS 5/2-119(a-1), 40 ILCS 5/14-107(c), 40 ILCS 5/15-135(a-3), 40 ILCS 5/16-132; see also, e.g., Answer to *Harrison* Complaint, ¶¶ 106-07; Answer to *Heaton* Amended Complaint, ¶¶ 48, 52, 58, 62, 66; Answer to *SUAA* Amended Complaint, ¶ 68.

e. The Act also alters "the method for determining the 'effective rate of interest' used to calculate pensions for members under the money-purchase formulas included in Articles 15 and 16 of the Pension Code." See Defendants' Affirmative Matter, ¶ 10; Answer to *SUAA* Amended Complaint, ¶¶ 64-67; see also the Act's amendments to 40 ILCS 5/15-125 and 40 ILCS 5/16-112. It is uncontested that this change, too, would reduce pension annuity payments.

3. The Act without question diminishes and impairs the benefits of membership in State retirement systems. Illinois Courts have consistently held over time that the Illinois Pension Clause's protection against the diminishment or impairment of pension benefits is absolute and

without exception. The Illinois Supreme Court has “consistently invalidated amendment to the Pension Code where the result is to diminish benefits.” *McNamee v. State*, 173 Ill. 2d 433, 445 (1996). In their affirmative matter, the defendants assert that the Act is nonetheless justified as an exercise of the State’s reserved sovereign powers or police powers. The Court finds as a matter of law that the defendants’ affirmative matter provides no legally valid defense. The Court “may not rewrite the pension protection clause to include restrictions and limitations that the drafters did not express and the citizens of Illinois did not approve.” *Kanerva*, 2014 IL 115811, ¶ 41. The Pension Protection Clause contains no exception, restriction or limitation for an exercise of the State’s police powers or reserved sovereign powers. Illinois courts, therefore, have rejected the argument that the State retains an implied or reserved power to diminish or impair pension benefits. See *Felt v. Bd. of Trustees of Judges Retirement System*, 107 Ill.2d 158, 167-68 (1985) (holding that, to recognize such a power, “we would have to ignore the plain language of the Constitution of Illinois”); *Kraus v. Bd. of Trustees of Police Pension Fund of Vill. of Niles*, 72 Ill. App. 3d 833, 851 (1979).

4. Because the Act diminishes and impairs pension benefits and there is no legally cognizable affirmative defense, the Court must conclude that the Act violates the Pension Protection Clause of the Illinois Constitution. The Court holds that Public Act 98-0599 is unconstitutional.

5. The Act contains a “[s]everability and inseverability” clause. See Public Act 98-0599, §97. That provision states that the Act’s changes to 39 distinct sections and subsections of various statutes “are mutually dependent and inseverable from one another,” but that the Act is severable as a general proposition. *Id.* That list of 39 inseverable provisions includes certain of the benefit-reduction provisions that this Court has held to be unconstitutional. Therefore, all 39 provisions identified in the Act’s “[s]everability and inseverability” clause must fail. Those

inseverable provisions are significant to the overall operation of the Act. They include, for example, the Act's mechanism for supposedly guaranteeing funding of the State pension systems. See Public Act 98-0599, §97. In addition, "severability" language is not dispositive. Notwithstanding the presence of a severability clause, legislation is not severable where, as here, it is a broad legislative package intended to impose sweeping changes in a subject area, and the unconstitutional provisions of that package are important elements of it. See *Cincinnati Ins. Co. v. Chapman*, 181 Ill.2d 65, 81-86 (1998); see also *Best v. Taylor Mach. Works*, 179 Ill.2d 367, 459-67 (1997). The Act's provisions "are all part of an integral bipartisan package." See 98th Ill. Gen. Assem., Senate Pro., Dec. 3, 2013, at 4 (Sen. Raoul). The Court holds that Public Act 98-0599 is inseverable and void in its entirety.

6. The defendants have attempted to create a factual record to the effect that, if a reserved sovereign power to diminish or impair pensions existed, the facts would justify an exercise of that power. The defendants can cite to no Illinois case that would allow this affirmative defense. Because the Court finds that no such power exists, it need not and does not reach the issue of whether the facts would justify the exercise of such a power if it existed, and the Court will not require the plaintiffs to respond to the defendants' evidentiary submissions. The plaintiffs having obtained complete relief, the Court also need not address at this time the plaintiffs' additional claims that the Act is unconstitutional or illegal on other grounds. See *Kanerva*, 2014 IL 115811, ¶ 58. In summary, the State of Illinois made a constitutionally protected promise to its employees concerning their pension benefits. Under established and uncontroverted Illinois law, the State of Illinois cannot break this promise.

WHEREFORE, the Court orders as follows:

a. The Plaintiffs' Motions are granted. The defendants' cross-motion for summary judgment is denied, with prejudice, because the Court finds that there is no police power or reserved

sovereign power to diminish pension benefits. Pursuant to 735 ILCS 5/2-701, the Court enters a final declaratory judgment that Public Act 98-0599 is unconstitutional and void in its entirety;

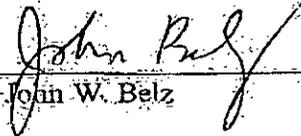
b. The temporary restraining order and preliminary injunction entered previously in this case is hereby made permanent. The defendants are permanently enjoined from enforcing or implementing any provision of Public Act 98-0599;

c. Pursuant to Illinois Supreme Court Rule 304(a), the Court finds that there is no just reason for delaying either enforcement of this order or appeal or both.

Date:

11/21/14

ENTERED:



Judge John W. Belz

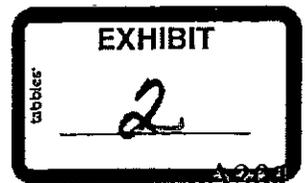
IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

| | | |
|----------------------------------------------------------------------------------------------------------|---|------------------------|
| IN RE: PENSION REFORM LITIGATION |) | No. 2014 MR 1 |
| |) | Honorable John W. Belz |
| DORIS HEATON, <i>et al.</i> , Plaintiffs, |) | Originally Filed as |
| |) | Cook County Case |
| v. |) | No. 2013 CH 28406 |
| PAT QUINN, Governor of Illinois, <i>et al.</i> , Defendants. |) | |
| RETIRED STATE EMPLOYEES ASS'N, <i>et al.</i> , Plaintiffs, |) | Originally Filed as |
| |) | Sangamon County Case |
| v. |) | No. 2014 MR 1 |
| PATRICK QUINN, Governor of Illinois, <i>et al.</i> , Defendants. |) | |
| ILLINOIS STATE EMPLOYEES ASS'N, <i>et al.</i> , Plaintiffs, |) | Originally Filed as |
| |) | Sangamon County Case |
| v. |) | No. 2014 CH 3 |
| BOARD OF TRUSTEES OF STATE EMPLOYEES RETIREMENT SYSTEM OF ILLINOIS, <i>et al.</i> , Defendants. |) | |
| GWENDOLYN A. HARRISON, <i>et al.</i> , and WE ARE ONE ILLINOIS COALITION, Plaintiffs, |) | Originally Filed as |
| |) | Sangamon County Case |
| v. |) | No. 2014 CH 48 |
| PATRICK QUINN, Governor of Illinois, <i>et al.</i> , Defendants. |) | |
| STATE UNIVERSITIES ANNUITANTS' ASS'N, <i>et al.</i> , Plaintiffs, |) | Originally Filed as |
| |) | Champaign County Case |
| v. |) | No. 2014 MR 207 |
| STATE UNIVERSITIES RETIREMENT SYSTEM, <i>et al.</i> , Defendants. |) | |

FILED
MAY 15 2014 CRI-10
Clerk of the
Circuit Court

**ORDER GRANTING MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

This matter is before the Court on the Motion of Gwendolyn Harrison, *et al.* and We Are One Illinois Coalition (collectively, "Plaintiffs") for a Temporary Restraining Order and Preliminary Injunction. Due notice have been given, Defendants having appeared through counsel and the Court being fully advised in the premises, including having considered the arguments of moving Plaintiffs and Defendants in open court; the arguments of counsel for the



other parties in open court; Plaintiffs' Complaint for Declaratory, Injunctive, and Other Relief; Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction; Plaintiffs' Memorandum of Law in support thereof; and Defendants' Memorandum in Opposition to Plaintiffs' Motion, and as further explained in open court, the Court finds as follows:

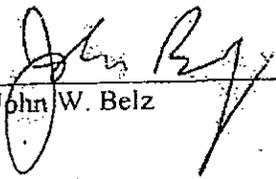
1. Plaintiffs have shown that they have a clearly ascertainable right in need of protection, including their vested rights to their pensions.
2. Plaintiffs have shown that there is a fair question that Plaintiffs will succeed on the merits as to their challenge that Public Act 98-0599 violates the Pension Protection Clause of the Illinois Constitution.
3. Plaintiffs have shown that they will suffer irreparable harm if an injunction does not issue, including because of confusion and uncertainty concerning the provisions of Public Act 98-0599.
4. Plaintiffs have shown that they have no adequate remedy at law absent injunctive relief.
5. Although a balancing of harms is not required under the circumstances, the Court finds that the Plaintiffs have shown that the balance of hardships weigh in their favor.

WHEREFORE, IT IS HEREBY ORDERED:

Public Act 98-0599 is hereby stayed in its entirety, and Defendants are enjoined from implementing or administering any provisions of Public Act 98-0599 until further order of the Court or until Public Act 98-0599 is held unconstitutional and a permanent injunction is entered.

Dated: May 14, 2014.

Enter:



 Honorable John W. Belz

FILED

NOV 26 2014 CIV-1

Anthony P. Kelly
Clerk of the
Circuit Court

APPEAL TO THE
SUPREME COURT OF ILLINOIS

From the Circuit Court for the Seventh Judicial Circuit,
Sangamon County, Illinois

| | | |
|---------------------------------------------------------|---|-----------------------|
| IN RE: PENSION REFORM LITIGATION |) | No. 2014 MR 1 |
| |) | Hon. John W. Belz |
| <hr/> | | |
| DORIS HEATON, <i>et al.</i> , |) | |
| Plaintiffs-Appellees, |) | Originally Filed as |
| v. |) | Cook County Case |
| PAT QUINN, Governor of Illinois, <i>et al.</i> , |) | No. 2013 CH 28406 |
| Defendants-Appellants. |) | |
| <hr/> | | |
| RETIRED STATE EMPLOYEES ASS'N RETIREES, <i>et al.</i> , |) | |
| Plaintiffs-Appellees, |) | Originally Filed as |
| v. |) | Sangamon County Case |
| PATRICK QUINN, Governor of Illinois, <i>et al.</i> , |) | No. 2014 MR 1 |
| Defendants-Appellants. |) | |
| <hr/> | | |
| ILLINOIS STATE EMPLOYEES ASS'N, <i>et al.</i> , |) | |
| Plaintiffs-Appellees, |) | Originally Filed as |
| v. |) | Sangamon County Case |
| BOARD OF TRUSTEES OF STATE EMPLOYEES |) | No. 2014 CH 3 |
| RETIREMENT SYSTEM OF ILLINOIS, <i>et al.</i> , |) | |
| Defendants-Appellants. |) | |
| <hr/> | | |
| GWENDOLYN A. HARRISON, <i>et al.</i> , |) | |
| Plaintiffs-Appellees, |) | Originally Filed as |
| v. |) | Sangamon County Case |
| PATRICK QUINN, Governor of Illinois, <i>et al.</i> , |) | No. 2014 CH 48 |
| Defendants-Appellants. |) | |
| <hr/> | | |
| STATE UNIVERSITIES ANNUITANTS ASS'N, <i>et al.</i> , |) | |
| Plaintiffs-Appellees, |) | Originally Filed as |
| v. |) | Champaign County Case |
| STATE UNIVERSITIES RETIREMENT SYSTEM, <i>et al.</i> , |) | No. 2014 MR 207 |
| Defendants-Appellants. |) | |

Notice of Appeal



Defendants, Illinois Governor Pat Quinn, *et al.*, by their counsel, Illinois Attorney General Lisa Madigan, (1) appeal to the Supreme Court, pursuant to Supreme Court Rule 302(a), from the circuit court's November 21, 2014 order, as supplemented by the circuit court's November 25, 2014 findings pursuant to Supreme Court Rule 18 (copies of which are attached as Exhibits A and B) (collectively, the "Judgment"), which, among other things, (a) entered judgment in favor of all of the plaintiffs in these consolidated cases on their claims that various provisions of Public Act 98-599 (the "Act") violate the Pension Clause of the Illinois Constitution (art. XIII, § 5), (b) declared the Act void in its entirety, and (c) entered a finding pursuant to Supreme Court Rule 304(a) that there is no just reason to delay enforcement or appeal; and (2) request (a) reversal of the Judgment, (b) remand for the purposes of addressing the merits of all of the plaintiffs' claims, including the merits of the plaintiffs' Pension Clause claims in light of the affirmative matter alleged in the defendants' answers, and (c) such further relief as is warranted.

Respectfully submitted,

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By: 

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FILED

NOV 21 2014 FAM 8

IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

John W. Belz Clerk of the
Circuit Court

IN RE: PENSION LITIGATION

) No. 2014 MR 1
) Hon. John W. Belz
)

ORDER

This matter comes before the Court in these consolidated cases on the plaintiffs' joint motion for partial summary judgment, the *ISEA, RSEA, Heaton and Harrison* plaintiffs' joint motion for judgment on the pleadings as to the affirmative defense, or in the alternative, to strike the affirmative defense, and the *SUAA* plaintiffs' motion to strike the affirmative defense (the "Plaintiffs' Motions").

The plaintiffs in these consolidated cases allege that Public Act 98-0599 (the "Act") violates the Pension Protection Clause of the Illinois Constitution (Article XIII, §5) and that the Act is unconstitutional and void in its entirety. In their affirmative defense, the Defendants assert that the Act is justified as an exercise of the State's reserved sovereign powers or police powers. The Court hereby rules in favor of the plaintiffs on each motion and further finds and orders as follows:

1. The Pension Protection Clause of the Illinois Constitution states: "Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired." (Illinois Constitution, Article XIII, §5.) This constitutional language is "plain" and "unambiguous," and, therefore, the Pension Protection Clause is "given effect without resort to other aids for construction." *Kanerva v. Weems*, 2014 IL 115811, ¶¶ 36, 41-42. Under the Pension Protection Clause, "it is clear that if something qualifies as a benefit of the enforceable contractual relationship resulting from membership in one of the State's pension or retirement systems, it cannot be diminished or impaired." *Id.*, ¶ 38. The Illinois

EXHIBIT A

legislature could not have been more clear that any attempt to diminish or impair pension rights is unconstitutional.

2. The Court finds that, on its face, the Act impairs and diminishes the benefits of membership in State retirement systems in multiple ways, including the following:

a. The Act adds new language to the Pension Code which provides that, on or after the Act's effective date, the 3% compounded automatic annual increases (AAIs) that have been mandated by the Pension Code for many years shall instead be "calculated as 3% of the lesser of (1) the total annuity payable at the time of the increase, including previous increases granted, or (2) \$1,000 multiplied by the number of years of creditable service upon which the annuity is based . . ."

See the Act's amendments to 40 ILCS 5/2-119.1(a-1), 40 ILCS 5/15-136(d-1), 40 ILCS 5/16-133.1(a-1); see also the Act's amendments to 40 ILCS 5/14-114(a-1). The defendants admit that these amendments will reduce the AAI amounts that certain pension system members receive. See, e.g., Answer to *Heaton* Amended Complaint, ¶¶ 43, 45, 47, 51, 55, 57, 61, 65; Answer to *Harrison* Complaint, ¶¶ 93-96, 133-140.

b. The Act also provides that State retirement system members who have not begun to receive a retirement annuity before July 1, 2014, will receive no AAI at all on alternating years for varying lengths of time, depending on their age. See the Act's amendments to 40 ILCS 5/2-119.1(a-2), 40 ILCS 5/14-114(a-2), 40 ILCS 5/15-136(d-2), 40 ILCS 5/16-133.1(a-2). The defendants admit that these amendments will reduce the AAI amounts that certain pension system members receive. See, e.g., Answer to *Heaton* Amended Complaint, ¶¶ 13, 47, 51, 57, 61, 65; Answer to *Harrison* Complaint, ¶ 98; Answer to *SUAA* Amended Complaint, ¶¶ 142-45.

c. The defendants admit that Public Act 98-0599 also imposes a new cap on the

pensionable salary of members of certain State retirement systems. See, e.g., the Act's amendments to 40 ILCS 5/16-121; see also, e.g., Answer to *Harrison* Complaint, ¶¶ 100-04; Answer to *Heaton* Amended Complaint, ¶¶ 49, 67. That cap is the greater of: (1) the salary cap that previously applied only to members who joined the retirement system on or after January 1, 2011; (2) the member's annualized salary as of June 1, 2014; or (3) the member's annualized salary immediately preceding the expiration, renewal, or amendment of an employment contract or collective bargaining agreement in effect on June 1, 2014. See the Act's amendments to 40 ILCS 5/14-103.10(h), 40 ILCS 5/15-111(c), 40 ILCS 5/16-121; see also the Act's amendments to 40 ILCS 5/2-108. The new cap will reduce annuity payments, which are based in part on a pension system member's pensionable salary.

d. Public Act 98-0599 also raises the retirement age for members of certain State retirement systems on a sliding scale based upon one's age. See the Act's amendments to 40 ILCS 5/2-119(a-1), 40 ILCS 5/14-107(c), 40 ILCS 5/15-135(a-3), 40 ILCS 5/16-132; see also, e.g., Answer to *Harrison* Complaint, ¶¶ 106-07; Answer to *Heaton* Amended Complaint, ¶¶ 48, 52, 58, 62, 66; Answer to *SUAA* Amended Complaint, ¶ 68.

e. The Act also alters "the method for determining the 'effective rate of interest' used to calculate pensions for members under the money-purchase formulas included in Articles 15 and 16 of the Pension Code." See Defendants' Affirmative Matter, ¶ 10; Answer to *SUAA* Amended Complaint, ¶¶ 64-67; see also the Act's amendments to 40 ILCS 5/15-125 and 40 ILCS 5/16-112. It is uncontested that this change, too, would reduce pension annuity payments.

3. The Act without question diminishes and impairs the benefits of membership in State retirement systems. Illinois Courts have consistently held over time that the Illinois Pension Clause's protection against the diminishment or impairment of pension benefits is absolute and

without exception. The Illinois Supreme Court has "consistently invalidated amendment to the Pension Code where the result is to diminish benefits." *McNamee v. State*, 173 Ill. 2d 433, 445 (1996). In their affirmative matter, the defendants assert that the Act is nonetheless justified as an exercise of the State's reserved sovereign powers or police powers. The Court finds as a matter of law that the defendants' affirmative matter provides no legally valid defense. The Court "may not rewrite the pension protection clause to include restrictions and limitations that the drafters did not express and the citizens of Illinois did not approve." *Kanerva*, 2014 IL 115811, ¶ 41. The Pension Protection Clause contains no exception, restriction or limitation for an exercise of the State's police powers or reserved sovereign powers. Illinois courts, therefore, have rejected the argument that the State retains an implied or reserved power to diminish or impair pension benefits. See *Felt v. Bd. of Trustees of Judges Retirement System*, 107 Ill.2d 158, 167-68 (1985) (holding that, to recognize such a power, "we would have to ignore the plain language of the Constitution of Illinois"); *Kraus v. Bd. of Trustees of Police Pension Fund of Vill. of Niles*, 72 Ill. App. 3d 833, 851 (1979).

4. Because the Act diminishes and impairs pension benefits and there is no legally cognizable affirmative defense, the Court must conclude that the Act violates the Pension Protection Clause of the Illinois Constitution. The Court holds that Public Act 98-0599 is unconstitutional.

5. The Act contains a "[s]everability and inseverability" clause. See Public Act 98-0599, §97. That provision states that the Act's changes to 39 distinct sections and subsections of various statutes "are mutually dependent and inseverable from one another," but that the Act is severable as a general proposition. *Id.* That list of 39 inseverable provisions includes certain of the benefit-reduction provisions that this Court has held to be unconstitutional. Therefore, all 39 provisions identified in the Act's "[s]everability and inseverability" clause must fail. Those

inseverable provisions are significant to the overall operation of the Act. They include, for example, the Act's mechanism for supposedly guaranteeing funding of the State pension systems. See Public Act 98-0599, §97. In addition, "severability" language is not dispositive. Notwithstanding the presence of a severability clause, legislation is not severable where, as here, it is a broad legislative package intended to impose sweeping changes in a subject area, and the unconstitutional provisions of that package are important elements of it. See *Cincinnati Ins. Co. v. Chapman*, 181 Ill.2d 65, 81-86 (1998); see also *Best v. Taylor Mach. Works*, 179 Ill.2d 367, 459-67 (1997). The Act's provisions "are all part of an integral bipartisan package." See 98th Ill. Gen. Assem., Senate Pro., Dec. 3, 2013, at 4 (Sen. Raoul). The Court holds that Public Act 98-0599 is inseverable and void in its entirety.

6. The defendants have attempted to create a factual record to the effect that, if a reserved sovereign power to diminish or impair pensions existed, the facts would justify an exercise of that power. The defendants can cite to no Illinois case that would allow this affirmative defense. Because the Court finds that no such power exists, it need not and does not reach the issue of whether the facts would justify the exercise of such a power if it existed, and the Court will not require the plaintiffs to respond to the defendants' evidentiary submissions. The plaintiffs having obtained complete relief, the Court also need not address at this time the plaintiffs' additional claims that the Act is unconstitutional or illegal on other grounds. See *Kanerva*, 2014 IL 115811, ¶ 58. In summary, the State of Illinois made a constitutionally protected promise to its employees concerning their pension benefits. Under established and uncontroverted Illinois law, the State of Illinois cannot break this promise.

WHEREFORE, the Court orders as follows:

a. The Plaintiffs' Motions are granted. The defendants' cross-motion for summary judgment is denied, with prejudice, because the Court finds that there is no police power or reserved

sovereign power to diminish pension benefits. Pursuant to 735 ILCS 5/2-701, the Court enters a final declaratory judgment that Public Act 98-0599 is unconstitutional and void in its entirety;

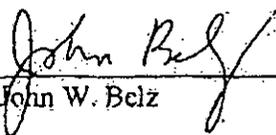
b. The temporary restraining order and preliminary injunction entered previously in this case is hereby made permanent. The defendants are permanently enjoined from enforcing or implementing any provision of Public Act 98-0599;

c. Pursuant to Illinois Supreme Court Rule 304(a), the Court finds that there is no just reason for delaying either enforcement of this order or appeal or both.

Date:

11/21/14

ENTERED:



Judge John W. Belz

FILED

NOV 25 2014 CV-1

IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY ILLINOIS

Clerk of the
Circuit Court

| | | |
|---------------------------|---|------------------------|
| IN RE: PENSION LITIGATION |) | No. 2014 MR 1 |
| |) | Honorable John W. Belz |
| |) | |

Illinois Supreme Court Rule 18 Findings

On November 21, 2014, this Court entered an order granting plaintiffs' joint motion for partial summary judgment, granting plaintiffs' joint motion for judgment on the pleadings on defendants' affirmative defense and the SUAA plaintiffs' motion to strike defendants' affirmative defense; denying defendants' cross-motion for summary judgment, permanently restraining enforcement or implementation of the Act, and finding that no just reason to delay enforcement or appeal of the order existed. Because the November 21, 2014 order, which is incorporated herein by reference, invalidated a state statute, the Court enters these findings pursuant to Illinois Supreme Court Rule 18:

1. Public Act 98-0599 (the "Act") is unconstitutional in its entirety;
2. The Act violates the Pension Protection Clause of the Illinois Constitution, Ill. Const. art. XIII, § 5;
3. The Act is unconstitutional on its face;
4. The Act cannot be reasonably construed in a manner that would preserve its validity;
5. The finding of unconstitutionality of the Act is necessary to the judgment rendered and such judgment cannot rest upon an alternative ground; and
6. The notice required by Illinois Supreme Court Rule 19 has been served and those with such notice have been given adequate time and opportunity under the circumstances to defend the Act.

Date: 11/25/14

Enter: John Belz

EXHIBIT B

Certificate of Filing and Service

I, Joshua D. Ratz, an attorney, hereby certify that on November 26, 2014, the foregoing Notice of Appeal was filed in the Circuit Court for the Seventh Judicial Circuit, Sangamon County, and that true and correct copies of the foregoing Notice of Appeal were served by electronic mail and by United States Mail, first class postage prepaid, upon all counsel of record as follows:

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DECLARATION OF MARY J. JONES

1. I, Mary J. Jones, depose and state that I have personal knowledge of the statements made in this declaration and can competently testify to the following facts:

2. I am a member of the Municipal Employees' Annuity and Benefit Fund of Chicago. I provide this declaration in support of a stay of the implementation of the new pension law that will diminish my pension.

3. I retired in 2004, after working 33 1/3 years at the Chicago Public Library.

4. This year, my gross monthly pension is \$3,483.99 per month. Each month, taxes and my health insurance premiums are deducted from that amount. I also pay my union dues of \$2 per month by having that amount deducted from my pension. As a result, my net pension amount is \$2,620.70 per month.

5. When I retired, I relied on the promise that I would receive each year a 3% increase in the total gross amount of the pension that I received in the prior year. That yearly increase would help me keep up with my living expenses. I rely on my pension for my retirement security. It is my only source of income in retirement.

6. I own my own home, help support my mother and help provide for my grandchildren's daily needs. So in deciding to retire, it also was important to me that I would receive the 3% increase each year to help me meet those obligations to my family as well.

7. When I retired, I also relied on the understanding that the City of Chicago would pay 55% of my health insurance premium. Now, the City has decided to phase out paying for any portion of retiree health insurance, making it very difficult for me to continue to help my mother, provide for my grandchildren and meet other dialing living expenses.



13. I request that the implementation of the new law be stayed until the constitutionality of the new law is finally determined so that I, and other retirees who face reductions in the pensions they were promised, are spared the unfairness and harm implementation of the new law will cause.

Under the penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.


Mary Jones

Dated: 12-12, 2014

DECLARATION OF BERNICE MOORE

1. I, Bernice Moore, depose and state that I have personal knowledge of the statements made in this declaration and can competently testify to the following facts:

2. I am a member of the Municipal Employees' Annuity and Benefit Fund of Chicago. I provide this declaration in support of a stay of the implementation of the new pension law that will diminish my pension.

3. I retired in 2004, after working 29 years as a Clerk for the Chicago Police Department.

4. This year, my gross monthly pension is \$3,102.92 per month. Each month, taxes and my health insurance premiums are deducted from that amount. I also pay my union dues of \$2.00 per month by having that amount deducted from my pension. As a result, my net pension amount is \$2411.92 per month.

5. I rely on my pension for my retirement security. It is my only source of income in retirement.

6. When I retired, I relied on the promise that I would receive each year a 3% increase in the total gross amount of the pension that I received in the prior year. That yearly increase would help me keep up with my living expenses.

7. When I retired, I also relied on the understanding that the City of Chicago would pay 55% of my health insurance premium. Now, the City has decided to phase out paying for any portion of retiree health insurance. In 2014 my health insurance premium increased by \$2,100 to a total of \$5,448 a year. That premium will continue to go up in 2015 and, I believe, 2016.



8. I own my own home, for which I still owe approximately \$169,000 on my mortgage. Because of the financial downturn, my home is currently valued at approximately \$130,000.

9. My monthly mortgage payment is almost one half of my pension payment and in addition I pay over \$200 a month in utilities. I have had difficulty covering all my expenses in the past and I had to declare bankruptcy last year. I was able to keep my house but I am very anxious about my ability to make my mortgage payments.

10. Even now, prior to implementation of the new law, I am having trouble keeping up with expenses. For example, my house needs to be tuck pointed, the front steps need to be replaced, and the boiler needs routine maintenance. If the new pension law is implemented, I will not be able to afford to perform necessary maintenance of my home, and I am concerned that I will not be able to make my mortgage payments.

11. It is my understanding that, based on my 2014 gross pension of \$3,102.92 per month, my 2015 pension would have increased under the prior law \$93.09 per month (3%) to a monthly total of \$3,196.01. Under the new law, however, my understanding is that my pension will only go up \$26.37 (0.85%) to \$3129.29 a month. I will thus lose \$66.72 a month for a total loss of \$800.64 for the year. This is a significant loss to me given the difficulty I already have meeting my daily living expenses

12. I should not have to face the added burdens of a reduction in the pension that I was promised while the constitutionality of the new pension law remains uncertain. I am dependent on the 3% yearly pension increase to help meet my needs. The situation is unfair and unjust, and it is causing me distress as to whether I will be able to meet my living expenses.

Under the penalties as provided by law pursuant to Section 14109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

Bernice Moore

Bernice Moore

Dated: *Dec 10, 2014*, 2014

DECLARATION OF BARBARA LOMAX

1. I, Barbara Lomax, depose and state that I have personal knowledge of the statements made in this declaration and can competently testify to the following facts:

2. I am a member of the Municipal Employees' Annuity and Benefit Fund of Chicago. I provide this declaration in support of a stay of the implementation of the new pension law that will diminish my pension.

3. I retired in 2004; after working 19 years for the Chicago Department of Transportation as an administrative assistant.

4. I rely on my pension for my retirement security. It is my only source of income in retirement.

5. This year, my gross monthly pension is \$2,307.27 per month. Each month, taxes and my health insurance premiums are deducted from that amount. I also pay my union dues of \$2.00 per month by having that amount deducted from my pension. As a result, my net pension amount is \$1,915.12 per month.

6. When I retired, I relied on the promise that I would receive each year a 3% increase in the total gross amount of the pension that I received in the prior year. That yearly increase would help me keep up with my living expenses.

7. When I retired, I also relied on the understanding that the City of Chicago would pay 55% of my health insurance premium. Now, the City has decided to phase out paying for any portion of retiree health insurance, which has resulted in me paying an additional \$552 for health insurance in 2014 and in 2015 my health insurance premium will increase another \$73.00 per month for a total of \$876 more that I must pay.



8. When I retired I counted on getting a regular increase in my pension so that I could keep up with the rising cost of living. Most of my expenses continue to increase every year.

9. Just recently, I had a big increase in my rent. I was forced to leave the apartment I had rented for 17 years because the landlord was rehabbing the building and increased the rent to the point that I could no longer afford it. I am now paying \$275 more a month than I had paid prior to being forced to move, along with approximately \$100 per month for utilities, which further strains my already tight budget.

10. Every month, my medical bills and prescriptions are large expenses. Two of my regular medications cost me about \$100 each a month. Sometimes my doctor gives me samples of medication I need so I don't have to pay for a prescription. Even now, prior to implementation of the new law, I am at times unable to afford my prescription and am forced to forego some of my medication that month. If my pension is reduced, I will have to forego my medication more frequently.

11. It is my understanding that, based on my 2014 gross pension of \$2,307.27 per month, my 2015 pension would have increased under the prior law \$69.22 per month (3%) to a monthly total of \$2,376.49. Under the new law, however, my understanding is that my pension will only go up \$19.61 (0.85%) to \$2,326.88 a month. I will thus lose \$49.61 a month for a total loss of \$595.32 for the year. This is a significant loss to me given the difficulty I already have meeting my daily living expenses.

12. I should not have to face the added burdens of a reduction in the pension that I was promised while the constitutionality of the new pension law remains uncertain. I am dependent on the 3% yearly pension increase to help meet my needs, including my medical

needs. The situation is unfair and unjust, and it is causing me distress as to whether I will be able to meet my living expenses.

13. I request that the implementation of the new law be stayed until the constitutionality of the new law is finally determined so that I, and other retirees who face reductions in the pensions they were promised, are spared the unfairness and harm implementation of the new law will cause.

Under the penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.


Barbara Lomax

Dated: 12-11, 2014.

DECLARATION OF MARTHA MERRILL

I, Martha Merrill, depose and state that I have personal knowledge of the statements made in this declaration and can competently testify to the following facts:

1. I am the Director of Research and Employee Benefits for American Federation of State, County and Municipal Employees Council 31 ("AFSCME"). AFSCME is one of the named-plaintiffs in the litigation against the Municipal Employees' Annuity and Benefit Fund of Chicago ("MEABF") and its Board of Trustees that seeks a declaration that Public Act 98-0641 is unconstitutional.

2. I submit this Declaration in support of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction in which Plaintiffs seek a stay of the implementation of Public Act 98-0641. I am authorized to provide this Declaration.

3. For almost fifty years, the City of Chicago had paid up to 55% of the health insurance premiums of retired City workers with at least ten years of service at the time of retirement. That health insurance premium plan includes participants in the MEABF.

4. In 2013, the City of Chicago announced that it would phase out by January 1, 2017, payment for any portion of the health insurance premium for almost all retired City workers, including MEABF participants. The reduction in the City's contribution toward retiree health insurance has resulted in substantial cost increases for retirees.

5. In 2014, many Medicare-eligible retirees enrolled in the Medicare Supplemental plan, of which there are 6,603 in the MEABF, had a 72% increase in their individual health insurance premiums, from \$768 to \$1,320 annually.

6. In 2015, those Medicare-eligible annuitants will be confronted with another 66% increase in their individual health insurance premiums, from \$1,320 to \$2,196 annually, resulting



in a premium increase paid by the thousands of affected retirees of 186% over 2014 and 2015. For Medicare-eligible annuitants who obtain insurance for their spouses, the premiums in 2015 will be \$5,052 annually, an approximate 125% increase over the 2013 premium.

7. The 2,734 MEABF participants enrolled in insurance who do not qualify for Medicare will be required to pay even more. For most, their annual individual premiums will increase by \$2,100 in 2015 and will have more than doubled from 2013 to 2015 – to an annual cost of \$7,548 for an individual with no dependents. For non-Medicare annuitants that also have a non-Medicare spouse, the annual cost for health insurance in 2015 for most will be \$15,912, double the cost from 2013 and more than a \$4,000 increase from 2014.

8. According to the MEABF's 2013 Actuarial Report, the most recent actuarial report the MEABF has published, approximately half of all MEABF participants receive an annuity of \$28,725 or less. For a retiree with a pension of \$28,725 per year or less who does not qualify for Medicare and has no dependents, the retiree's 2015 health care premium alone will consume a substantial portion, at least 26% and often much more, of the retiree's retirement income.

9. The premiums for each Medicare-eligible and non-Medicare eligible MEABF retiree will substantially increase again in each of 2016 and 2017 as the City of Chicago continues to reduce its contribution toward retiree health insurance to reach a total phase out of any contribution as of January 1, 2017.

Under the penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.


Martha Merrill

Dated: December 14, 2014

2013 Poverty Guidelines

One Version of the [U.S.] Federal Poverty Measure

- [[Federal Register Notice, January 24, 2013](#) — Full text]
- [[Prior Poverty Guidelines and Federal Register References Since 1982](#)]
- [[Frequently Asked Questions \(FAQs\)](#)]
- [[Further Resources on Poverty Measurement, Poverty Lines, and Their History](#)]
- [[Computations for the 2013 Poverty Guidelines](#)]

There are two slightly different versions of the federal poverty measure:

- The [poverty thresholds](#), and
- The [poverty guidelines](#).

The [poverty thresholds](#) are the original version of the federal poverty measure. They are updated each year by the Census Bureau. The thresholds are used mainly for statistical purposes — for instance, preparing estimates of the number of Americans in poverty each year. (In other words, all official poverty population figures are calculated using the poverty thresholds, not the guidelines.) [Poverty thresholds since 1973 \(and for selected earlier years\)](#) and [weighted average poverty thresholds since 1959](#) are available on the Census Bureau's Web site. For an example of how the Census Bureau applies the thresholds to a family's income to determine its poverty status, see "[How the Census Bureau Measures Poverty](#)" on the Census Bureau's web site.

The [poverty guidelines](#) are the other version of the federal poverty measure. They are issued each year in the *Federal Register* by the Department of Health and Human Services (HHS). The guidelines are a simplification of the poverty thresholds for use for administrative purposes — for instance, determining financial eligibility for certain federal programs. The [Federal Register notice of the 2013 poverty guidelines](#) is available.

The poverty guidelines are sometimes loosely referred to as the "federal poverty level" (FPL), but that phrase is ambiguous and should be avoided, especially in situations (e.g., legislative or administrative) where precision is important.

Key differences between poverty thresholds and poverty guidelines are outlined in a table under [Frequently Asked Questions \(FAQs\)](#). See also the [discussion of this topic](#) on the Institute for Research on Poverty's web site.

The following figures are the 2013 HHS poverty guidelines which are scheduled to be published in the *Federal Register* on January 24, 2013. (Additional information will be posted after the guidelines are published.)

2013 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

| Persons in family/household | Poverty guideline |
|-------------------------------------------------------------------------------------------|-------------------|
| 1 | \$11,490 |
| 2 | 15,510 |
| 3 | 19,530 |
| 4 | 23,550 |
| 5 | 27,570 |
| 6 | 31,590 |
| 7 | 35,610 |
| 8 | 39,630 |
| For families/households with more than 8 persons, add \$4,020 for each additional person. | |

2013 POVERTY GUIDELINES FOR ALASKA

| Persons in family/household | Poverty guideline |
|-------------------------------------------------------------------------------------------|-------------------|
| 1 | \$14,350 |
| For families/households with more than 8 persons, add \$5,030 for each additional person. | |



| Persons in family/household | Poverty guideline |
|-------------------------------------------------------------------------------------------|-------------------|
| 2 | 19,380 |
| 3 | 24,410 |
| 4 | 29,440 |
| 5 | 34,470 |
| 6 | 39,500 |
| 7 | 44,530 |
| 8 | 49,560 |
| For families/households with more than 8 persons, add \$5,030 for each additional person. | |

2013 POVERTY GUIDELINES FOR HAWAII

| Persons in family/household | Poverty guideline |
|-------------------------------------------------------------------------------------------|-------------------|
| 1 | \$13,230 |
| 2 | 17,850 |
| 3 | 22,470 |
| 4 | 27,090 |
| 5 | 31,710 |
| 6 | 36,330 |
| 7 | 40,950 |
| 8 | 45,570 |
| For families/households with more than 8 persons, add \$4,620 for each additional person. | |

SOURCE: *Federal Register*, Vol. 78, No. 16, January 24, 2013, pp. 5182-5183.

The separate poverty guidelines for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966-1970 period. Note that the poverty thresholds — the original version of the poverty measure — have never had separate figures for Alaska and Hawaii. The poverty guidelines are not defined for Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and Palau. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office which administers the program is responsible for deciding whether to use the contiguous-states-and-D.C. guidelines for those jurisdictions or to follow some other procedure.

The poverty guidelines apply to both aged and non-aged units. The guidelines have never had an aged/non-aged distinction; only the Census Bureau (statistical) poverty thresholds have separate figures for aged and non-aged one-person and two-person units.

Programs using the guidelines (or percentage multiples of the guidelines — for instance, 125 percent or 185 percent of the guidelines) in determining eligibility include Head Start, the Food Stamp Program, the National School Lunch Program, the Low-Income Home Energy Assistance Program, and the Children's Health Insurance Program. Note that in general, cash public assistance programs (Temporary Assistance for Needy Families and Supplemental Security Income) do NOT use the poverty guidelines in determining eligibility. The Earned Income Tax Credit program also does NOT use the poverty guidelines to determine eligibility. For a more detailed list of programs that do and don't use the guidelines, see the [Frequently Asked Questions \(FAQs\)](#).

The poverty guidelines (unlike the poverty thresholds) are designated by the year in which they are issued. For instance, the guidelines issued in January 2013 are designated the 2013 poverty guidelines. However, the 2013 HHS poverty guidelines only reflect price changes through calendar year 2012; accordingly, they are approximately equal to the Census Bureau poverty thresholds for calendar year 2012. (The 2012 thresholds are expected to be issued in final form in September 2013; a preliminary version of the 2012 thresholds is now available from the Census Bureau.)

The [computations for the 2013 poverty guidelines](#) are available.

The poverty guidelines may be formally referenced as "the poverty guidelines updated periodically in the *Federal Register* by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2)."

Go to [Further Resources on Poverty Measurement, Poverty Lines, and Their History](#)

Go to [Frequently Asked Questions \(FAQs\)](#)

Return to the main [Poverty Guidelines, Research, and Measurement](#) page.

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U.S. Department of Health & Human Services — 200 Independence Avenue, S.W. — Washington, D.C. 20201

**MUNICIPAL EMPLOYEES' ANNUITY AND
BENEFIT FUND OF CHICAGO
ACTUARIAL VALUATION REPORT FOR THE YEAR ENDING
DECEMBER 31, 2013
APRIL 2014**





April 10, 2014

The Retirement Board of the
Municipal Employees' Annuity and Benefit
Fund of Chicago
321 N. Clark Street, Suite 700
Chicago, IL 60654-4767

Subject: Actuarial Valuation and Certification

Board Members:

At your request, we have performed an actuarial valuation for the Municipal Employees' Annuity and Benefit Fund of Chicago ("the Plan") as of December 31, 2013. An actuarial valuation of the Plan is performed annually. The valuation has been performed to measure the funding status of the Plan and determine the actuarially required contribution for 2014. It includes disclosure information required under Governmental Accounting Standards Board (GASB) Statement No. 25, Statement No. 27, Statement No. 43, and Statement No. 45. The assumptions and methods used were recommended by the actuary and approved by the Board and meet the parameters set for the disclosure presented in the financial section by GASB Statement No. 25 and GASB Statement No. 43.

We have provided the supporting schedules for the actuarial section of the comprehensive annual financial report, including:

- Active Member Valuation Data
- Retirees and Beneficiaries Added to and Removed from Rolls
- Solvency (Termination) Test
- Analysis of Financial Experience

We have also provided the following schedules for the financial sections of the report.

- Schedule of Funding Progress
- Schedule of Employer Contributions

This valuation is based upon:

- a) **Data Relative to the Members of the Plan** – Data utilized for active members and persons receiving benefits from the Plan was provided by the Plan's staff. We have tested this data for reasonableness. However, we have not audited the data.

- b) **Asset Values** – The values of assets of the Plan were provided by the Plan's staff. An actuarial value of assets was used to develop actuarial results for GASB Statement No. 25 and Statement No. 27.
- c) **Actuarial Method** – The actuarial method utilized by the Plan is the Entry Age Normal Actuarial Cost Method. The objective of this method is to recognize the costs of Plan benefits over the entire career of each member as a level of percentage of compensation. Any Unfunded Actuarial Accrued Liability (UAAL) under this method is separately amortized. All actuarial gains and losses under this method are reflected in the UAAL.
- d) **Actuarial Assumptions** – The same actuarial assumptions as last year were used for this valuation with the exception of the assumption pertaining to the duration and amortization of payments of the health insurance supplement for eligible annuitants. The current actuarial assumptions were first adopted for use with the December 31, 2012, valuation report.
- e) **Plan Provisions** – The valuation is based on provisions in effect as of December 31, 2013.

The funding objective is to provide employer and employee contributions sufficient to provide the benefits of the Plan when due. The provision of State Law establishing the Plan constrains employer contributions to be 1.25 times the employee contribution level in the second prior fiscal year. Thus, with an administrative lag, the employer contribution is designed to match the employee contribution in a 1.25:1 relationship. This valuation of the Plan shows that a ratio of 6.53 is needed to adequately finance the Plan in fiscal year 2014 on an actuarial basis under a policy of contributing normal cost plus 30-year level dollar amortization of the unfunded liability. It should be noted that the statutory employer contributions have been less than the Annual Required Contribution (ARC) for the past eleven years and are again expected to be less than the ARC for 2014. In order for employer contributions to be increased, the State legislature would first need to amend the statute. Under the current funding policy, if all future assumptions are realized, the funding ratio is projected to deteriorate until assets are depleted within about 10 to 15 years. The current statutory funding policy does not comply with generally accepted actuarial standards for the funding of retirement systems. We recommend that an actuarially based funding policy be adopted as soon as possible.

The valuation results set forth in this report are based on the data and actuarial techniques described above, and upon the provisions of the Plan as of the valuation date. Based on these items, we certify these results to be true and correct. One or more of the undersigned are members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Sincerely,



Alex Rivera, F.S.A., E.A., M.A.A.A., F.C.A.
Senior Consultant



Paul T. Wood, A.S.A., M.A.A.A., F.C.A.
Consultant

ADDITIONAL DISCLOSURES REQUIRED BY ACTUARIAL STANDARDS OF PRACTICE

Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period or additional cost or contribution requirements based on the plan's funded status); and changes in plan provisions or applicable law.

This report should not be relied on for any purpose other than the purpose stated.

The signing actuaries are independent of the plan sponsor.

EXHIBIT P
SCHEDULE OF RETIRED MEMBERS
BY AMOUNT AND TYPE OF BENEFIT AS OF DECEMBER 31, 2013

| Amount of Monthly Benefit | Number of Employee Annuitants | Number of Spouse Annuitants | Number of Reversionary Annuitants | Number of Child Annuitants | Total Number of Annuitants |
|---------------------------|-------------------------------|-----------------------------|-----------------------------------|----------------------------|----------------------------|
| Deferred | 3 | - | - | - | 3 |
| \$1-\$250 | 321 | 86 | 40 | 141 | 588 |
| 251 - 500 | 426 | 66 | 57 | - | 549 |
| 501 - 750 | 365 | 84 | 27 | - | 476 |
| 751 - 1,000 | 1,120 | 2,449 | 9 | - | 3,578 |
| 1,001 - 1,250 | 1,478 | 364 | 2 | - | 1,844 |
| 1,251 - 1,500 | 2,672 | 305 | 1 | - | 2,978 |
| 1,501 - 1,750 | 996 | 255 | 1 | - | 1,252 |
| 1,751 - 2,000 | 1,030 | 200 | 1 | - | 1,231 |
| 2,001 - 2,250 | 1,090 | 125 | - | - | 1,215 |
| 2,251 - 2,500 | 1,075 | 104 | - | - | 1,179 |
| 2,501 - 2,750 | 896 | 77 | - | - | 973 |
| 2,751 - 3,000 | 785 | 45 | - | - | 830 |
| 3,001 - 3,250 | 693 | 19 | - | - | 712 |
| 3,251 - 3,500 | 702 | 16 | - | - | 718 |
| 3,501 - 3,750 | 605 | 7 | - | - | 612 |
| 3,751 - 4,000 | 640 | 2 | - | - | 642 |
| 4,001 - 4,250 | 558 | 2 | - | - | 560 |
| 4,251 - 4,500 | 550 | - | - | - | 550 |
| 4,501 - 4,750 | 610 | 1 | - | - | 611 |
| 4,751 - 5,000 | 472 | - | - | - | 472 |
| 5,001 - 5,250 | 448 | - | - | - | 448 |
| 5,251 - 5,500 | 407 | - | - | - | 407 |
| 5,501 - 5,750 | 403 | - | - | - | 403 |
| 5,751 - 6,000 | 368 | - | - | - | 368 |
| Over \$6,000 | 1,403 | - | - | - | 1,403 |
| Totals | 20,116 | 4,207 | 138 | 141 | 24,602 |

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2014 Poverty Guidelines

One Version of the [U.S.] Federal Poverty Measure

- [[Federal Register Notice, January 24, 2013](#) — Full text]
- [[Prior Poverty Guidelines and Federal Register References Since 1982](#)]
- [[Frequently Asked Questions \(FAQs\)](#)]
- [[Further Resources on Poverty Measurement, Poverty Lines, and Their History](#)]
- [[Computations for the 2014 Poverty Guidelines](#)]

The following figures are the 2014 HHS poverty guidelines which are scheduled to be published in the Federal Register on January 22, 2014. (Additional information will be posted after the guidelines are published.)

2014 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

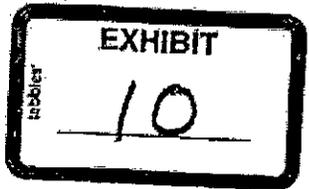
| Persons in family/household | Poverty guideline |
|-------------------------------------------------------------------------------------------|-------------------|
| 1 | \$11,670 |
| 2 | 15,730 |
| 3 | 19,790 |
| 4 | 23,850 |
| 5 | 27,910 |
| 6 | 31,970 |
| 7 | 36,030 |
| 8 | 40,090 |
| For families/households with more than 8 persons, add \$4,060 for each additional person. | |

2014 POVERTY GUIDELINES FOR ALASKA

| Persons in family/household | Poverty guideline |
|-------------------------------------------------------------------------------------------|-------------------|
| 1 | \$14,580 |
| 2 | 19,660 |
| 3 | 24,740 |
| 4 | 29,820 |
| 5 | 34,900 |
| 6 | 39,980 |
| 7 | 45,060 |
| 8 | 50,140 |
| For families/households with more than 8 persons, add \$5,080 for each additional person. | |

2014 POVERTY GUIDELINES FOR HAWAII

| Persons in family/household | Poverty guideline |
|-------------------------------------------------------------------------------------------|-------------------|
| 1 | \$13,420 |
| 2 | 18,090 |
| 3 | 22,760 |
| For families/households with more than 3 persons, add \$4,670 for each additional person. | |



| Persons in family/household | Poverty guideline |
|-------------------------------------------------------------------------------------------|-------------------|
| 4 | 27,430 |
| 5 | 32,100 |
| 6 | 36,770 |
| 7 | 41,440 |
| 8 | 46,110 |
| For families/households with more than 8 persons, add \$4,670 for each additional person. | |

The separate poverty guidelines for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966–1970 period. Note that the poverty thresholds — the original version of the poverty measure — have never had separate figures for Alaska and Hawaii. The poverty guidelines are not defined for Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and Palau. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office which administers the program is responsible for deciding whether to use the contiguous-states-and-D.C. guidelines for those jurisdictions or to follow some other procedure.

The poverty guidelines apply to both aged and non-aged units. The guidelines have never had an aged/non-aged distinction; only the Census Bureau (statistical) poverty thresholds have separate figures for aged and non-aged one-person and two-person units.

Programs using the guidelines (or percentage multiples of the guidelines — for instance, 125 percent or 185 percent of the guidelines) in determining eligibility include Head Start, the Supplemental Nutrition Assistance Program (SNAP), the National School Lunch Program, the Low-Income Home Energy Assistance Program, and the Children's Health Insurance Program. Note that in general, cash public assistance programs (Temporary Assistance for Needy Families and Supplemental Security Income) do NOT use the poverty guidelines in determining eligibility. The Earned Income Tax Credit program also does NOT use the poverty guidelines to determine eligibility. For a more detailed list of programs that do and don't use the guidelines, see the [Frequently Asked Questions \(FAQs\)](#).

The poverty guidelines (unlike the poverty thresholds) are designated by the year in which they are issued. For instance, the guidelines issued in January 2014 are designated the 2014 poverty guidelines. However, the 2014 HHS poverty guidelines only reflect price changes through calendar year 2013; accordingly, they are approximately equal to the Census Bureau poverty thresholds for calendar year 2013. (The 2013 thresholds are expected to be issued in final form in September 2014; a preliminary version of the 2013 thresholds is now available from the Census Bureau.)

The poverty guidelines may be formally referenced as "the poverty guidelines updated periodically in the *Federal Register* by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2)."

Go to [Further Resources on Poverty Measurement, Poverty Lines, and Their History](#)

Go to [Frequently Asked Questions \(FAQs\)](#)

Return to the main [Poverty Guidelines, Research, and Measurement](#) page.

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RECORD OF
PROCEEDINGS

* * *

*Sixth
Illinois
Constitutional
Convention*

* * *

DAILY JOURNALS

* * *

December 8, 1969-September 3, 1970



A243

Anything else now while we are in plenary session? If not, Mr. Cicero moves that we now resolve ourselves again into a Committee of the Whole, seconded by Mr. Shuman. Those who favor it, please say aye. Those opposed, nay. It's carried.

We are now back in Committee of the Whole, and I believe, if I understand correctly, Mr. Lewis, we are on section 3, having to do with reapportionment.

MR. LEWIS: We are, Mr. President. I would suggest we start with section 3A, and Delegate Perona will handle that.

PRESIDENT WITWER: Thank you. Did you have a question, Mr. Green? Mr. Green?

MR. GREEN: Well, you previously wanted to do that section 16 before.

PRESIDENT WITWER: I beg your pardon?

MR. GREEN: Do you want to do it, or we can wait until then.

PRESIDENT WITWER: Mr. Lewis, section 16 is a new section? What is the wish of the committee?

MR. GREEN: It's up to the Chair. We don't care, Mr. President.

PRESIDENT WITWER: All right, let's do it, and then we will have one final thing, and that will be the reapportionment, and will you make your motion, Mr. Green? Does the clerk have it?

MR. GREEN: Would the clerk please read the proposed section 16?

PRESIDENT WITWER: Mr. Green has proposed section 16, and if you will read it, please.

CLERK: Amend the report of the Committee on Legislative Article by adding a new section as follows:

Section 16, entitled, 'Pension and Retirement Rights.' Membership in any pension or retirement system of the state or any local government or any agency or instrumentality of either shall be an enforceable, contractual relationship, the benefits of which shall not be diminished or impaired.

PRESIDENT WITWER: Thank you. Is it seconded? Seconded by Mr. Coleman. Are you ready, Mr. Green, to proceed?

MR. GREEN: Yes, sir. I will be very brief about this, but basically I think we are faced in constitutional writing with either granting powers or prohibiting powers, but here we have a consideration of a legislative power that the General Assembly really hasn't adhered to for a long, long while; and it is for this purpose that this amendment is offered.

Now, at the end of 1968 in Illinois we had more than 370,000 public employees who were participating in 374 pension funds in this state. In addition, there were more than 79,000 people who were already on retirement or disability or survivor's insurance benefits from these funds. So in Illinois at the end of 1968 we had approximately 500,000 people who were relying on the public employee pension plans in Illinois for their present and future security.

Now this amendment does two things: It first mandates a contractual relationship between the employer and the employee; and secondly, it mandates the General Assembly not to impair or diminish these rights.

Now, with regard to the first point, the Illinois courts have generally ruled that pension benefits under mandatory partici-

pation plans were in the nature of bounties which could be changed or even recalled as a matter of complete legislative discretion. And as a result in Illinois today we have public employees who are beginning to lose faith in the ability of the state and its political subdivisions to meet these benefit payments. This insecurity on the part of the public employees is really defeating the very purpose for which the retirement system was established, and this is one of the reasons why I personally request that the Convention adopt the provision which will guarantee these rights and direct the General Assembly to take the necessary steps to fund the pension obligations.

Now, just a little background with regard to what the General Assembly has done. In the past twenty-two years the unfunded accrued liabilities of these pension plans in Illinois have increased from about \$359,000,000 to almost \$2,500,000,000, and the unfunded accrued liabilities are real and are not theoretical obligations based upon service already rendered.

Despite the consistent warnings from the Pension Laws Commission, the current budgeting of pension costs necessary to ensure the financial stability of these funds, the General Assembly has failed to meet its commitments to finance the pension obligations on a sound basis. In 1967 the General Assembly approved Senate Bill 515 which provided for the appropriation to one state university retirement system, to at least equal to an amount which would be necessary to fund fully the current service costs and to cover the interest on the past service; and despite this legislative mandate, the General Assembly refused to appropriate the necessary funds. Now, during this two-year period alone the appropriations under this system were \$67,000,000 less than the minimum required by the senate bill.

Now, what we are proposing is being carried out in some other states by law. Our language is that language that is in the New York Constitution which was adopted in 1938, really under a similar circumstance. In 1938 you were about at the end of the Depression, but there was a great consideration on the part of the New York General Assembly to really cut out some of the money that they were giving to the pension programs in New York; and it was for this reason that the New York Constitution adopted the language that we are suggesting. Since that time, the state of New York—the pension funds for public employees have been fully funded, and so I think we have good reason to believe that this type of language will be a mandate to the General Assembly to do something which they have not previously done in some twenty-two years.

Now, we are not in any way suggesting that this \$2,500,000,000 that they are in arrears be brought up to date at any one time. The New York Constitution mandated that state to fully fund the program in two years. This would be a physical impossibility in Illinois.

I do believe that if we could contact the actuary of the programs, it may well be in the scheduling, we could come up with a scheduling to do it. But in lieu of a scheduling provision, I believe we have at least put the General Assembly on notice that these memberships are enforceable contracts and that they shall not be diminished or impaired.

Now, I would like to yield to Delegate Kinney for any further remarks.

appropriated has been made a political football, in a sense. In other words, in order to balance budgets, you see, the party in power would just use the amount of the state contribution to help balance budgets, and this had gotten to the point where many of the so-called pensioners under this system were very concerned; and I think this is the reason that pressure is constantly being placed on the legislature to at least put a fair amount of state resources into guaranteeing payment of pensions. But I just want to rise in support of Delegate Whalen's suggestion.

PRESIDENT WITWER: Thank you. Now I believe we should hear in summation from Mr. Green. Since this is a new section, I doubt that it's one that requires hearing from the committee.

MR. GREEN: Well, in tackling Delegate Elward and Delegate Parkhurst, I guess we didn't have a Charlie Coleman "merely bill" here.

In answer to the contractual status, one of the overwhelming reasons to mandate this contractual status is based on a Supreme Court decision from New Jersey in 1964 that has a very, very similar pension problem to that of Illinois.

In a Supreme Court decision, in ruling—or rejecting—an appeal to attach a contractual status to a plan of mandatory participation—and this is the interesting part—it stated that all these funds had in common the promise of inevitable doom. The reason was that the annual revenues in New Jersey were not related to the ultimate cost of pension benefits; so that while current income might suffice for the earlier pensioners, the day had to come when little or nothing would remain for others, even of their own contributions to the fund. Now this, ladies and gentlemen, is basically what the people of Illinois—or the public employees of Illinois—are very fearful of.

In answer to Delegate Parkhurst's question with regard to the diminishing aspect of it—the cost of living—any of you who know when you buy an insurance policy you're going to get back what that contract says. Now if the dollar isn't worth but twenty-seven cents when you get it back, there is absolutely no reason why you have any recourse against that insurance company.

What we are trying to merely say is that if you mandate the public employees in the state of Illinois to put in their 5 percent or 8 percent or whatever it may be monthly, and you say when you employ these people, "Now, if you do this, when you reach sixty-five, you will receive \$287 a month," that is, in fact, is what you will get.

Now, I would like to read what the General Assembly says in their laws with regard to contributions by the state, and see if you feel they have lived up to it:

The total amount of state contributions applicable to any fiscal year shall be the sum of the amounts estimated to be required on the basis of the actuarial tables adopted by the board.

Now, actuarial tables are not different in each of 374 pension plans. You can get one that will be universal across the nation. If you are eighty-seven years old an actuarial table will tell you how long you will live; and that is what these pension contributions are based on. What we are trying to do is to mandate the General Assembly to do what they have not done by statute. I would further submit that the only one of 374

pension programs that is fully funded in the state of Illinois is that of the General Assembly, and I think that's very odd. (Laughter)

Now, I think they either ought to live up to the laws that they pass or that very quickly we ought to stop when we are hiring public employees by telling them that they have any retirement rights in the state of Illinois. If we are going to tell a policeman or a school teacher that, "Yes, if you will work for us for your thirty years or until whenever you reach retirement age, that you will receive this," if the state of Illinois and its municipalities are going to play insurance company and live up to these contributions, then they ought to live by their own rules. And this is all in the world this mandate is doing.

In closing, I would further say it was done in 1938 by these exact words in the state of New York. It has worked; and you all know there is certainly a lot wrong in New York state, but from the standpoint of its public employee pension program, it is fully funded, it has not bankrupted the state to do it, and all is right with the world where this language has been used. Thank you very much.

PRESIDENT WITWER: Thank you. Now, we are on the Green-Kinney-et al. amendment, having to do with the addition of section 16. Mrs. Kinney, did you wish to be heard in summation, also?

MRS. KINNEY: Yes, I would like to, Mr. Chairman.

PRESIDENT WITWER: All right, I am sure the body would be glad to hear from you.

MRS. KINNEY: Well, I would say that I would wonder when the appropriate time to raise this in the bill of rights would be, since first reading has already come and gone and this wasn't mentioned. That is why I sought a specific ruling as to when it might be raised.

PRESIDENT WITWER: Well, Mrs. Kinney, if you are asking the Chair—

MRS. KINNEY: No, I am just commenting, Mr. President, thank you. I might say that Mr. Green and I in proposing this amendment consulted with the counsel to Mr. Whalen's committee, and the issue of proprietary rights perhaps being more advantageous was not raised at that time or not at all until it was commented upon upon the floor.

But I would say that the New York Constitution adopted such a provision in 1938, and this amendment is substantially the same language as the New York Constitution presently has. The thrust of it is that people who do accept employment will not find at a future time that they are not entitled to the benefits they thought they were when they accepted the employment.

PRESIDENT WITWER: Mrs. Kinney, may I interrupt? Gentlemen, ladies, please give Mrs. Kinney the courtesy of a full hearing.

MRS. KINNEY: Thank you. Mr. Green and I did discuss the term "vesting" with Mr. Kanter, the counsel to the Committee on Style and Drafting, and we thought that it would be quite fair if a person undertook employment under a statute that provided for a contingency for lowering the benefits at some future time, that this was, indeed, the contract that he had accepted. All we are seeking to do is to guarantee that people will have the rights that were in force at the time they entered into the agreement to become an employee, and as Mr.

STATE OF ILLINOIS
98th GENERAL ASSEMBLY
FIRST SPECIAL SESSION
SENATE TRANSCRIPT

2nd Legislative Day

12/3/2013

| | | |
|------------------------------------|------------|----|
| SB0001 | Conference | 3 |
| Senate to Order-Senator Sullivan | | 1 |
| Communications from the President | | 1 |
| Journal-Postponed | | 1 |
| Senate Stands at Ease/Reconvenes | | 2 |
| Committee Reports | | 2 |
| Senate Stands in Recess/Reconvenes | | 3 |
| Adjournment | | 53 |

5:



1

A247

STATE OF ILLINOIS
98th GENERAL ASSEMBLY
FIRST SPECIAL SESSION
SENATE TRANSCRIPT

2nd Legislative Day

12/3/2013

PRESIDING OFFICER: (SENATOR SULLIVAN)

Senator Hutchinson.

SENATOR HUTCHINSON:

Thank you. Thank you very much, Senator Raoul. And briefly to the bill: This is -- because this is a heart-wrenching decision and because I have so much respect for how -- how much work has gone into this by so many people, I'm not going to stand here and use a whole lot of hyperbole to talk about the people who are going to vote Yes on this bill. I'm standing here because I'm going to vote No on this bill. And it's really simple. During the 1970 Constitutional Convention, the delegate that carried this, her name was Helen Kinney, and she specifically said that the intention was simply to give public employees a basic protection against abolishing their rights completely or changing the terms of their rights after they've embarked upon employment, or lessening them. That was why the phrase was included. That was why it was debated as much as it was. That is why it is in the same Constitution that I raised my right hand and swore to uphold, along with the United States Constitution. I cannot abrogate my responsibility for that here today. This is -- if this were only about picking the bill that saves the most money, we'd all pick the bill that saves the most money. We'd all do that. But it's not. It's about taking people's retirement benefits right when they need 'em the most, after they have worked hard and earned those benefits. They earn those benefits. And if we don't respect the basic modicum of contract law, then we have a whole lot of other problems that we have to solve. Like maybe we could just rewrite all those underwater mortgages. Those are contracts. Last time I checked banks and chambers didn't want us to do that, because those are

STATE OF ILLINOIS
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2nd Legislative Day

12/3/2013

contracts. Those contracts are sacrosanct. This contract is not. I have a problem with that. This -- for those people who say we're not constitutional lawyers, we don't know what's going to happen, I'm not a constitutional lawyer -- I'm -- I'm really not -- but I can read, and it's in the Constitution. Please vote No.

PRESIDING OFFICER: (SENATOR SULLIVAN)

Thank you. Our last speaker seeking recognition, Leader Radogno. For what purpose do you rise?

SENATOR RADOGNO:

Thank you, Mr. President. To the bill: Well, like many speakers before me, I want to start by thanking the numerous people that have been involved in this process and put in a tremendous amount of work, both Members as well as staff. I particularly want to thank President Cullerton, as well as the Leaders in the House. This certainly has not been an easy negotiation. We're very cognizant of the fact that this is not just a numbers issue, but it's a people issue as well. To address some of the previous speakers' concerns, however, I do not believe we can possibly begin to address the financial situation of this State if we don't address the pension system. The fact of the matter is, a lot -- a lot has been made over the fact that this is not a perfect bill, but it is a good bill and it is one that has meaningful reforms in it and it's one that saves a meaningful amount of money, both in the short term and in the long term. This is the one opportunity that we have to finally, finally address the most important economic issues that are facing this State, and that includes our credit ratings, our financial position, our jobs climate, and, frankly, our reputation in the global economy. This is one opportunity we have today to finally bring some stability and



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-EIGHTH GENERAL ASSEMBLY

107TH LEGISLATIVE DAY

TUESDAY, APRIL 8, 2014

12:12 O'CLOCK P.M.



NO. 107
[April 8, 2014]

kerosene at facilities owned or leased by those certificate or permit holders and used in their activities at an airport described above. In addition, no fee may be imposed upon the importation or receipt of diesel fuel or liquefied natural gas sold to or used by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code or otherwise recognized by the Illinois Commerce Commission as a rail carrier, to the extent used directly in railroad operations. In addition, no fee may be imposed when the sale is made with delivery to a purchaser outside this State or when the sale is made to a person holding a valid license as a receiver. In addition, no fee shall be imposed upon diesel fuel or liquefied natural gas consumed or used in the operation of ships, barges, or vessels, that are used primarily in or for the transportation of property in interstate commerce for hire on rivers bordering on this State, if the diesel fuel or liquefied natural gas is delivered by a licensed receiver to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river. A specific notation thereof shall be made on the invoices or sales slips covering each sale. (Source: P.A. 92-232, eff. 8-2-01.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Harmon, Senate Bill No. 3369 having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS:55; NAYS None.

The following voted in the affirmative:

| | | | |
|-----------------|------------|--------------|---------------|
| Althoff | Duffy | Link | Radogno |
| Barickman | Forby | Luechtefeld | Raoul |
| Bertino-Tarrant | Frerichs | Manar | Rezin |
| Biss | Haine | Martinez | Rose |
| Bivins | Harmon | McCann | Sandoval |
| Brady | Hastings | McCarter | Silverstein |
| Bush | Holmes | McConnaughay | Stadelman |
| Clayborne | Hunter | McGuire | Steans |
| Collins | Hutchinson | Morrison | Sullivan |
| Connelly | Jones, E. | Mulroe | Syverson |
| Cullerton, T. | Kotowski | Muñoz | Trotter |
| Cunningham | LaHood | Murphy | Van Pelt |
| Delgado | Landek | Noland | Mr. President |
| Dillard | Lightford | Oberweis | |

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILL ON SECRETARY'S DESK

On motion of Senator Raoul, Senate Bill No. 1922, with House Amendments numbered 2 and 6 on the Secretary's Desk, was taken up for immediate consideration.

Senator Raoul moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

[April 8, 2014]

YEAS 31; NAYS 23; Present 2.

The following voted in the affirmative:

| | | | |
|-----------------|----------|-------------|-------------|
| Bertino-Tarrant | Hastings | Martinez | Sandoval |
| Biss | Hunter | McConaughay | Silverstein |
| Clayborne | Jacobs | McGuire | Stadelman |
| Cullerton, T. | Koehler | Morrison | Steans |
| Forby | Kotowski | Mulroe | Sullivan |
| Frerichs | Landek | Muñoz | Trotter |
| Haine | Link | Noland | Van Pelt |
| Harmon | Manar | Raoul | |

The following voted in the negative:

| | | | |
|-----------|------------|-------------|----------|
| Barickman | Cunningham | LaHood | Oberweis |
| Bivins | Delgado | Lightford | Radogno |
| Brady | Duffy | Luechtefeld | Rezin |
| Bush | Holmes | McCann | Rose |
| Collins | Hutchinson | McCarter | Syversen |
| Connelly | Jones, E. | Murphy | |

The following voted present:

Athoff
Dillard

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 2 and 6 to Senate Bill No. 1922, by a three-fifths vote.

Ordered that the Secretary inform the House of Representatives thereof.

MESSAGE FROM THE PRESIDENT

**OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, IL 62706
217-782-2728

April 8, 2014

Mr. Tim Anderson
Secretary of the Senate
Room 403 State House
Springfield, IL 62706

Dear Mr. Secretary:

The record should reflect my intent to vote yes on SB 1922.

Sincerely,
s/John J. Cullerton
John J. Cullerton
Senate President

[April 8, 2014]

CERTIFICATE OF SUBMISSION AND SERVICE OF MAIL

Michael B. Slade, being duly sworn, deposes and states that on January 12, 2015, he caused a true and correct copy of the foregoing APPENDIX TO THE BRIEF OF THE CITY OF CHICAGO AS AMICUS CURIAE IN SUPPORT OF DEFENDANTS-APPELLANTS to be submitted with the Clerk of The Illinois Supreme Court via courier and Counsel listed below via prepaid U.S. mail sent from 300 N. LaSalle, Chicago, Illinois:

Ms. Lisa Madigan
Illinois Attorney General
Richard S. Huszagh
Assistant Attorney General
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Chicago, IL 60601

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Esther J. Seitz
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