

IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT,  
SANGAMON COUNTY, ILLINOIS

IN RE: PENSION REFORM LITIGATION

No. 2014 MR 1

Hon. John W. Belz

**This document relates to:**

GWENDOLYN A. HARRISON, GARY F.  
KROESCHEL, CHRISTINE M. BONDI, JULIE A.  
YOUNG, STEPHEN C. MITTONS, MONICA S.  
BUTTS, GARY L. CIACCIO, THOMAS W. TATE,  
JOSE M. PRADO, EDWARD F. CORRIGAN,  
CARYL E. WADLEY-FOY, ELLEN M. LARRIMORE,  
LEE A. AYERS, JAMES S. SHERIDAN, J. TODD  
LOUDEN, KENNETH N. DUGAN, JENNIFER L.  
EDWARDS, D'ANN URISH, JAMES P.  
HERRINGTON, TERRI L. GIFFORD, MICHAEL  
E. DAY, DENISE M. FUNFSINN, ELAINE G.  
FERGUSON, MARLENE M. KOERNER and  
DAVID L. BEHYMER, for themselves and on  
behalf of a class of all persons similarly situated,  
and WE ARE ONE ILLINOIS COALITION,  
Plaintiffs,

v.

PATRICK QUINN, not individually but solely in his  
capacity as Governor of the State of Illinois, JUDY  
BAAR TOPINKA, not individually but solely in her  
capacity as Comptroller of the State of Illinois, DAN  
RUTHERFORD, not individually but solely in  
his capacity as Treasurer of the State of Illinois,  
TEACHERS' RETIREMENT SYSTEM OF THE  
STATE OF ILLINOIS, BOARD OF TRUSTEES  
OF THE TEACHERS' RETIREMENT SYSTEM  
OF THE STATE OF ILLINOIS, STATE EMPLOYEES'  
RETIREMENT SYSTEM OF ILLINOIS, BOARD OF  
TRUSTEES OF THE STATE EMPLOYEES'  
RETIREMENT SYSTEM OF ILLINOIS, STATE  
UNIVERSITIES RETIREMENT SYSTEM OF  
ILLINOIS, and BOARD OF TRUSTEES OF THE  
STATE UNIVERSITIES RETIREMENT SYSTEM OF  
ILLINOIS,

Defendants.

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

## **ANSWER AND DEFENSES**

Defendants State of Illinois Governor Patrick Quinn, State of Illinois Comptroller Judy Baar Topinka, State of Illinois Treasurer Dan Rutherford, Teachers' Retirement System of the State of Illinois, Board of Trustees of the Teachers' Retirement System of the State of Illinois, State Employees' Retirement System of Illinois, Board of Trustees of the State Employees' Retirement System of Illinois, State Universities Retirement System of Illinois, and Board of Trustees of the State Universities Retirement System of Illinois (collectively "Defendants") for their answer to the Amended Complaint filed by Plaintiffs Gwendolyn Harrison, *et al.*, state as follows:

1. Plaintiffs bring this action to correct the abdication by the Governor and General Assembly of the State of Illinois (the "State" or "Illinois") of their most fundamental duty – to uphold the Illinois Constitution. In failing to fulfill that duty, the Governor and General Assembly unlawfully harm hundreds of thousands of current and retired State employees and teachers and breach the trust that all Illinois citizens place in them.

**ANSWER:** Defendants deny the allegations of Paragraph 1.

2. In 1970, Illinois made a promise to its public servants. Although straightforward, Illinois did not make that promise lightly. Rather, the delegates to the 1970 Illinois Constitutional Convention purposefully crafted that promise – concerned that without it the State and other governmental entities within the State would welch on pension payments to public employees. Thereafter, the citizens of Illinois ratified that promise and memorialized it in the 1970 Illinois Constitution.

**ANSWER:** Defendants admit that the citizens of Illinois ratified the 1970 Illinois Constitution, which included Article XIII, Section 5 (the "Pension Clause"). Defendants deny the remaining allegations in Paragraph 2.

3. Illinois unequivocally represents in its Constitution that a public employee's pension with the State is a contract that the State cannot diminish or 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) (the “Pension Clause”).

**ANSWER:** Defendants admit that Paragraph 3 accurately quotes the Pension Clause.

Defendants deny the remaining allegations in Paragraph 3.

4. That constitutional promise remains. Twice following adoption of the 1970 Illinois Constitution, the citizens of Illinois have had the opportunity to reexamine and change that promise as to future members of the State’s pension systems. But in 1988, the citizens of Illinois reaffirmed that promise, voting against holding a constitutional convention in which to reevaluate the 1970 Illinois Constitution. And, in 2008, the citizens of Illinois again chose to forgo reexamination of the Pension Clause even though the State grappled then with the purported burden of adequate pension system funding.

**ANSWER:** Defendants admit that Illinois voters chose not to convene constitutional conventions in 1988 and 2008. Defendants deny the remaining allegations in Paragraph 4.

5. The named individual Plaintiffs and the employees and retirees whom they represent have upheld their end of that constitutionally-protected bargain. Those Plaintiffs who are current employees teach our children, care for the sick and disabled, protect us from harm and perform myriad other essential services for Illinois and its citizens. Those Plaintiffs who already have retired similarly dedicated their careers to the men, women and children of Illinois. And, each faithfully has contributed to his or her respective pension system the substantial portion of their paychecks the Illinois pension code requires.

**ANSWER:** Paragraph 5 contains legal conclusions that Defendants deny. Defendants admit that many state employees who are members of one of the defendant retirement systems are providing, or did provide, valuable services as such employees. Defendant lack knowledge sufficient to form a belief regarding the remaining factual allegations in Paragraph 5 and therefore deny those allegations.

6. Unfortunately, the same cannot be said of the State. The State chose to forgo funding its pension systems in amounts the State now claims were needed to fully meet the State’s annuity obligations. Now, the State expects the members of those systems to carry on their backs the burden of curing the State’s longstanding misconduct. Specifically, Public Act 98-0599 unlawfully strips from public servants pension amounts to which they otherwise are entitled as a matter of law, let alone fundamental fairness.

**ANSWER:** Defendants deny the allegations of Paragraph 6. Further answering, Defendants allege that the labor organizations comprising the We Are One Illinois Coalition, aware that the

State had limited revenues each year, repeatedly urged state legislators to allocate greater appropriations for state employee salaries and salary increases at the expense of contributions to the state-funded retirement systems, knowing that a result of this would be both immediate reductions in the assets in those retirement systems and long-term increases in their liabilities.

7. That is the very threat against which the Pension Clause protects.

**ANSWER:** Defendants deny the allegations of Paragraph 7.

8. The Governor and the members of the General Assembly took an oath to uphold the Constitution. They acknowledge that other options exist to remedy the State's knowing failure to adequately fund the State's pension systems. But rather than work to remedy the impact of the State's conduct in a manner that comports with their oath, complies with the Illinois Constitution and upholds the State's constitutional promise to pension system members, the Governor and General Assembly unlawfully look the other way.

**ANSWER:** Defendants admit that the Governor and members of the General Assembly took an oath to uphold the Constitution. Defendants deny the remaining allegations in Paragraph 8. Further answering, Defendants allege that the We Are One Illinois Coalition and the unions comprising it publicly declared that a reasonable component of a valid solution to the State's enormous pension liabilities and related financial crisis was a 2% increase in contributions by active members of state-funded retirement systems, but have now insisted that all of the sacrifice necessary to solve this crisis must be borne by the State's taxpayers and recipients of other state services and benefits.

9. Plaintiffs thus turn to this Court for protection and commence this action to defend their constitutionally-protected rights and protect the pensions they have earned. Plaintiffs request that the Court declare Public Act 98-0599, in its entirety, unconstitutional, void and unenforceable.

**ANSWER:** Defendants admit that plaintiffs purport to request that the Court declare Public Act 98-0599, in its entirety, unconstitutional, void and unenforceable. Defendants deny the remaining allegations in Paragraph 9.

10. Prior to initiating this lawsuit, We Are One Illinois Coalition sought to reach an agreement with the State pension systems and the State that would stay implementation of Public Act 98-0599 pending a decision on whether Public Act 98-0599 is constitutional. We Are One Illinois Coalition believes that a stay would:

- alleviate the substantial administrative burden the pension systems face in implementing by June 1, 2014 the changes Public Act 98-0599 requires;
- avoid the similar, if not greater, burden, expense and confusion that will ensue when the pension systems must return their members to the status quo when Public Act 98-0599 is found unconstitutional;
- afford the systems the time they need to provide meaningful counsel to their members, a critical function the systems presently are unable to satisfy; and
- protect pension system members from the irreparable harm that is a consequence of the State's unlawful conduct.

**ANSWER:** Defendants admit that, before filing a complaint, a lawyer stating that he represented the We Are One Illinois Coalition and purporting to represent other persons, including unnamed members of an uncertified class, met with representatives of the Attorney General on January 22, 2014; that during this meeting this lawyer asked these representatives to agree in advance of the filing of any pleading that Public Act 98-599 would be "stayed" while its validity was being resolved in court, which he described as treating the Act as if its terms relating to when its provisions took effect would be definitively changed to a later time, regardless of the ultimate outcome of the litigation; that, in support of that request, this attorney claimed that people were making "life-altering decisions" in the face of uncertainty about the Act's validity but, when repeatedly pressed for specific examples, was unable to give any or to explain why all benefit payments made in excess of the Act's provisions while the litigation was pending should be permanently kept by the recipients even if the Act were ultimately upheld, or to explain what authority he had to commit to increased withholding payments by active system members during the litigation that would not be returned to them if the Act were ultimately upheld; and that shortly thereafter one of the Attorney General's representatives notified the We Are One Illinois

Coalition lawyer that, with no complaint on file, the Attorney General was not willing at that time to agree to a blanket postponement of the effectiveness of all of the Act's provisions.

11. The State, however, recently rejected We Are One Illinois Coalition's pre-litigation efforts. Therefore, Plaintiffs now file this Complaint and reserve the right to request an injunction that preserves the status quo by enjoining Defendants, as well as any other person or entity acting on behalf of any of Defendants or the State, from implementing Public Act 98-0599 pending a decision on the merits of this lawsuit.

**ANSWER:** Defendants deny the allegations of Paragraph 11. Further answering, Defendants incorporate their answer to paragraph 10.

12. Both retired and current State employees rely for retirement security on the full pension payments the State has promised. Personal financial commitments and planning based on the State's promise – often years in the making – now are in jeopardy. Plaintiffs thus seek entry of judgment that declares Public Act 98-0599, in its entirety, is unlawful and of no effect.

**ANSWER:** Defendants admit that Plaintiffs purport to seek entry of judgment that declares Public Act 98-599, in its entirety, is unlawful and of no effect. Defendants deny that Public Act 98-599 is unlawful and of no effect. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 12 and therefore deny those allegations.

13. The Court has subject matter jurisdiction over this matter which challenges Public Act 98-0599, a law of this State, as unconstitutional.

**ANSWER:** Defendants admit that the Court has subject matter jurisdiction over this case, in which the plaintiffs challenge the Act.

14. The Court has personal jurisdiction over each Defendant. Pursuant to 735 ILCS 5/2-2-9(a)(1), the Teachers' Retirement System of the State of Illinois ("TRS"), the State Employees' Retirement System of Illinois ("SERS"), and the State Universities Retirement System of Illinois ("SURS") and each of their respective Boards of Trustees are subject to this Court's personal jurisdiction because this lawsuit arises from each Defendant's transaction of business in Illinois. Each pension system and Board of Trustees is also subject to this Court's personal jurisdiction pursuant to 735 ILCS 5/2-209(a)(7) because this lawsuit arises from Defendants' breach of the enforceable contractual relationship with each Plaintiff and each Class Member that the Pension Clause creates. And, pursuant to 735 ILCS 5/2-2-9(b), Governor Patrick Quinn, Comptroller Judy Baar Topinka and Treasurer Daniel Rutherford are subject to this Court's personal jurisdiction because they are elected officials of, work in, and are residents of Illinois.

**ANSWER:** Paragraph 14 consists of legal conclusions to which no answer is required, and to the extent they contain any factual allegations, Defendants deny them, but Defendants do not dispute that this Court has personal jurisdiction over TRS, SERS, SURS, the retirement systems' respective Boards of Trustees, and the individual defendants in their official capacity.

15. Venue is proper in this judicial district pursuant to 735 ILCS 5/2-101 because each Defendant is established pursuant to the Pension Code of Illinois, has an office within this district or has members within this district. Further, the impact of the unlawful conduct this Complaint challenges will occur within this judicial district and throughout Illinois.

**ANSWER:** Paragraph 15 consists of legal conclusions to which no answer is required.

16. The individual Plaintiffs, and the current and retired Illinois public servants and teachers whom they represent, each first contributed to SERS, SURS or TRS prior to January 1, 2011. The pension formulas that apply to members of SERS, SURS and TRS who contributed to those pension systems prior to January 1, 2011 commonly is referred to as "Tier I."

**ANSWER:** Defendants admit that the pension formulas that apply to members of SERS, SURS and TRS who contributed to those pension systems prior to January 1, 2011 commonly are referred to as "Tier I." Defendants further admit that the named individual Plaintiffs first contributed to SERS, SURS, or TRS prior to January 1, 2011. Defendants deny the remaining allegations in Paragraph 16.

17. This lawsuit does not include employees who first contributed to SERS, SURS or TRS on or after January 1, 2011 and without any previous service credit with a pension system that has reciprocal rights with SERS, SURS or TRS. Those members are subject to different pension metrics and reduced pension benefits that are embodied in Public Act 96-0899 and commonly referred to as "Tier II."

**ANSWER:** Defendants admit that neither the named individual Plaintiffs nor the Plaintiff class they purport to represent include any Tier II members of the State Retirement Systems. The remaining allegations in Paragraph 15 consist of legal conclusions that Defendants deny, and to the extent they contain any factual allegations, Defendants deny them.

18. Representative Plaintiff Gwendolyn A. Harrison has dedicated her public service career to helping the citizens of Illinois find information. For approximately 14 years, Harrison has served as a librarian for the State of Illinois. Currently, Harrison works in the library of the Illinois Secretary of State. She lives in Springfield, Illinois. Upon retirement, Harrison's SERS pension will be a significant portion of her income.

**ANSWER:** Defendants admit that Mr. Harrison is currently employed by the Illinois Secretary of State. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 18 and therefore deny those allegations.

19. Representative Plaintiff Gary F. Kroeschel has dedicated his public service career to helping the citizens of Illinois in the arena of technology. For approximately 14 years, Kroeschel has served as an information systems analyst for the State of Illinois. Currently, Kroeschel works in the data center for Central Management Services for the State of Illinois. He lives in Chatham, Illinois. Upon retirement, Kroeschel's SERS pension will be a significant portion of his income.

**ANSWER:** Defendants admit that Mr. Kroeschel currently works for Central Management Services for the State of Illinois. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 19 and therefore deny those allegations.

20. Representative Plaintiff Christine M. Bondi has dedicated her public service career to helping Illinois drivers. Currently, and for approximately 28 years, Bondi has worked for the Illinois Secretary of State. Presently, she serves as a public service representative. Prior to that, Bondi provided written and road tests to automobile and truck drivers. Bondi is a member of SERS. She lives in Ontarioville, Illinois. Upon retirement, Bondi's primary source of income will be her SERS pension.

**ANSWER:** Defendants admit that Ms. Bondi is a member of SERS and that she currently works for the Illinois Secretary of State. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 20 and therefore deny those allegations.

21. Representative Plaintiff Julie A. Young has dedicated her public service career to helping Illinois drivers. Currently, and for approximately 11 years, Young has worked for the Illinois Secretary of State. Presently, she serves as a Motor Vehicle Regulations Technician II, working with Illinois citizens who have some issue that affects their driver status. Young is a member of SERS. She lives in Owaneco, Illinois. Upon her retirement, Young's primary source of income will be her SERS pension.



**ANSWER:** Defendants admit that Ms. Young is a member of SERS and that she currently works for the Illinois Secretary of State. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 21 and therefore deny those allegations.

22. Representative Plaintiff Stephen C. Mittons has dedicated his public service career to protecting Illinois children. For approximately 19 years, Mittons has worked for the Illinois Department of Children and Family Services and he presently is a child protection investigator. Mittons is a member of SERS. He lives in Sun River Terrace, Illinois. Upon retirement, Mittons' primary source of income will be his SERS pension.

**ANSWER:** Defendants admit that Mr. Mittons is a member of SERS and that he currently works for the Illinois Department of Children and Family Services. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 22 and therefore deny those allegations.

23. Representative Plaintiff Monica S. Butts has dedicated her public service career to helping Illinois drivers. Currently, and for more than 12 years, Butts has worked for the Illinois Secretary of State as a cashier. Butts is a member of SERS. She lives in Westville, Illinois. Upon retirement, Butts' SERS pension will be a significant portion of her income.

**ANSWER:** Defendants admit that Ms. Butts is a member of SERS and that she currently works for the Illinois Secretary of State. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 23 and therefore deny those allegations.

24. Representative Plaintiff Gary L. Ciaccio has dedicated his public service career to working with people who have developmental disabilities. Currently, and for approximately 33 years, Ciaccio has helped to care for and to provide a safe, secure and nurturing environment for people with mental health issues or developmental disabilities living at a facility Illinois owns and operates. Ciaccio is a member of SERS. He lives in Kankakee, Illinois. Upon retirement, Ciaccio's primary source of income will be his SERS pension.

**ANSWER:** Defendants admit that Mr. Ciaccio is a member of SERS. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 24 and therefore deny those allegations.

25. Representative Plaintiff Thomas W. Tate has dedicated his public service career to working with the mentally disabled. Currently, and for approximately 34 years, Tate has served as a nurse at a facility that Illinois owns and operates, where he attends to the medical and

other needs of adults who are unable to fully care for themselves. Tate is a member of SERS. He lives in Salem, Illinois. Upon retirement, Tate's primary source of income will be his SERS pension.

**ANSWER:** Defendants admit that Mr. Tate is a member of SERS. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 25 and therefore deny those allegations.

26. Representative Plaintiff Jose M. Prado has dedicated his public service career to working with prison inmates and maintaining public safety. For approximately 15 years, Prado has served as a corrections officer at Stateville Correctional Center, where he currently is a Correctional Sergeant. Prado is a member of SERS. He lives in Willowbrook, Illinois. Upon retirement, Prado's SERS pension will be a significant source of his income.

**ANSWER:** Defendants admit that Mr. Prado is a member of SERS and that he currently works at Stateville Correctional Center. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 26 and therefore deny those allegations.

27. Representative Plaintiff Edward F. Corrigan dedicated his public service career to working with prison inmates and maintaining public safety. For approximately 20 years, Corrigan served as a corrections officer at an Illinois prison. Corrigan is retired, and is a member of SERS. He lives in Pontiac, Illinois. Corrigan's primary source of income is his SERS pension.

**ANSWER:** Defendants admit that Mr. Corrigan is a retired member of SERS. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 27 and therefore deny those allegations.

28. Representative Plaintiff Caryl E. Wadley-Foy dedicated her public service career to supporting the mentally disabled. For approximately 32 years, Wadley-Foy served in a secretarial capacity at a facility Illinois owns and operates for the needs of developmentally disabled adults. Wadley-Foy is retired, and is a member of SERS. She lives in Bradley, Illinois. Wadley-Foy's primary source of income is her SERS pension.

**ANSWER:** Defendants admit that Ms. Wadley-Foy is a member of SERS. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 28 and therefore deny those allegations.

29. Representative Plaintiff Ellen M. Larrimore has dedicated her public service career to Illinois' higher education system. Currently, and for approximately seven years, Larrimore has served as a Library Specialist in the University Archive at Northeastern Illinois University. Larrimore is a member of SURS. She lives in Chicago, Illinois. Upon retirement, Larrimore's SURS pension will be a significant source of her retirement income.

**ANSWER:** Defendants admit that Ms. Larrimore is a member of SURS and that she is currently employed at Northeastern Illinois University. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 29 and therefore deny those allegations.

30. Representative Plaintiff Lee A. Ayers has dedicated his public service career to medical needs of Illinois residents. Currently, and for approximately 25 years, Ayers has served as a clinical lab technician at a university medical center. Ayers is a member of SURS. He lives in Chicago, Illinois. Upon retirement, Ayers' primary source of income will be his SURS pension.

**ANSWER:** Defendants admit that Mr. Ayers is a member of SURS. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 30 and therefore deny those allegations.

31. Representative Plaintiff James J. Sheridan has dedicated his public service career to Illinois's higher education system. Currently, and for approximately 13 years, Sheridan has maintained the facilities at Northern Illinois University. Sheridan is a member of SURS. He lives in DeKalb, Illinois. Upon retirement, Sheridan's primary source of income will be his SURS pension.

**ANSWER:** Defendants admit that Mr. Sheridan is a member of SURS and that he is currently employed by Northern Illinois University. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 31 and therefore deny those allegations.

32. Representative Plaintiff J. Todd Loudon dedicated his public service career to maintaining public safety. For approximately 30 years, Loudon served in the Western Illinois University police force, retiring at the rank of Corporal. Loudon is a member of SURS. He lives in Good Hope, Illinois. Loudon's primary source of income is his SURS pension.

**ANSWER:** Defendants admit that Mr. Loudon is a retired member of SURS, that Mr. Loudon retired after 29 years of state employment, and that Mr. Loudon's final employer before

retirement was Western Illinois University. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 32 and therefore deny those allegations.

33. Representative Plaintiff Kenneth N. Dugan dedicated his public service career to maintaining public safety. A veteran of the United States Air Force and a former Illinois State Trooper, Dugan served for approximately 30 years as a firefighter for the University of Illinois at Urbana-Champaign fire department. Dugan is retired, and is a member of SURS. He lives in Pesotum, Illinois. Dugan's primary source of income is his SURS pension.

**ANSWER:** Defendants admit that Mr. Dugan is a retired member of SURS, that Mr. Dugan retired after 30 years of state employment, and that Mr. Dugan's final employer before retirement was the University of Illinois at Urbana-Champaign. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 33 and therefore deny those allegations.

34. Representative Plaintiff Jennifer L. Edwards dedicated her public service career to Illinois higher education. For approximately 30 years, Edwards held various positions at the University of Illinois at Chicago, including assistants to the History Department chairperson and the head of the Department of Pediatrics. Edwards is retired, and is a member of SURS. She lives in Chicago, Illinois. Edwards' primary source of income is her SURS pension.

**ANSWER:** Defendants admit that Ms. Edwards is a retired member of SURS and that Ms. Edwards worked at the University of Illinois at Chicago. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 34 and therefore deny those allegations.

35. Representative Plaintiff D'Ann Urish has dedicated her public service career to teaching Illinois children with special needs. For approximately 31 years, Urish has taught middle school children who have behavioral and learning disorders. Presently, Urish is a special education teacher at Franklin Middle School located in Springfield, Illinois. Urish is a member of TRS. She lives in Springfield, Illinois. Upon retirement, Urish's TRS pension will be a significant portion of her income.

**ANSWER:** Defendants admit that Ms. Urish is a member of TRS and that she is currently employed at Franklin Middle School located in Springfield, Illinois. Defendants lack knowledge

sufficient to form a belief regarding the remaining allegations in Paragraph 35 and therefore deny those allegations.

36. Representative Plaintiff James P. Herrington has dedicated his public service career to teaching children and young adults in Illinois. Currently, and for approximately 35 years, Herrington has taught math at O'Fallon Township High School District 203. He has served as head of the O'Fallon High School math department since 1984. Since the early 1980s, Herrington also has taught math part-time at Southwestern Illinois College. Herrington is a member of TRS. Herrington also is a member of SURS; in approximately 1992, Illinois allowed Herrington to join SURS to reflect his work for Southwestern Illinois College and its students. He lives in Fairview Heights, Illinois. Upon retirement, Herrington's primary source of income will be his TRS and SURS pensions.

**ANSWER:** Defendants admit that Mr. Herrington is a member of TRS and that Mr. Herrington currently works for O'Fallon Township High School District 203. Defendants also admit that Mr. Herrington has been a member of SURS since 1992 and that he currently teaches at Southwestern Illinois College. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 36 and therefore deny those allegations.

37. Representative Plaintiff Terri L. Gifford has dedicated her public service career to teaching Illinois children. For approximately 30 years, Gifford has taught health and physical education at various schools located in Springfield, Illinois. Presently, Gifford teaches health at Franklin Middle School located in Springfield, Illinois. Gifford is a member of TRS. She lives in Springfield, Illinois. Upon retirement, Gifford's primary source of income will be her TRS pension.

**ANSWER:** Defendants admit that Ms. Gifford is a member of TRS and that she is currently employed at Franklin Middle School located in Springfield, Illinois. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 37 and therefore deny those allegations.

38. Representative Plaintiff Michael E. Day has dedicated his public service career to teaching Illinois children. Currently, and for approximately 20 years, Day has taught U.S. history at O'Fallon Township High School District 203. Day is a member of TRS. He lives in O'Fallon, Illinois. Upon retirement, Day's primary source of income will be his TRS pension.

**ANSWER:** Defendants admit that Mr. Day is a member of TRS and that he is currently employed at O'Fallon Township High School District 203. Defendants lack knowledge

sufficient to form a belief regarding the remaining allegations in Paragraph 38 and therefore deny those allegations.

39. Representative Plaintiff Denise M. Funfsinn has dedicated her public service career to teaching Illinois children with special needs. Currently, and for most of her approximately 29-year teaching career, Funfsinn has taught special education to children with developmental disabilities. Presently, Funfsinn is a special education teacher in Earlville Community Unit School District 9. Funfsinn is a member of TRS. She lives in Mendota, Illinois. Upon retirement, Funfsinn's primary source of income will be her TRS pension.

**ANSWER:** Defendants admit that Ms. Funfsinn is a member of TRS and that she is currently employed at Earlville Community Unit School District 9. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 39 and therefore deny those allegations.

40. Representative Plaintiff Elaine G. Ferguson dedicated her public service career to teaching Illinois children. For over 30 years, Ferguson taught school children primarily at the kindergarten and first grade level, at the Nauvoo-Colusa School District. Ferguson is retired, and is a member of TRS. She lives in Nauvoo, Illinois. Ferguson's TRS pension is a significant portion of her income.

**ANSWER:** Defendants admit that Ms. Ferguson is a retired member of TRS and that she was employed at the Nauvoo-Colusa School District. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 40 and therefore deny those allegations.

41. Representative Plaintiff Marlene M. Koerner dedicated her public service career to teaching Illinois children. For over 30 years, Koerner was a teacher, retiring from Carterville School District Unit Number 5 as the Chair of its Social Studies Department. Koerner is retired, and is a member of TRS. She lives in Herrin, Illinois. Koerner's primary source of income is her TRS pension.

**ANSWER:** Defendants admit that Ms. Koerner is a retired member of TRS and that she was employed at Carterville School District Unit No. 5. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 41 and therefore deny those allegations.

42. Representative Plaintiff David L. Behymer dedicated his public service career to teaching Illinois children. For 30 years, Behymer taught art in Colchester, Illinois to children

ranging from pre-school to high school. Behymer is retired, and is a member of TRS. He lives in Rushville, Illinois. Behymer's primary source of income is his TRS pension.

**ANSWER:** Defendants admit that Mr. Behymer is a member of TRS. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 42 and therefore deny those allegations.

43. Plaintiff We Are One Illinois Coalition is a coalition of labor unions formed to help protect public employee pensions of hundreds of thousands of active and retired employees who are members of SERS, SURS or TRS. We Are One Illinois Coalition urged Governor Quinn and the General Assembly to work with We Are One Illinois Coalition in a meaningful, considered manner designed to lawfully resolve pension system funding issues and to avoid costly litigation. Unfortunately, Governor Quinn and the General Assembly refused, necessitating this litigation. We Are One Illinois Coalition members include: Illinois AFL-CIO; Illinois Federation of Teachers; Illinois Education Association; American Federation of State, County and Municipal Employees (AFSCME) Council 31; Service Employees International Union (SEIU) Local 73; Illinois Fraternal Order of Police State Lodge; Illinois Police Benevolent and Protective Association; Associated Fire Fighters of Illinois; Illinois Nurses Association; Laborers' International Union of North America Local 2002; Teamsters Local 700; and Teamsters Joint Council 25. We Are One Illinois Coalition has standing to represent the interests of members of SERS, SURS and TRS, regardless of whether those members are active employees or retired.

**ANSWER:** On information and belief, Defendants admit that We Are One Illinois Coalition members include Illinois AFL-CIO; Illinois Federation of Teachers; Illinois Education Association; American Federation of State, County and Municipal Employees (AFSCME) Council 31; Service Employees International Union (SEIU) Local 73; Illinois Fraternal Order of Police State Lodge; Illinois Police Benevolent and Protective Association; Associated Fire Fighters of Illinois; Illinois Nurses Association; Laborers' International Union of North America Local 2002; Teamsters Local 700; and Teamsters Joint Council 25. Defendants deny that We Are One Illinois Coalition has standing to represent the interests of members of SERS, SURS and TRS, regardless of whether those members are active employees or retired, and further deny that any of the unions alleged to be members of We Are One Illinois Coalition has such standing.

Defendants deny the remaining allegations of paragraph 43, and further answering, incorporate by reference their answer to paragraph 8 above.

44. Defendant Patrick Quinn is the Governor of the State of Illinois, with an office located at 207 State House, Springfield, Illinois 62706. Pursuant to Article V, Section 8 of the Illinois Constitution, “[t]he Governor shall have the supreme executive power, and shall be responsible for the faithful execution of the laws.” Governor Quinn had an opportunity to uphold the Illinois Constitution and avoid this lawsuit. But he failed to fulfill that duty when he signed into law the legislation that became Public Law 98-0599. Plaintiffs bring this action against Governor Quinn in his official capacity.

**ANSWER:** Defendants admit that Mr. Quinn is the Governor of the State of Illinois and that he has an office at 207 State House, Springfield, Illinois, 62706. Defendants further admit that Paragraph 44 accurately quotes Article V, Section 8 of the Illinois Constitution and that Plaintiffs bring this action against Mr. Quinn in his official capacity. Defendants deny the remaining allegations in Paragraph 44.

45. Defendant Judy Baar Topinka is the State of Illinois Comptroller, with an office located at 201 State House, Springfield, Illinois 62706. Pursuant to Article V, Section 17 of the 1970 Illinois Constitution, “[t]he Comptroller, in accordance with law, shall maintain the State’s central fiscal accounts, and order payments into and out of the funds held by the Treasurer.” Comptroller Baar Topinka thus has responsibility for part of the process by which the Pension Systems disburse pension annuity payments to their members. Plaintiffs bring this action against Comptroller Baar Topinka in her official capacity.

**ANSWER:** Defendants admit the allegations in Paragraph 45. Further answering, Defendants allege that defendant Judy Baar Topinka is a nominal defendant in light of the Comptroller’s official responsibilities in connection with the administration of certain transactions related to the operation of the Pension Code.

46. Defendant Dan Rutherford is the Treasurer of Illinois, with an office located at 219 State House, Springfield, Illinois 62706. Pursuant to Article V, Section 18 of the 1970 Illinois Constitution, “[t]he Treasurer, in accordance with law, shall be responsible for the safekeeping and investment of monies and securities deposited with him, and for their disbursement upon order of the Comptroller.” Treasurer Rutherford thus has responsibility for part of the process by which the Pension Systems disburse pension annuity payments to their members. Plaintiffs bring this action against Treasurer Rutherford in his official capacity.



**ANSWER:** Defendants admit the allegations in Paragraph 46. Further answering, Defendants allege that defendant Dan Rutherford is a nominal defendant in light of the Treasurer's official responsibilities in connection with the administration of certain transactions related to the operation of the Pension Code.

47. Defendant State Employees' Retirement System of Illinois (as indicated above, "SERS") is a unit of the State that provides retirement annuities and other benefits to employees of Illinois located throughout the State. SERS states that its mission is "[t]o provide an orderly means whereby aged or disabled employees may be retired from active service, without prejudice or hardship, and to enable the employees to accumulate reserves for themselves and their dependents for old age, disability, death and termination of employment, thus effecting economy and efficiency in the administration of State Government." (See [https://www.srs.illinois.gov/SERS/home\\_sers.htm](https://www.srs.illinois.gov/SERS/home_sers.htm).) SERS was established by Article 14 of the Illinois pension code, 40 ILCS 5/14-101 *et seq.* SERS' headquarters is located at 2101 S. Veterans Parkway, Springfield, Illinois 62704.

**ANSWER:** Defendants deny that SERS is a unit of the State, but admit the remaining allegations in Paragraph 47.

48. Defendant Board of Trustees of the State Employees Retirement System of Illinois ("SERS Board") administers SERS. See 40 ILCS 5/14-134. The SERS Board maintains its office at SERS, 2101 S. Veterans Parkway, Springfield, Illinois 62704. Plaintiffs bring this action against the SERS Board in its official capacity as the administrator of SERS.

**ANSWER:** Defendants admit the allegations in Paragraph 48.

49. Defendant State Universities Retirement System of Illinois (as indicated above, "SURS") is a unit of the State that provides retirement annuities and other benefits to employees who work for Illinois public universities, community colleges and other affiliated state agencies throughout Illinois. SURS states that its mission is "[t]o secure and deliver the retirement benefits promised to our members." (See <http://www.surs.com/about-surs>.) SURS was established by Article 15 of the Illinois pension code, 40 ILCS 5/15-101 *et seq.* SURS' headquarters is located at 1901 Fox Drive, Champaign, Illinois 61820.

**ANSWER:** Defendants deny that SURS is a unit of the State, but admit the remaining allegations in Paragraph 49.

50. Defendant Board of Trustees of the State Universities Retirement System of Illinois ("SURS Board") administers SURS. See 40 ILCS 5/15-159. The SURS Board maintains its offices at SURS, 1901 Fox Drive, Champaign, Illinois 61820. Plaintiffs bring this action against the SURS Board in its official capacity as the administrator of SURS.

**ANSWER:** Defendants admit the allegations in Paragraph 50.

51. Defendant Teachers' Retirement System of the State of Illinois (as indicated above, "TRS") is a unit of the State that provides retirement annuities and other benefits to Illinois teachers, administrators and other public school personnel employed outside of the City of Chicago. TRS admits that the State has "responsibility to fully fund teacher pensions annually and to keep retirement promises to TRS members." (See TRS Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2012, p. 7 (available at <http://trs.illinois.gov/pubs/cafr/FY2012/intro.pdf> ).) In that vein, TRS states that it is a "promise keeper" whose "fiduciary duty to ensure the long-term stability and strength of the system means that we must be certain that the retirement promises made by the State of Illinois to educators *are promises that can be kept for every one of our members* ... so that we can keep the pension promises made to teachers in the midst of their careers or at the start of their careers just as we have kept them for those already retired." (*Id.*, p. 8 (emphasis in the original).) TRS is established by Article 16 of the Illinois pension code, 40 ILCS 5/16-101 *et seq.* TRS' headquarters is located at 2815 West Washington, Springfield, Illinois 62702.

**ANSWER:** Defendants admit that TRS provides retirement annuities and other benefits to Illinois teachers, administrators and other public school personnel employed outside of the City of Chicago. Defendants admit that TRS is established by Article 16 of the Illinois Pension Code, that TRS's headquarters is located at 2815 West Washington, Springfield, Illinois 62702, and that Paragraph 51 accurately quotes portions of TRS's 2012 Comprehensive Annual Financial Report. Defendants deny that TRS is a unit of the State and the remaining allegations in Paragraph 51.

52. Defendant Board of Trustees of the Teachers' Retirement System of the State of Illinois ("TRS Board") administers TRS. See 40 ILCS 5/16-163. The TRS Board maintains its office at TRS, 2815 West Washington, Springfield, Illinois 62702. Plaintiffs bring this action against the TRS Board in its official capacity as the administrator of TRS.

**ANSWER:** Defendants admit the allegations in Paragraph 52.

53. Pursuant to Section 2-801 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-801, Plaintiffs Gwendolyn Harrison, Gary Kroeschel, Christine Bondi, Julie Young, Stephen Mittons, Monica Butts, Gary Ciaccio, Thomas Tate, Jose Prado, Edward Corrigan, Caryl Wadley-Foy, Ellen Larrimore, Lee Ayers, James Sheridan, J. Todd Loudon, Kenneth Dugan, Jennifer Edwards, D'Ann Urish, James Herrington, Terri Gifford, Michael Day, Denise Funfsinn, Elaine Ferguson, Marlene Koerner, and David Behymer (collectively, the "Representative Plaintiffs") bring this action on behalf of themselves and each member of SERS, SURS and TRS who first contributed to SERS, SURS or TRS prior to January 1, 2011, regardless of whether that member remains actively employed by the State, a school district or in another position that SERS, SURS or TRS covers (the "Class").

**ANSWER:** Defendants admit that Plaintiffs purport to bring this action on behalf of themselves and each member of SERS, SURS and TRS who first contributed to SERS, SURS or TRS prior to January 1, 2011, regardless of whether that member remains actively employed by the State, a school district or in another position that SERS, SURS or TRS covers. The remainder of Paragraph 53 consists of legal conclusions that Defendants deny, and to the extent it contains any factual allegations, Defendants deny them, including, without limitation, the allegation that any of the plaintiffs is a proper representative or has standing to represent all of the members of the purported class with respect to the claims and relief at issue in this suit.

54. The constitutional challenges this Complaint encompasses pose the quintessential type of legal issues that are appropriate for resolution as a class action.

**ANSWER:** Paragraph 54 consists of legal conclusions that Defendants deny, and to the extent it contains any factual allegations, Defendants deny them.

55. The members of the Class are so numerous that joinder of all members of the Class is impracticable. On information and belief, representative Plaintiffs believe there are more than 621,000 members of the Class ("Class Members"), comprised as follows:

- a. 62,700 active members, approximately, of SERS who remain employed by the State or in another position that SERS covers;
- b. 24,000 inactive members, approximately, of SERS who no longer are working in a position that SERS covers but who are not yet receiving their pensions;
- c. 62,800 members, approximately, of SERS who have retired from active employment with the State or from another position that SERS covers;

- d. 81,100 members, approximately, of SURS who remain employed by the State or in another position that SURS covers;
- e. an unknown number of inactive members of SURS who no longer are working in a position that SURS covers but who are not yet receiving their pensions;
- f. 45,500 members, approximately, of SURS who have retired from active employment with the State or from another position that SURS covers;
- g. 162,200 active members, approximately, of TRS who remain employed by an Illinois school district or in another position that TRS covers;
- h. 88,000 inactive members, approximately, of TRS who no longer are working in a position that TRS covers but who are not yet receiving their pensions; and
- i. 95,000 members, approximately, of TRS who have retired from active employment with an Illinois school district or from another position that TRS covers.

**ANSWER:** Plaintiffs lack knowledge sufficient to form a belief regarding Plaintiffs' beliefs on the size and constitution of the purported class and therefore deny those allegations. The remaining allegations in Paragraph 55 consist of legal conclusions that Defendants deny, and to the extent they contain any factual allegations, Defendants deny them.

56. The claims of the Representative Plaintiffs are typical of the claims of the Class Members, as the unconstitutional Public Act 98-0599 will cause each Class Member to suffer impairment of and a diminishment to the pension amount she or he would receive but for Public Act 98-0599. The claims of the Representative Plaintiffs do not depend on their status as a member of a public employee or teacher's union. Therefore, questions of fact and law common to the Class exist, which common questions predominate over questions, if any, that might only affect individual members of SERS, SURS and TRS regardless of whether a member remains in State employment, has retired or retires during the pendency of this lawsuit.

**ANSWER:** Paragraph 56 consists of legal conclusions that Defendants deny, and to the extent it contains any factual allegations, Defendants deny them.

57. The Representative Plaintiffs will fairly and adequately protect the interests of the Class.

**ANSWER:** Paragraph 57 consists of legal conclusions that Defendants deny, and to the extent it contains any factual allegations, Defendants deny them.

58. A class action is an appropriate method for the fair and efficient adjudication of the controversy this Complaint encompasses.

**ANSWER:** Paragraph 58 consists of legal conclusions that Defendants deny, and to the extent it contains any factual allegations, Defendants deny them.

59. The Representative Plaintiffs are not aware of any difficulty that will be encountered in the management of this litigation as a class action.

**ANSWER:** Paragraph 59 consists of legal conclusions that Defendants deny, and to the extent it contains any factual allegations, Defendants deny them.

60. This Complaint challenges the constitutionality of provisions of the Illinois Pension Code as amended by Public Act 98-0599. Accordingly, Plaintiffs will provide notice of this Complaint to the State pursuant Illinois Supreme Court Rule 19.

**ANSWER:** Defendants admit the allegations of the first sentence in in Paragraph 60 and further admit that, after filing this action, the plaintiffs' counsel provided a Rule 19 notice to the Attorney General.

61. Although this litigation involves the unconstitutionality of Public Act 98-0599, its underpinnings involve much more than a legal question. At base, this litigation concerns an ethical and moral promise to provide a certain level of retirement security for the women and men who chose to serve Illinois and its citizens.

**ANSWER:** Defendants deny the allegations in Paragraph 61.

62. The majority of Illinois' public employees in State retirement systems are not eligible to receive Social Security, including all employees who are members of TRS and SURS and many SERS members. For many individuals, their State pension is their life savings and is all that that stands between them and poverty.

**ANSWER:** Defendants admit the allegations of the first sentence in Paragraph 62, but lack information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 62 and therefore deny those allegations.

63. In 1970, the State recognized this situation and took action to assure the retirement security of these public workers. At the time of the 1970 Illinois Constitutional Convention, fifteen of the seventeen retirement systems that the Illinois Pension Code encompassed were mandatory plans, allowing the Illinois legislature to change or revoke those plans' terms. At the same time, the pension systems were no better funded than they are today.

For example, TRS, SERS, and SURS then were funded at approximately 40%, 43% and 47% levels, respectively. Concern that pension system funding issues might lead the State to abandon its pension obligations to the men and women who serve Illinois and its municipalities prompted Illinois to adopt the Pension Clause.

**ANSWER:** Defendants admit that in 1970, the assets of TRS, SERS, and SURS represented, respectively, approximately 40%, 43%, and 47% of their actuarially estimated liabilities.

Defendants deny the remaining allegations in Paragraph 63.

64. As indicated, the Pension Clause protects pension benefits, which include the criteria used to determine eligibility for a nondiscounted pension and the method by which the amount of a member's initial pension amount and subsequent yearly pension annuity is calculated:

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.)

**ANSWER:** Defendants admit that Paragraph 64 accurately quotes the Pension Clause of the Illinois Constitution. Defendants deny the remaining allegations in Paragraph 64.

65. Pursuant to the Pension Clause, a member's pension benefits are guaranteed by an enforceable contract with the State that the State cannot unilaterally diminish or impair by legislation or otherwise, no matter the circumstance.

**ANSWER:** Defendants deny the allegations in Paragraph 65.

66. A public employee's contract right to the pension benefits, including the amount of pension, vests on the member's first day of membership in a State retirement system. The effective date of membership in SERS, SURS and TRS is the day on which a member begins employment in a position that is covered by SERS, SURS or TRS. A pension system member first contributes to the system on his or her first day of paid service. And, thereafter, where the State enhances those benefits, the member's right to the enhanced benefits vests upon the member's continued participation in the system following the effective date of that enhancement.

**ANSWER:** Paragraph 66 contains legal conclusions to which no answer is required, and to the extent they contain any factual allegations, Defendants deny them, including, without limitation, the allegation that the first day of a Tier I SERS member's employment with the State

is date the person became a SERS member and acquired rights in the system. (To the extent the allegations in Paragraph 66 may be deemed to relate to Tier II members of SERS, SURS, and TRS, they are irrelevant to this case and Defendants accordingly do not answer them.)

67. The pensions that Plaintiffs receive, or will receive upon retirement, as members of SERS, SURS and TRS are defined benefits. That is, the pension amount that a member receives over the course of his or her retirement is specified by formula set forth in Illinois' Pension Code. As such, the State is able to determine actuarially the approximate amount that each member will receive in retirement and the concomitant amount that should be contributed to each pension system each year to make sure that each member receives the annuity amount that the State promised to him or her.

**ANSWER:** Defendants admit that many of the annuities paid by SERS, SURS and TRS are of the type commonly referred to as "defined benefits" based on a Pension Code formula, and that actuaries use various means to estimate the payments that the members of a pension system will receive in retirement and the amounts that should be contributed to the system to provide for those payments. Defendants deny that such actuarial estimates, even when reasonably performed, consistently match later actual experience, and they deny the remaining allegations in paragraph 67.

68. The pensions that Illinois' public servants receive are not mere gratuities. In addition to the work each pension system member performs while serving Illinois and its residents, members contribute a substantial portion of their paychecks to their pensions. Members of TRS contribute 9.4% of their salaries to their pensions. Members of SERS contribute 8% of their salaries to their pensions if they are not covered by Social Security and 4% of their salaries if they are subject to Social Security. And, members of SURS contribute 8.0% of their salaries to their pensions.

**ANSWER:** The first sentence of Paragraph 68 states a legal conclusion to which no answer is required. Defendants admit the remaining allegations in Paragraph 68.

69. Typically, a member is entitled to retire with a nondiscounted pension annuity where the member meets the minimum service credit and age requirements for eligibility. Once a member employee meets those minimum service credit and age requirements, three main factors determine the amount of the member's initial pension:

- a. final average salary;

- b. years of service credit; and
- c. a percentage equal to 2.2% for each year of service credit for members who are not covered by Social Security and 1.67% for each year of service credit where the member receives Social Security, up to a maximum percentage.

(See 40 ILCS 5/16-133; 40 ILCS 5/14-108; 40 ILCS 5/15-136.)

**ANSWER:** Defendants admit that the Pension Code provisions for Tier I SERS, SURS, and TRS members state that they are eligible to retire with a nondiscounted pension annuity when they meet certain minimum service credit and age requirements and that paragraph 69 describes the general criteria relevant to determining many annuities for such members.

70. Other, less common, formulas within each of SERS, SURS and TRS exist for calculating the initial pension amount of some State employees. Analysis of those less common formulas by which to calculate initial pension amounts is not needed to determine and declare that Public Act 98-0599 is unconstitutional, null and void. Public Act 98-0599 diminishes and impairs pension amounts of SERS, SURS and TRS members regardless of the formula used to calculate a member's initial pension amount.

**ANSWER:** Defendants admit that other formulas within SERS, SURS, and TRS exist for calculating the initial pension amount for retiring system members. The remaining allegations in Paragraph 70 consist of legal conclusions that Defendants deny, and to the extent they contain any factual allegations, including the allegation that TRS members are state employees, Defendants deny them.

71. Prior to June 1, 2014, the date on which the pension calculation changes which Public Act 98-0599 imposes take effect, a member of SERS is eligible to terminate service and receive a nondiscounted annuity if she or he meets the following age and service requirements:

- Any age if the member's age plus years of service credit equal 85; or
- Age 60 with 8 years of service credit.

(See 40 ILCS 5/14-107.)



**ANSWER:** Defendants admit that Paragraph 71 accurately describes the age and service requirements a SERS member had to meet to retire and receive a nondiscounted annuity under the Pension Code in effect immediately prior to June 1, 2014.

72. Under SERS, the final average salary is based on the highest 48 consecutive months of service within the last 120 months of service. (See 40 ILCS 5/14-103.12.) As indicated above, members of SERS who are not eligible for Social Security earn an initial pension amount of 2.2% per year of service credit, and members of SERS who are eligible for Social Security earn an initial pension amount of 1.67% per year of service credit. In either case, the maximum amount allowable is 75% of a member's final average salary.

**ANSWER:** Defendants admit the allegations in Paragraph 72.

73. Thus, for example, a nurse in a State-run hospital who retires prior to June 1, 2014 with a final average salary of \$50,000 and 30 years of service credit and who receives Social Security would receive an initial pension annuity of \$25,050 (*e.g.*, 30 years x 1.67% per year = 50.1%; 50.1% x \$50,000 = \$25,050).

**ANSWER:** Defendants admit the allegations in Paragraph 73.

74. Certain members of SERS who have jobs deemed particularly dangerous, such as police officers and correctional officers, are subject to an alternative formula, including an increased amount of contribution, that accounts for the likelihood that members with particularly dangerous jobs will have shorter careers. The pension impairments that Public Act 98-0599 imposes similarly impact the pension amounts of members who hold jobs the State deems particularly dangerous.

**ANSWER:** Defendants admit that certain members of SERS, including certain police officers and correctional officers, are subject to an alternative formula with increased rates of contribution and that Public Act 98-599 applies to the pensions payable to such members. Defendants deny the remaining allegations in Paragraph 74.

75. Prior to June 1, 2014, the date the pension calculation changes Public Act 98-0599 imposes take effect, a member of SURS is eligible to terminate service and receive a nondiscounted annuity if she or he meets the following age and service requirements:

- Age 62 with at least 5 years of service credit;
- Age 60 with 8 years of service credit; or
- Any age with 30 years of service credit.

(See 40 ILCS 5/15-135.)

**ANSWER:** Defendants admit that Paragraph 75 accurately describes the age and service requirements a SURS member had to meet to retire and receive a nondiscounted annuity under the Pension Code in effect immediately prior to June 1, 2014.

76. Under SURS, the calculation of the final average salary differs slightly depending on the member's salary. For hourly employees and those who receive an annual salary in installments during twelve months of each academic year, the final average salary is the 48 consecutive calendar-month period ending with the last day of final termination of employment or the average annual earnings during the four consecutive academic years of service in which the employee's earnings were the highest, whichever is greater. For all other members of SURS, the final average salary is the average annual earnings during the four consecutive academic years of service in which the member's earnings were the highest. (See 40 ILCS 5/15-112.)

**ANSWER:** On information and belief, Defendants admit the allegations in Paragraph 76.

77. As with TRS members and some SERS members, members of SURS are not eligible for Social Security. As a result, members of SURS earn an initial pension amount of 2.2% per year of service credit, up to 80% of the member's final average salary. (See 40 ILCS 5/15-136.)

**ANSWER:** Defendants admit that members of SURS are not eligible for Social Security and are generally eligible to earn an initial pension amount of 2.2% per year of service credit, up to 80% of the member's final average salary. Defendants deny the remaining allegations in Paragraph 77.

78. Thus, for example, a university groundskeeper who retires prior to June 1, 2014 with a final average salary of \$50,000 and 30 years of service credit would receive an initial pension annuity of \$33,000 (*e.g.*, 30 years x 2.2% per year equals 66%; 66% x \$50,000 = \$33,000).

**ANSWER:** Defendants admit the allegations in Paragraph 78.

79. Certain members of SURS who have jobs deemed particularly dangerous, such as police officers and firefighters, are subject to an alternative formula, including an increased amount of contribution, that accounts for the likelihood that members with particularly dangerous jobs will have shorter careers. The pension impairments that Public Act 98-0599 imposes similarly impact the pension amounts of members who hold jobs the State deems particularly dangerous.

**ANSWER:** Defendants admit that certain members of SURS are subject to an alternative formula with increased rates of contribution and that Public Act 98-599 applies to the pensions payable to such members. Defendants deny the remaining allegations in Paragraph 79.

80. Prior to June 1, 2014, the date on which the unlawful changes Public Act 98-0599 imposes are to take effect, a member of TRS is eligible to terminate service and receive a nondiscounted annuity if she or he meets the following age and service requirements:

- Age 62 with 5 years of service credit;
- Age 60 with 10 years of service credit;
- Age 55 with 20 years of service credit (provided employee pays for an early retirement option);
- Age 55 with 35 years of service credit; or
- If the TRS member is an employee of the State, when the employee's age plus service credit equals 85.

(See 40 ILCS 5/16-132.)

**ANSWER:** Defendants admit that Paragraph 80 accurately describes the age and service requirements a TRS member had meet to retire and receive a nondiscounted annuity under the Pension Code in effect immediately prior to June 1, 2014. Defendants deny the remaining allegations in Paragraph 80.

81. Under TRS, the final average salary is based on the average of the highest four consecutive annual salary rates within the last ten years of service. (See 40 ILCS 5/16-133(b).)

**ANSWER:** Defendants admit the allegations in Paragraph 81.

82. Teachers and other members of TRS are not eligible for Social Security. As a result, members of TRS earn an initial pension amount of 2.2% per year of service credit, up to 75% of the member's final average salary.

**ANSWER:** Defendants admit that members of TRS are not eligible for Social Security and are generally eligible to earn an initial pension amount of 2.2% per year of service credit, up to

75% of the member's final average salary. Defendants deny the remaining allegations in Paragraph 82.

83. Thus, for example, a teacher who retires prior to June 1, 2014 with a final average salary of \$50,000 and 30 years of service credit would receive an initial pension annuity of \$33,000 (*e.g.*, 30 years x 2.2% per year = 66%; 66% x \$50,000 = \$33,000).

**ANSWER:** Defendants admit the allegations in Paragraph 83.

84. In addition to the initial pension amount, the Pension Code currently provides that members of SERS, SURS and TRS are entitled each year to a 3% automatic annuity increase to their pension amount, compounded. The 3% increase is effective each January 1, and the new amount serves as the base for the subsequent year's automatic annuity increase. (*See* pre-amendment 40 ILCS 5/14-114; 40 ILCS 5/15-136(d); and 40 ILCS 5/16-133.1(a).) Accordingly, for example, if a pension system member's initial annuity is \$33,000, the first automatic annuity increase will be \$990 ( $\$33,000 \times .03$ ), for a total annuity of \$33,990 in the second year of retirement. Thereafter, the \$33,990 would serve as the base annuity amount for calculating the next 3% automatic annuity increase (*e.g.*,  $\$33,990 \times .03 = \$1,017.90$ ), and the member's annuity amount in the third year would be \$35,007.90.

**ANSWER:** Defendants deny that members of SERS and SURS are entitled to 3% automatic annuity increases, but admit that the Pension Code in effect immediately prior to June 1, 2014 provided that retired members of SERS, SURS, and TRS would receive each year a 3% automatic annuity increase to their pension amount, compounded. Defendants admit the remaining allegations in Paragraph 84.

85. A yearly automatic annuity increase is not a new concept. The Pension Code has provided a yearly automatic annuity increase to members of SERS, SURS and TRS since, at least, January 1, 1970 – before the 1970 Constitutional Convention that gave rise to the Pension Clause.

**ANSWER:** Defendants admit the allegations in Paragraph 85. Further answering, Defendants allege that the General Assembly has regularly changed the rate of such increases, that such changes since 1970 have been included in the Pension Code without requiring active system members to make any contributions higher than before those changes, and that the most recent changes in annual automatic increases added to the Pension Code before the Act were extended

to persons who had already retired and ceased making any contributions to their retirement system.

86. Upon information and belief, concerned about the effect of inflation on the pension amounts members receive, in August 1978 the State increased the yearly automatic annuity increase to 3%, effective with the January 1, 1979 automatic annuity increase. Upon information and belief, at the time the Consumer Price Index for all Urban Consumers ("CPI-u") was higher (*e.g.*, 1977 – 6.7%; 1978 – 9%; and 1979 – 13.3%) than the increase in the yearly automatic annuity to 3%.

**ANSWER:** Defendants admit that, in August 1978, the General Assembly amended the Pension Code to increase the yearly automatic annuity increase from 2% to 3%, effective with the January 1, 1979 increase, without requiring any higher contributions by the members, and that this change was intended to mitigate in part the effects of increases in the cost of living. On information and belief, Defendants admit the remaining allegations in Paragraph 86.

87. In August 1989, the State added the compound component to the automatic annuity increase. That is, effective January 1, 1990, a member's 3% automatic annuity increase would compound each year, as described in paragraph 78 of this Complaint. Upon information and belief, the State added the compound component in an effort to stave off some of inflation's impact diminishing the value of a member's pension and to create for members with lesser pension amounts at least some hedge against poverty that inflation may cause. Upon information and belief, in 1987, 1988, 1989, for example, the CPI-u was, respectively, 4.4%, 4.4% and 4.6% and from 1970-1989 the average CPI-u was 6.265%.

**ANSWER:** Defendants admit that, in August 1989, the General Assembly amended the Pension Code to compound the yearly 3% automatic annuity increase, effective with the January 1, 1990 increase, without requiring any higher contributions by the members, and that this change was intended to mitigate in part the effects of increases in the cost of living. On information and belief, Defendants admit the remaining allegations in Paragraph 87.

88. Moreover, the compounded automatic annuity increase is a benefit for which most members have paid. Starting in 1970, TRS and SURS members have contributed each year an additional .5% of their salaries – on top of their required base contributions from salary – to fund a portion of the automatic annuity increases to which they are entitled in retirement. (*See* 40 ILCS 5/16-152(a)(2); and 40 ILCS 5/15-157(b).)

**ANSWER:** Defendants admit that starting in 1970, when the Pension Code was amended to provide automatic annual increases of 2% per year, active TRS and SURS members contributed an additional 0.5% of their salaries to the retirement systems. Defendants deny the remaining allegations in Paragraph 88.

89. Now, however, those contributions are for naught. Through its enactment of Public Act 98-0599, the State is set to undermine the retirement security it constitutionally promised and for which Plaintiffs and the class they represent paid through work and salary contributions.

**ANSWER:** Defendants deny the allegations in Paragraph 89.

90. Public Act 98-0599 amends several components of the formula currently set forth in the Pension Code, as described above, concerning eligibility for a nondiscounted annuity and the attendant pension amount a SERS, SURS and TRS member receives each year in retirement. Each change standing alone, let alone in concert, impairs and diminishes the pension amount SERS, SURS and TRS members otherwise would receive under the Pension Code had the General Assembly not enacted, or had the Governor not signed into law, Public Act 98-0599.

**ANSWER:** Defendants admit that Public Act 98-599 amends several components of the Pension Code concerning eligibility for annuities and calculation of pension amounts that Tier I SERS, SURS, and TRS members receive each year in retirement. Defendants deny the remaining allegations in Paragraph 90.

91. First, Public Act 98-0599 diminishes and impairs the annual automatic annuity increase to which each SERS, SURS and TRS member is entitled, whether the member already is retired or hereafter retires. As indicated above, currently each SERS, SURS and TRS member is entitled to a 3% annual annuity increase, compounded.

**ANSWER:** Defendants admit that the Pension Code in effect immediately prior to June 1, 2014, SERS, SURS, and TRS provided for retired members to receive 3% annual annuity increases, compounded. Defendants deny the remaining allegations in Paragraph 91.

92. But starting with the annual annuity increase that will be made on January 1, 2015, the annual annuity increase for each SERS, SURS and TRS member will be the lesser of 3% of the member's (a) base annuity amount, (b) the number of years of the member's service at retirement multiplied by \$1000 if the member employee does not receive Social Security, and (c) the number of years of the member's service at retirement multiplied by \$800 if the member receives Social Security. (*See*, respectively, Public Act 98-0599's amendments to 40 ILCS 5/14-

114(a-1); 40 ILCS 5/15-136(d-1); and 40 ILCS 5/16-133.1(a-1).) Each year thereafter, beginning with automatic annuity adjustments granted on January 1, 2016, the \$800 or \$1000 multiplier will be indexed and increase by the CPI-u for the 12 months ending the September prior to the increase.

**ANSWER:** Defendants admit that starting with the annual annuity increase that will be made on January 1, 2015, the Act provides for the annual annuity increase for each Tier I SERS, SURS and TRS member to be the lesser of 3% of the member's (a) base annuity amount, (b) the number of years of the member's service at retirement multiplied by \$1000 if the member employee does not receive Social Security, and (c) the number of years of the member's service at retirement multiplied by \$800 if the member receives Social Security. Defendants further admit that, under the Act for these members, each year thereafter, beginning with automatic annuity adjustments granted on January 1, 2016, the \$800 or \$1000 multiplier will be indexed and increase by the CPI-u for the 12 months ending the September prior to the increase. Defendants deny the remaining allegations in Paragraph 92.

93. For example, under the Pension Code prior to Public Act 98-0599, if a member has an initial pension amount of \$33,000 after retiring before July 1, 2014 with 30 years service credit, her first automatic annual increase on January 1, 2015, would be \$990 (*e.g.*  $\$33,000 \times .03$ ).

**ANSWER:** Defendants admit the allegations in Paragraph 93.

94. Under Public Act 99-0599, in contrast, her January 1, 2015 automatic annual increase would be \$900 (*e.g.*,  $30 \times \$1000 \times .03$ ) if she is not covered by Social Security or \$720 (*e.g.*,  $30 \times \$800 \times .03$ ) if she is covered by Social Security.

**ANSWER:** Defendants admit the allegations in Paragraph 94.

95. Thereafter, the CPI-u is taken into consideration somewhat when calculating her subsequent automatic annuity increases. For example, if the CPI-u ending September 2015 for the prior 12 months equals 3%, the \$1000 multiplier would be increased by \$30 (*e.g.*,  $\$1000 \times .03$ ) to \$1030 and the \$800 multiplier would be increased by \$24 (*e.g.*,  $\$800 \times .03$ ) to \$824. In turn, her January 1, 2016 automatic annual increase would be \$927 (*e.g.*,  $30 \times \$1030 \times .03$ ) if she is not covered by Social Security or \$741.60 (*e.g.*,  $30 \times \$824 \times .03$ ) if she is covered by Social Security. Thus, her pension for 2016 would be \$34,827 ( $\$33,900 + \$927$ ) if she is not covered by Social Security or \$34,461.60 ( $\$33,720 + 741.60$ ) if covered by Social Security.

**ANSWER:** Defendants admit the allegations in Paragraph 95.

96. In stark contrast, in this example were her automatic annuity increase for 2016 calculated under law in effect prior to Public Act 98-0599, the member would receive an automatic annual increase of \$1,019.70 for a pension in 2016 of \$35,009.70. With each passing year, the gap between the automatic annuity increase the member would have received under the formula in place prior to Public Act 98-0599 and the automatic annuity increase that the member will receive under Public Act 98-0599 increases. Stated otherwise, the degree of diminishment and impairment caused by the change in the pension formula will increase with each passing year.

**ANSWER:** Defendants admit that Paragraph 96 correctly calculates the example member's automatic annual increase under the law in effect prior to Public Act 98-599. Defendants also admit that each year, the difference between the automatic annuity increase the member would have received under the formula in place prior to Public Act 98-0599 and the automatic annuity increase that the member will receive under Public Act 98-0599 increases. Defendants deny the remaining allegations in Paragraph 96.

97. A member with an annuity that is less than his or her years of service multiplied by the applicable \$1000 or \$800 multiplier will receive a 3% automatic annuity adjustment compounded each year until the annuity reaches the maximum annuity to which the 3% automatic annuity adjustment compounded applies. Thereafter, the member would be subject to the same impairing and diminishing formula for the automatic annuity increase that Public Act 98-0599 imposes immediately on every other member of the class.

**ANSWER:** Defendants admit that, under the Pension Code as amended by P.A. 98-599, a member with an annuity that is less than his or her years of service multiplied by the applicable \$1000 or \$800 multiplier will receive a 3% automatic annuity adjustment compounded each year until the annuity reaches the maximum annuity to which the 3% automatic annuity adjustment compounded applies. Defendants deny the remaining allegations in Paragraph 97.

98. Public Act 98-0599 also diminishes and impairs pension benefits by requiring pension system members who retire on or after July 1, 2014 to miss certain automatic annuity increase adjustments. Depending on a member's age as of June 1, 2014, the member will have at least one and up to five annual adjustments skipped, as follows:

- Age 50 or over, the second automatic annuity increase is skipped;



- Age 47 to under age 50, the second, fourth and sixth automatic annuity increases are skipped;
- Age 44 to under age 47, the second, fourth, sixth and eighth automatic annuity increases are skipped; and
- Age 43 and under, the second, fourth, sixth, eighth and tenth automatic annuity increases are skipped.

(See Public Act 98-0599's amendments to 40 ILCS 5/14-114(a-2); 40 ILCS 5/15-136(d-2); and 40 ILCS 5/16-133.1(a-2).)

**ANSWER:** Defendants admit that, under the Pension Code as amended by P.A. 98-599, members of the Defendant retirement systems who retire on or after July 1, 2014 will miss at least one automatic annuity increase and that Paragraph 98 accurately describes the number and schedule of such skipped adjustments. Defendants deny the remaining allegations in Paragraph 98.

99. As with the change in the formula used to calculate the automatic annual increase itself, the degree of diminishment and impairment to a pension system member's benefits caused by skipping one or more automatic annual increases will increase with each passing year.

**ANSWER:** Defendants deny the allegations in Paragraph 99.

100. Prior to Public Act 98-0599, there is no limitation in the Pension Code on the amount of salary that a member of SERS, SURS or TRS earns in determining the member's final average salary. For instance, if a member's final average salary is \$125,000, then \$125,000 would be used in the final average earnings formula to calculate the member's initial annuity amount.

**ANSWER:** Defendants admit the allegations in Paragraph 100.

101. Public Act 98-0599, in contrast, imposes a cap on pensionable salary.

**ANSWER:** Defendants admit that Public Act 98-599 establishes a limit on prospective increases on the pensionable salary for a small number of members of the Defendant retirement systems.

102. For members of SERS, that limitation is the greater of (a) the pensionable salary cap Illinois imposes on Tier II SERS members (\$110,631 in 2014), (b) the annualized compensation of the member as of the effective date of Public Act 98-0599, or (c) the annualized

compensation of the member immediately preceding the expiration, renewal or amendment of an employment contract or collective bargaining agreement in effect on the effective date of Public Act 98-0599. (See Public Act 98-0599's addition of new subsection (h) to 40 ILCS 5/14-103.10.)

**ANSWER:** Defendants admit that Paragraph 102 accurately describes the pensionable salary cap established by Public Act 98-599 on Tier I SERS members.

103. For members of SURS, that limitation is the greater of (a) the pensionable salary cap Illinois imposes on Tier II SURS members (\$110,631 in 2014), (b) the annualized rate of earnings of the member as of the effective date of Public Act 98-0599, or (c) the annualized rate of earnings of the member immediately preceding the expiration, renewal or amendment of an employment contract or collective bargaining agreement in effect on the effective date of Public Act 98-0599. (See Public Act 98-0599's addition of new subsection (c) to 40 ILCS 5/15-111.)

**ANSWER:** Defendants admit that Paragraph 103 accurately describes the pensionable salary cap established by Public Act 98-599 on Tier I SURS members.

104. For members of TRS, that limitation is the greater of (a) the pensionable salary cap Illinois imposes on Tier II TRS members (\$110,631 in 2014), (b) the annualized salary of the member as of the effective date of Public Act 98-0599, or (c) the annualized salary of the member immediately preceding the expiration, renewal or amendment of an employment contract or collective bargaining agreement in effect on the effective date of Public Act 98-0599. (See Public Act 98-0599's amendment to 40 ILCS 5/16-121.)

**ANSWER:** Defendants admit that Paragraph 104 accurately describes the pensionable salary cap established by Public Act 98-599 on Tier I TRS members.

105. Like the preceding changes, the limitation on pensionable salary that Public Act 98-0599 imposes for those SERS, SURS and TRS members whose final average salary exceeds the applicable cap will effect a diminishment and impairment of the members' pension system benefits that will exponentially increase with each passing year.

**ANSWER:** Defendants deny the allegations in Paragraph 105.

106. Public Act 98-0599 increases the age at which a member may retire with a nondiscounted pension.

**ANSWER:** Defendants admit the allegations in Paragraph 106.

107. The new retirement age formula adds four months to the statutory retirement age for every year that a member is under the age of 46 at the time Public Act 98-0599 takes effect, capped at a total delay of five years. Thus a member who is on June 1, 2014:

- 31 years of age or younger is subject to a 60-month delay in retirement eligibility;
- 32 years of age is subject to a 56-month delay in retirement eligibility;
- 33 years of age is subject to a 52-month delay in retirement eligibility;
- 34 years of age is subject to a 48-month delay in retirement eligibility;
- 35 years of age is subject to a 44-month delay in retirement eligibility;
- 36 years of age is subject to a 40-month delay in retirement eligibility;
- 37 years of age is subject to a 36-month delay in retirement eligibility;
- 38 years of age is subject to a 32-month delay in retirement eligibility;
- 39 years of age is subject to a 28-month delay in retirement eligibility;
- 40 years of age is subject to a 24-month delay in retirement eligibility;
- 41 years of age is subject to a 20-month delay in retirement eligibility;
- 42 years of age is subject to a 16-month delay in retirement eligibility;
- 43 years of age is subject to a 12-month delay in retirement eligibility;
- 44 years of age is subject to an 8-month delay in retirement eligibility; and
- 45 year of age is subject to a 4-month delay in retirement eligibility.

(See 40 ILCS 5/14-103.107(c); 40 ILCS 5/15-135(a-3); and 40 ILCS 5/16-132(b).)

**ANSWER:** Defendants admit the allegations in Paragraph 107.

108. By making a member work longer before she or he may receive a nondiscounted annuity, Public Act 98-0599 diminishes and impairs the pension benefits the member would have received had Public Act 98-0599 not been passed by the General Assembly or signed into law by Governor Quinn.

**ANSWER:** Defendants deny the allegations in Paragraph 108.

109. Public Act 98-0599 purports to require the State to follow a funding schedule that provides an annual contribution, beginning in Fiscal Year 2015, to each of SERS, SURS and TRS (as well as the General Assembly Retirement System and the Judicial Retirement System) that is equal to the sum of the actuarial amount needed to fund each pension system plus that additional amount required to fund by Fiscal Year 2044 100% of each pension system's liabilities. In Fiscal Year 2045 and each Fiscal Year thereafter, Public Act 98-0599 directs the

State to contribute that amount to each pension system needed to maintain a funding status of 100% of each pension system's liabilities.

**ANSWER:** Defendants admit that Public Act 98-0599 requires the State to follow a funding schedule that provides an annual contribution, beginning in Fiscal Year 2015, to each of SERS, SURS and TRS (as well as the General Assembly Retirement System and the Judicial Retirement System) that is equal to the sum of the actuarial amount needed to fund each pension system plus that additional amount required to fund by Fiscal Year 2044 100% of each pension system's liabilities. Defendants admit further that in Fiscal Year 2045 and each Fiscal Year thereafter, Public Act 98-0599 directs the State to contribute that amount to each pension system needed to maintain a funding status of 100% of each pension system's liabilities. Defendants deny the remaining allegations in Paragraph 109.

110. The funding mandate for which Public Act 98-0599 calls, however, is no mandate at all.

**ANSWER:** Defendants deny the allegations in Paragraph 110.

111. Illinois history is replete with the successive failures of the Illinois General Assembly and Governor to make payments to the State pensions systems for which Illinois law called. For years, led by successive Governors and members of the General Assembly, including many currently in office, the State has failed to pay an actuarially-sufficient amount to fund its pension systems. All along, the State and its elected officials did so knowing that they were shortchanging the pension systems, cheating Illinois' public servants and violating the public trust.

**ANSWER:** Defendants admit that in certain past years the General Assembly has contributed to the defendant retirement systems amounts less than the systems' actuaries said were necessary to cover the estimated cost of the members' benefits for services during that year, as well as additional amounts necessary to achieve 100% or 90% funding over time. Defendants deny the remaining of Paragraph 111. Further answering, Defendants incorporate by reference their answer to paragraph 6 above and the affirmative matter in defense of the plaintiffs' claims asserted at the end of this pleading.

112. In enacting Public Act 98-0599, the General Assembly and Governor Quinn failed to heed the lesson Illinois history teaches with respect to funding the State pension systems. That is, a statutory commitment to adequately fund the State pension systems is no guarantee.

**ANSWER:** Defendants deny the allegations in Paragraph 112.

113. Public Act 98-0599 is no different. The General Assembly may alter or repeal in the future the funding amounts that Public Act 98-0599 requires.

**ANSWER:** Paragraph 113 contains legal conclusions for which no answer is required, and to and to the extent it contains any factual allegations, Defendants deny them, including the allegation that the contribution provisions of the Act are “no different” from prior statutes relating to state contributions to the defendant retirement systems.

114. As indicated, the Pension Clause does not permit the State to diminish or impair pension benefits for active employees or retirees who already are members of a State pension system, including SERS, SURS and TRS. Clearly, Public Act 98-0599 diminishes and impairs pension benefits, regardless of degree, that constitutionally cannot stand.

**ANSWER:** Defendants deny the allegations in Paragraph 114.

115. Moreover, the diminishment and impairments that Public Act 98-0599 foists on SERS, SURS and TRS members are substantial, and will grow in magnitude over the course of a member’s retirement. The diminishment and impairment each representative Plaintiff will suffer over the course of her or his retirement under Public Act 98-0599 illustrates this unconstitutional and unfair situation.

**ANSWER:** Defendants deny the allegations in Paragraph 115.

116. Gwendolyn Harrison expects to retire in 2023 with an approximate initial pension of \$37,837, assuming a 3% pay increase per year over the remainder of her public service career. Upon information and belief, under Public Act 98-0599, Harrison’s pension benefits will be subject to one missed automatic annuity increase and the altered formula for calculating her automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Harrison will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$192,429. In stark contrast, from the 1% reduction in the portion of her salary that she would contribute to her pension from July 1, 2014 until the time of her anticipated retirement, Harrison would recoup only approximately \$7,876.

**ANSWER:** Defendants admit that, based on her age and expected retirement after June 30, 2014, Ms. Harrison would be subject to one missed automatic annuity increase under Public Act

98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 116 and therefore deny those allegations.

117. Gary Kroeschel expects to retire in 2017 with an approximate initial pension of \$56,096, assuming a 3% pay increase per year over the remainder of his public service career. Upon information and belief, under Public Act 98-0599, Kroeschel's pension benefits will be subject to three missed automatic annuity increases and the altered formula for calculating his automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Kroeschel will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$394,280. In stark contrast, from the 1% reduction in the portion of his salary that he would contribute to his pension from July 1, 2014 until the time of his anticipated retirement, Kroeschel would recoup only approximately \$2,998.

**ANSWER:** Defendants admit that, based on his age and expected retirement after June 30, 2014, Mr. Kroeschel would be subject to three missed automatic annuity increases under Public Act 98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 117 and therefore deny those allegations.

118. Christine Bondi expects to retire in 2017 with an approximate initial pension of \$31,454, assuming a 3% pay increase per year over the remainder of her public service career. Upon information and belief, under Public Act 98-0599, Bondi's pension benefits will be subject to one missed automatic annuity increase and the altered formula for calculating her automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Bondi will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$64,868. In stark contrast, from the 1% reduction in the portion of her salary that she would contribute to her pension from July 1, 2014 until the time of her anticipated retirement, Bondi would recoup only approximately \$3,005.

**ANSWER:** Defendants admit that, based on her age and expected retirement after June 30, 2014, Ms. Bondi would be subject to one missed automatic annuity increase under Public Act 98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 118 and therefore deny those allegations.

119. Julie Young expects to retire in 2030 with an approximate initial pension of \$33,178, assuming a 3% pay increase per year over the remainder of her public service career. Upon information and belief, under Public Act 98-0599, Young's pension benefits will be subject to five missed automatic annuity increases, the altered formula for calculating her automatic annuity increase and a twenty-month increase in the age at which she first is eligible for a nondiscounted annuity. As a result, if Public Act 98-0599 is implemented, Young will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$146,255.

In stark contrast, from the 1% reduction in the portion of her salary that she would contribute to her pension from July 1, 2014 until the time of her anticipated retirement, Young would recoup only approximately \$9,791.

**ANSWER:** Defendants admit that, based on her age and expected retirement after June 30, 2014, Ms. Young would be subject to five missed automatic annuity increases under Public Act 98-599, and that the age at which she would be first eligible for a nondiscounted annuity will be increased by 20 months. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 119 and therefore deny those allegations.

120. Stephen Mittons expects to retire in 2021 with an approximate initial pension of \$57,916, assuming a 3% pay increase per year over the remainder of his public service career. Upon information and belief, under Public Act 98-0599, Mittons' pension benefits will be subject to one missed automatic annuity increase and the altered formula for calculating his automatic annuity increase. Further, Public Act 98-0599 precludes Mittons from using his reciprocal service in calculating the automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Mittons will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$418,089. In stark contrast, from the 1% reduction in the portion of his salary that he would contribute to his pension from July 1, 2014 until the time of his anticipated retirement, Mittons would recoup only approximately \$6,162.

**ANSWER:** Defendants admit that, based on his age and expected retirement after June 30, 2014, Mr. Mittons would be subject to one missed automatic annuity increase under Public Act 98-599. On information and belief, Defendants deny that, under Public Act 98-599, Mr. Mittons' reciprocal service would not be used in the calculation of his future automatic annuity increases. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 120 and therefore deny those allegations.

121. Monica Butts expects to retire in 2016 with an approximate initial pension of \$10,768, assuming a 3% pay increase per year over the remainder of her public service career. Upon information and belief, under Public Act 98-0599, Butts' pension benefits will be subject to one missed automatic annuity increase and the altered formula for calculating her automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Butts will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$11,454. In stark contrast, from the 1% reduction in the portion of her salary that she would contribute to her pension from July 1, 2014 until the time of her anticipated retirement, Butts would recoup only approximately \$1,165.

**ANSWER:** Defendants admit that, based on her age and expected retirement after June 30, 2014, Ms. Butts would be subject to one missed automatic annuity increase under Public Act 98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 121 and therefore deny those allegations.

122. Gary Ciaccio expects to retire in 2017 with an approximate initial pension of \$31,454, assuming a 3% pay increase per year over the remainder of his public service career. Upon information and belief, under Public Act 98-0599, Ciaccio's pension benefits will be subject to one missed automatic annuity increase and the altered formula for calculating his automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Ciaccio will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$33,590. In stark contrast, from the 1% reduction in the portion of his salary that he would contribute to his pension from July 1, 2014 until the time of his anticipated retirement, Ciaccio would recoup only approximately \$1,290.

**ANSWER:** Defendants admit that, based on his age and expected retirement after June 30, 2014, Mr. Cicaccio would be subject to one missed automatic annuity increase under Public Act 98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 122 and therefore deny those allegations.

123. Thomas Tate expects to retire in 2016 with an approximate initial pension of \$51,802, assuming a 3% pay increase per year over the remainder of his public service career. Upon information and belief, under Public Act 98-0599, Tate's pension benefits will be subject to one missed automatic annuity increase and the altered formula for calculating his automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Tate will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$286,920. In stark contrast, from the 1% reduction in the portion of his salary that he would contribute to his pension from July 1, 2014 until the time of his anticipated retirement, Tate would recoup only approximately \$2,529.

**ANSWER:** Defendants admit that, based on his age and expected retirement after June 30, 2014, Mr. Take would be subject to one missed automatic annuity increase under Public Act 98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 123 and therefore deny those allegations.

124. Jose Prado expects to retire in 2023 with an approximate initial pension of \$46,145, assuming a 3% pay increase per year over the remainder of his public service career. Upon information and belief, under Public Act 98-0599, Prado's pension benefits will be subject



to four missed automatic annuity increases, the altered formula for calculating his automatic annuity increase and a four-month increase in the age at which he first is eligible for a nondiscounted annuity. As a result, if Public Act 98-0599 is implemented, Prado will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$327,882. In stark contrast, from the 1% reduction in the portion of his salary that he would contribute to his pension from July 1, 2014 until the time of his anticipated retirement, Prado would recoup only approximately \$7,446.

**ANSWER:** Defendants admit that, based on his age and expected retirement after June 30, 2014, Mr. Prado would be subject to four missed automatic increases under Public Act 98-599. Defendants further admit that, under Public Act 98-599, the age at which Mr. Prado would first be eligible for a nondiscounted annuity is increased by four months. Defendants lack knowledge sufficient to form a belief regarding the allegations in Paragraph 124 and therefore deny those allegations.

125. Ellen Larrimore expects to retire in 2017 with an approximate initial pension of \$10,386, assuming a 3% pay increase per year over the remainder of her public service career. Upon information and belief, under Public Act 98-0599, Larrimore's pension benefits will be subject to one missed automatic annuity increase and the altered formula for calculating her automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Larrimore will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$17,846. In stark contrast, from the 1% reduction in the portion of her salary that she would contribute to her pension from July 1, 2014 until the time of her anticipated retirement, Larrimore would recoup only approximately \$1,186.

**ANSWER:** Defendants admit that, based on her age and expected retirement after June 30, 2014, Ms. Larrimore will be subject to one missed automatic annuity increase under Public Act 98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 125 and therefore deny those allegations.

126. Lee Ayers expects to retire in 2019 with an approximate initial pension of \$53,366, assuming a 3% pay increase per year over the remainder of his public service career. Upon information and belief, under Public Act 98-0599, Ayers' pension benefits will be subject to one missed automatic annuity increase and the altered formula for calculating his automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Ayers will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$218,046. In stark contrast, from the 1% reduction in the portion of his salary that he would contribute to his pension from July 1, 2014 until the time of his anticipated retirement, Ayers would recoup only approximately \$3,733.

**ANSWER:** Defendants admit that, based on his age and expected retirement after June 30, 2014, Mr. Ayers would be subject to one missed automatic annuity increase under Public Act 98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 126 and therefore deny those allegations.

127. James Sheridan expects to retire in 2015 with an approximate initial pension of \$13,116, assuming a 3% pay increase per year over the remainder of his public service career. Upon information and belief, under Public Act 98-0599, Sheridan's pension benefits will be subject to one missed automatic annuity increase and the altered formula for calculating his automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Sheridan will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$13,952. In stark contrast, from the 1% reduction in the portion of his salary that he would contribute to his pension from July 1, 2014 until the time of his anticipated retirement, Sheridan would recoup only approximately \$468.

**ANSWER:** Defendants admit that, based on his age and expected retirement after June 30, 2014, Mr. Sheridan would be subject to one missed automatic annuity increase under Public Act 98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 127 and therefore deny those allegations.

128. D'Ann Urish expects to retire in 2018 with an approximate initial pension of \$69,989.25, assuming a 3% pay increase per year over the remainder of her public service career. Upon information and belief, under Public Act 98-0599, Urish's pension benefits will be subject to one missed automatic annuity increase and the altered formula for calculating her automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Urish will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$406,832. In stark contrast, from the 1% reduction in the portion of her salary that she would contribute to her pension from July 1, 2014 until the time of her anticipated retirement, Urish would recoup only approximately \$3,728.

**ANSWER:** Defendants admit that, based on her age and expected retirement after June 30, 2014, Ms. Urish would be subject to one missed automatic annuity increase under Public Act 98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 128 and therefore deny those allegations.

129. James Herrington expects to retire in 2017 with an approximate initial pension of \$88,321 per year, assuming a 3% pay increase per year over the remainder of his public service career. Upon information and belief, under Public Act 98-0599, Herrington's pension benefits

will be subject to one missed automatic annuity increase and the altered formula for calculating his automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Herrington will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$544,809. In stark contrast, from the 1% reduction in the portion of his salary that he would contribute to his pension from July 1, 2014 until the time of his anticipated retirement, Herrington would recoup only approximately \$3,585.

**ANSWER:** Defendants admit that, based on his age and expected retirement after June 30, 2014, Mr. Herrington would be subject to one missed automatic annuity increase under Public Act 98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 129 and therefore deny those allegations.

130. Terri Gifford expects to retire in 2016 with an approximate initial pension of \$59,818, using projected salaries as provided by the provisions of her Collective Bargaining Agreement. Upon information and belief, under Public Act 98-0599, Gifford's pension benefits will be subject to one missed automatic annuity increase and the altered formula for calculating her automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Gifford will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$359,904. In stark contrast, from the 1% reduction in the portion of her salary that she would contribute to her pension from July 1, 2014 until the time of her anticipated retirement, Gifford would recoup only approximately \$1,748.

**ANSWER:** Defendants admit that, based on her age and expected retirement after June 30, 2014, Ms. Gifford will be subject to one missed automatic annuity increase under Public Act 98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 130 and therefore deny those allegations.

131. Michael Day expects to retire in 2028 with an approximate initial pension of \$78,422, assuming a 3% pay increase per year over the remainder of his public service career. Upon information and belief, under Public Act 98-0599, Day's pension benefits will be subject to five missed automatic annuity increases, the altered formula for calculating his automatic annuity increase, a twelve-month increase of the age at which he is eligible for a non-discounted annuity and, depending on the amount of his salary increases, the cap on pensionable salary. As a result, if Public Act 98-0599 is implemented, Day will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$718,426. In stark contrast, from the 1% reduction in the portion of his salary that he would contribute to his pension from July 1, 2014 until the time of his anticipated retirement, Day would recoup only approximately \$15,613.

**ANSWER:** Defendants admit that, based on his age and expected retirement after June 30, 2014, Mr. Day would be subject to five missed automatic annuity increase under Public Act 98-

599. Defendants further admit that the age at which Mr. Day would be eligible for a non-discounted annuity will increase by twelve months under Public Act 98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 131 and therefore deny those allegations.

132. Denise Funfsinn expects to retire in 2015 with an approximate initial pension of \$51,409.25, assuming a 6% pay increase per year over the remainder of her public service career. Upon information and belief, under Public Act 98-0599, Funfsinn's pension benefits will be subject to one missed automatic annuity increase and the altered formula for calculating her automatic annuity increase. As a result, if Public Act 98-0599 is implemented, Funfsinn will lose over the course of a 25-year retirement a cumulative pension amount of approximately \$252,473. In stark contrast, from the 1% reduction in the portion of her salary that she would contribute to her pension from July 1, 2014 until the time of her anticipated retirement, Funfsinn would recoup only approximately \$788.

**ANSWER:** Defendants admit that, based on her age and expected retirement after June 30, 2014, Ms. Funfsinn would be subject to one missed automatic annuity increase under Public Act 98-599. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 132 and therefore deny those allegations.

133. Elaine Ferguson retired under TRS and is receiving in 2014 a pension in the approximate amount of \$38,414. Upon information and belief, by the time she reaches 85 years of age, Ferguson will have lost under Public Act 98-0599 a cumulative pension amount of approximately \$37,683 resulting from the alteration of the formula by which her automatic annuity increase is calculated. Ferguson's cumulative pension loss under Public Act 98-0599 will continue to grow over the course of her retirement.

**ANSWER:** Defendants admit that Ms. Ferguson retired under TRS and is receiving in 2014 a pension in the approximate amount of \$38,414 and that, under Public Act 98-0599, her retirement payments and payment increases in each year starting in 2015 would be modestly lower than under prior law. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 133 and therefore deny those allegations.

134. Marlene Koerner retired under TRS and is receiving in 2014 a pension in the approximate amount of \$43,780. Upon information and belief, by the time she reaches 85 years of age, Koerner will have lost under Public Act 98-0599 a cumulative pension amount of approximately \$6,595 resulting from the alteration of the formula by which her automatic

annuity increase is calculated. Koerner's cumulative pension loss under Public Act 98-0599 will continue to grow over the course of her retirement.

**ANSWER:** Defendants admit that Ms. Koerner retired under TRS. Defendants deny that Ms. Koerner is receiving in 2014 a pension in the approximate amount of \$43,780 and further state that she is receiving in 2014 a pension in the approximate amount of \$45,093. Defendants admit that, under Public Act 98-0599, her retirement payments and payment increases in each year starting in 2015 would be modestly lower than under prior law. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 134 and therefore deny those allegations.

135. David Behymer retired under TRS and is receiving in 2014 a pension in the approximate amount of \$41,809. Upon information and belief, by the time he reaches 85 years of age, Behymer will have lost under Public Act 98-0599 a cumulative pension amount of approximately \$70,992 resulting from the alteration of the formula by which his automatic annuity increase is calculated. Behymer's cumulative pension loss under Public Act 98-0599 will continue to grow over the course of his retirement.

**ANSWER:** Defendants admit that Mr. Behymer retired under TRS and is receiving in 2014 a pension in the approximate amount of \$41,809. Defendants further admit that, under Public Act 98-0599, his retirement payment and payment increases in each year starting in 2015 would be modestly lower than under prior law. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 135 and therefore deny those allegations.

136. Edward Corrigan retired under SERS and is receiving in 2014 a pension in the approximate amount of \$20,479. Upon information and belief, by the time he reaches 85 years of age, Corrigan will have lost under Public Act 98-0599 a cumulative pension amount of approximately \$2,967.44 resulting from the alteration of the formula by which his automatic annuity increase is calculated. Corrigan's cumulative pension loss under Public Act 98-0599 will continue to grow over the course of his retirement.

**ANSWER:** Defendants admit that Mr. Corrigan retired under SERS and is receiving in 2014 a pension in the approximate amount of \$20,479. Defendants further admit that, under Public Act 98-0599, his retirement payments and payment increases in each year starting in 2015 would be

modestly lower than under prior law. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 136 and therefore deny those allegations.

137. Caryl Wadley-Foy retired under SERS and is receiving in 2014 a pension in the approximate amount of \$32,350. Upon information and belief, by the time she reaches 85 years of age, Wadley-Foy will have lost under Public Act 98-0599 a cumulative pension amount of approximately \$92,536 resulting from the alteration of the formula by which her automatic annuity increase is calculated. Wadley-Foy's cumulative pension loss under Public Act 98-0599 will continue to grow over the course of her retirement.

**ANSWER:** Defendants admit that Ms. Wadley-Foy retired under SERS and is receiving in 2014 a pension in the approximate amount of \$32,350. Defendants further admit that, under Public Act 98-0599, her retirement payments and payment increases in each year starting in 2015 would be modestly lower than under prior law. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 137 and therefore deny those allegations.

138. J. Todd Loudon retired under SURS and is receiving in 2014 a pension in the approximate amount of \$58,665. Upon information and belief, by the time he reaches 85 years of age, Loudon will have lost under Public Act 98-0599 a cumulative pension amount of approximately \$654,948 resulting from the alteration of the formula by which his automatic annuity increase is calculated. Loudon's cumulative pension loss under Public Act 98-0599 will continue to grow over the course of his retirement.

**ANSWER:** Defendants admit that Mr. Loudon retired under SURS and is receiving in 2014 a pension in the approximate amount of \$58,665. Defendants further admit that, under Public Act 98-0599, his retirement payments and payment increases in each year starting in 2015 would be modestly lower than under prior law. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 138 and therefore deny those allegations.

139. Kenneth Dugan retired under SURS and is receiving in 2014 a pension in the approximate amount of \$57,095. Upon information and belief, by the time he reaches 85 years of age, Dugan will have lost under Public Act 98-0599 a cumulative pension amount of approximately \$12,691 resulting from the alteration of the formula by which his automatic annuity increase is calculated. Dugan's cumulative pension loss under Public Act 98-0599 will continue to grow over the course of his retirement.

**ANSWER:** Defendants admit that Mr. Dugan retired under SURS and is receiving in 2014 a pension in the approximate amount of \$57,095. Defendants further admit that, under Public Act 98-0599, his retirement payments and payment increases in each year starting in 2015 would be modestly lower than under prior law. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 139 and therefore deny those allegations.

140. Jennifer Edwards retired under SURS and is receiving in 2014 a pension in the approximate amount of \$34,738. Upon information and belief, by the time she reaches 85 years of age, Edwards will have lost under Public Act 98-0599 a cumulative pension amount of approximately \$82,942 resulting from the alteration of the formula by which her automatic annuity increase is calculated. Edwards' cumulative pension loss under Public Act 98-0599 will continue to grow over the course of her retirement.

**ANSWER:** Defendants admit that Ms. Edwards retired under SURS and is receiving in 2014 a pension in the approximate amount of \$34,738. Defendants further admit that, under Public Act 98-0599, her retirement payments and payment increases in each year starting in 2015 would be modestly lower than under prior law. Defendants lack knowledge sufficient to form a belief regarding the remaining allegations in Paragraph 140 and therefore deny those allegations.

141. The substantial pension diminishment and impairment attendant to implementation of Public Act 98-0599 is not, of course, limited to the named Representative Plaintiffs. Each Class Member will incur substantial diminishment and impairment, the precise degree and timing of which will depend on a Class Member's particular employment metrics.

**ANSWER:** Defendants deny the allegations in Paragraph 141.

142. Although not every active employee will be subject to each impairing and diminishing change in the formula used to calculate a member's pension amount if Public Act 98-0599 is implemented, all currently employed members of SERS, SURS and TRS will suffer a diminishment and impairment in pension amount.

**ANSWER:** Defendants deny the allegations in Paragraph 142.

143. By way of example, the following charts reflect the pension loss a prototypical currently employed SERS (both covered by Social Security and non-covered by Social Security), SURS and TRS member will suffer under Public Act 98-0599, assuming the following parameters: member retires at age 60 with 30 years of service; pension benefits are received over twenty-five years; where applicable the member incurs a penalty of ½ percent per month of early retirement in light of the increase in the eligibility retirement age; the 2014 pensionable

earnings cap increases by 1.5% per year; final average salary is calculated using the salary earned over the forty-eight consecutive months prior to retirement; 2.2% formula for TRS members, where applicable; CPI-u of 3% per year; and, for 2014, the reduction in the portion of salary contributed to the member's pension is calculated on 50% of earnings in 2014:

| <b>PENSION LOSS OVER 25 YEARS FOR ACTIVE EMPLOYEES WITH 2014 EARNINGS OF \$30,000<br/>(3% ANNUAL SALARY INCREASE ASSUMED)</b> |                       |                 |                           |                 |              |                 |              |                 |
|---|-----------------------|-----------------|---------------------------|-----------------|--------------|-----------------|--------------|-----------------|
|   | <b>SERS (covered)</b> |                 | <b>SERS (non-covered)</b> |                 | <b>SURS</b>  |                 | <b>TRS</b>   |                 |
| Age   | Pension Loss          | Contrib. Reduc. | Pension Loss              | Contrib. Reduc. | Pension Loss | Contrib. Reduc. | Pension Loss | Contrib. Reduc. |
| 55  | \$16,724              | \$1,791         | \$22,031                  | \$1,791         | \$22,031     | \$1,791         | \$22,031     | \$1,791         |
| 47  | \$57,861              | \$4,976         | \$76,225                  | \$4,976         | \$76,225     | \$4,976         | \$76,225     | \$4,976         |
| 44  | \$80,096              | \$6,378         | \$105,640                 | \$6,378         | \$145,784    | \$6,378         | \$145,784    | \$6,378         |
| 40  | \$107,062             | \$8,453         | \$141,040                 | \$8,453         | \$273,887    | \$8,453         | \$273,887    | \$8,453         |
| 37  | \$116,988             | \$10,178        | \$154,118                 | \$10,178        | \$371,885    | \$10,178        | \$371,855    | \$10,178        |
| 34  | \$127,838             | \$12,063        | \$168,409                 | \$12,063        | \$485,620    | \$12,063        | \$485,620    | \$12,063        |

| <b>PENSION LOSS OVER 25 YEARS FOR ACTIVE EMPLOYEES WITH 2014 EARNINGS OF \$60,000<br/>(3% ANNUAL SALARY INCREASE ASSUMED)</b> |                       |                 |                           |                 |              |                 |              |                 |
|---|-----------------------|-----------------|---------------------------|-----------------|--------------|-----------------|--------------|-----------------|
|   | <b>SERS (covered)</b> |                 | <b>SERS (non-covered)</b> |                 | <b>SURS</b>  |                 | <b>TRS</b>   |                 |
| Age   | Pension Loss          | Contrib. Reduc. | Pension Loss              | Contrib. Reduc. | Pension Loss | Contrib. Reduc. | Pension Loss | Contrib. Reduc. |
| 55  | \$85,171              | \$3,581         | \$129,705                 | \$3,581         | \$129,705    | \$3,581         | \$129,705    | \$3,581         |
| 47  | \$152,908             | \$9,952         | \$223,749                 | \$9,952         | \$223,749    | \$9,952         | \$223,749    | \$9,952         |
| 44  | \$191,244             | \$12,757        | \$274,697                 | \$12,757        | \$335,522    | \$12,757        | \$335,522    | \$12,757        |
| 40  | \$240,689             | \$16,906        | \$340,978                 | \$16,906        | \$546,328    | \$16,906        | \$546,328    | \$16,906        |
| 37  | \$263,013             | \$20,356        | \$372,596                 | \$20,356        | \$709,221    | \$20,356        | \$709,221    | \$20,356        |
| 34  | \$287,397             | \$24,126        | \$407,154                 | \$24,126        | \$971,238    | \$24,126        | \$971,238    | \$24,126        |

**ANSWER:** Defendants lack information sufficient to form a belief as to the accuracy of the stated assumption and other allegations in Paragraph 143 and therefore deny those allegations.

144. As the analyses reflected in the forgoing charts and the particular circumstances of each currently employed Representative Plaintiff demonstrate, if Public Act 98-0599 is implemented the diminishment and impairment in pension amount that a member of SERS, SURS and TRS will suffer over the course of the member's retirement will vastly exceed the amount the member will recoup from the reduction of salary the member contributes to his or her pension from July 1, 2014 until his or her retirement.

**ANSWER:** Defendants deny the allegations in Paragraph 144.

145. A retired member of SERS, SURS and TRS will fare no better under Public Act 98-0599. As the circumstances particular to the retired Representative Plaintiffs demonstrates, depending on the member's particular employment metrics and the length of his or her



retirement, a retired member stands to lose tens to hundreds of thousands of dollars, or more, in pension annuities.

**ANSWER:** Defendants deny the allegations in Paragraph 145.

146. Simply put, regardless of his or her particular employment metrics, under Public Act 98-0599 each Representative Plaintiff and each Class Member will suffer a diminishment and impairment of his or her pension benefits. As such, this case now presents an actual controversy ripe for decision that Public Act 98-0599 is unconstitutional, void and unenforceable.

**ANSWER:** Defendants admit that this case presents an actual controversy regarding the constitutionality of Public Act 98-599. Defendants deny the remaining allegations in Paragraph 146.

**COUNT I**  
**PENSION CLAUSE OF THE ILLINOIS CONSTITUTION**

147. Plaintiffs incorporate by reference Paragraphs 1 through 146 of their Complaint, as if set forth fully herein.

**ANSWER:** Defendants repeat and reincorporate their answers above.

148. The Pension Clause of the Illinois Constitution instructs that membership in a State pension system, such as SERS, SURS and TRS, is a contract the benefits of which the State cannot diminish or 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.)

**ANSWER:** Defendants admit that Paragraph 148 accurately quotes the text of Article XIII, § 5 of the Illinois Constitution.

149. Each Representative Plaintiff is a member of SERS, SURS or TRS. Similarly, each Class Member is a member of SERS, SURS or TRS. As such, each Representative Plaintiff and each Class Member has an enforceable contract with his or her respective pension system the benefits of which the State cannot diminish or impair.

**ANSWER:** Defendants admit that the named individual plaintiffs are each a member of SERS, SURS, or TRS and that the plaintiffs seek certification of a class consisting of other members of these systems. The remaining allegations in Paragraph 149 consist of legal conclusions that Defendants deny, and to the extent they contain any factual allegations, Defendants deny them.

150. Each Representative Plaintiff and each Class Member has satisfied her or his obligations under her or his respective pension system contract.

**ANSWER:** The allegations in Paragraph 150 consist of legal conclusions that Defendants deny, and to the extent they contain any factual allegations, Defendants deny them.

151. The same cannot be said for the State. Public Act 98-0599 diminishes and impairs the pension amounts to which each Representative Plaintiff and each Class Member contractually, and constitutionally, is entitled.

**ANSWER:** Defendants deny the allegations in Paragraph 151.

152. The State's unilateral diminishment of its contractual obligations and impairment of the pension benefits and rights of the Representative Plaintiffs and the members of the Class Members is an illegal exercise of its sovereign powers. As such, each Defendant's implementation of Public Act 98-0599 and application of Public Act 98-0599 to the Representative Plaintiffs and the Class violates the Pension Clause of the Illinois Constitution.

**ANSWER:** Defendants deny the allegations in Paragraph 152.

153. Accordingly, Public Act 98-0599 is illegal and of no force and effect.

**ANSWER:** Defendants deny the allegations in Paragraph 153.

## **COUNT II CONTRACTS CLAUSE OF THE ILLINOIS CONSTITUTION**

154. Plaintiffs incorporate paragraphs 1 through 146 of their Complaint as if incorporated herein by reference.

**ANSWER:** Defendants repeat and reincorporate their answers above.

155. Plaintiffs plead Count II in the alternative to Count I.

**ANSWER:** Defendants admit the allegations in Paragraph 155.

156. The Pension Clause provides that a member of a State pension system, such as SERS, SURS or TRS, has a contractual relationship with his or her State pension system regarding her pension amount and other benefits that the State cannot diminish or impair.

**ANSWER:** The allegations in Paragraph 156 consist of legal conclusions that Defendants deny, and to the extent they contain any factual allegations, Defendants deny them.

157. Each Representative Plaintiff and each Class Member therefore has an enforceable contract with her or his respective State pension system regarding the member's pension amount and other retirement benefits.

**ANSWER:** The allegations in Paragraph 157 consist of legal conclusions that Defendants deny, and to the extent they contain any factual allegations, Defendants deny them.

158. Each Representative Plaintiff and Class Member has complied with his or obligations regarding that contract. Moreover, they rely on their respective benefits thereunder for retirement security.

**ANSWER:** Defendants lack knowledge sufficient to form a belief regarding whether Plaintiffs and purported Class Members rely on their pension benefits for retirement security and therefore deny those allegations. The remaining allegations in Paragraph 158 consist of legal conclusions that Defendants deny, and to the extent they contain any factual allegations, Defendants deny them.

159. The State, in contrast, has not complied with its contractual obligations under those contracts. The implementation of Public Act 98-0599 will diminish and impair the pension amount each Representative Plaintiff and Class Member otherwise would obtain pursuant to his or her contract with SERS, SURS or TRS.

**ANSWER:** Defendants deny the allegations in Paragraph 159.

160. That diminishment and impairment violates the Contracts Clause of the Illinois Constitution. Specifically, the Contracts Clause instructs that the State shall pass no law that impairs the State's contractual obligations:

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.) But Public Act 96-0599 materially, substantially and unilaterally diminishes and otherwise impairs the pension amount and other retirement benefits to which each Representative Plaintiff and each Class Member contractually is entitled.

**ANSWER:** Defendants admit that Paragraph 160 correctly quotes the language of the Contracts Clause of the Illinois Constitution. Defendants deny the remaining allegations in Paragraph 160.

161. The State's impairment of its contractual obligations to the Representative Plaintiffs and the Class Members is neither reasonable nor necessary to advance a legitimate public purpose. The State's longstanding, deliberate and willful failure to fund each of SERS, SURS and TRS with an actuarially-sufficient amount has caused the purported problem it now tries to remedy through Public Act 98-0599. And, the State has other options by which it could remedy the situation it purports to address through enactment of Public Act 98-0599 – options that do not impair its contracts with the Representative Plaintiffs and the Class Members.

**ANSWER:** Defendants deny the allegations in Paragraph 161.

162. The State's impairment of its contractual obligations to, and of the rights of, the Representative Plaintiffs and the Class Members is an illegal exercise of its sovereign powers.

**ANSWER:** Defendants deny the allegations in Paragraph 162.

163. Each Defendant's application of Public Act 98-0599 to the Representative Plaintiffs and the Class Members Plaintiffs thus violates the Contracts Clause of the Illinois Constitution.

**ANSWER:** Defendants deny the allegations in Paragraph 163.

164. Accordingly, Public Act 98-0599 is illegal and of no force or effect.

**ANSWER:** Defendants deny the allegations in Paragraph 164.

**COUNT III  
TAKINGS CLAUSE OF THE ILLINOIS CONSTITUTION –  
DIMINISHMENT OF PENSION AMOUNTS AND OTHER RETIREMENT BENEFITS**

165. Plaintiffs incorporate paragraphs 1 through 146 of their Complaint as if incorporated herein by reference.

**ANSWER:** Defendants repeat and reincorporate their answers above.

166. Plaintiffs plead Count III in the alternative to Count I.

**ANSWER:** Defendants admit the allegations in Paragraph 166.

167. Each Representative Plaintiffs as well as each Class Member has a private, vested contractual right to, and a legitimate expectation that she or he would receive, upon retirement the pension amount and other retirement benefits for which the Pension Code provided when she

or he first became a member of her or his respective State retirement system, as well as any increase in or other improvements to those benefits. The Representative Plaintiffs and the Class Members rely on those benefits as security in retirement.

**ANSWER:** Defendants lack knowledge sufficient to form a belief regarding whether Plaintiffs and purported Class Members rely on their pension benefits for retirement security and therefore deny those allegations. The remaining allegations in Paragraph 167 consist of legal conclusions that Defendants deny, and to the extent they contain any factual allegations, Defendants deny them.

168. In exchange for their vested pension and other retirement benefits, each of the individual Representative Plaintiffs and Class Members has contributed a substantial portion of her or his salary to SERS, SURS or TRS, as the Illinois Pension Code required. Further, each serves, or in the case of retired or inactive SERS, SURS or TRS members, served the State and its citizens.

**ANSWER:** Defendants admit that each of the named individual plaintiffs and putative class members made contributions to SERS, SURS or TRS as required by the Pension Code and provided services for a public employer whose employees are eligible to be members of one of these systems. The remaining allegations of Paragraph 168 consist of legal conclusions to which no answer is required.

169. The changes to the Pension Code that Public Act 98-0599 imposes materially and substantially diminish and otherwise impair the vested, enforceable contract rights of each Representative Plaintiff and each Class Member to the pension amount and other retirement benefits each otherwise would receive absent Public Act 98-0599.

**ANSWER:** Defendants deny the allegations in Paragraph 169.

170. The State's diminishment of the vested, private, enforceable contract rights of each Representative Plaintiff and each Class Member is an illegal exercise of its sovereign powers.

**ANSWER:** Defendants deny the allegations in Paragraph 170.

171. The Takings Clause of the Illinois Constitution instructs:

Private property shall not be taken or damaged for public use without just compensation as provided by law.

(Ill. Const. 1970, art. I, § 15.)

**ANSWER:** Defendants admit that Paragraph 171 accurately quotes the Takings Clause of the Illinois Constitution.

172. The State has not offered the Representative Plaintiffs or Class Members consideration that would justly compensate them for the impairment and diminishment of their pension benefits. Public Act 98-0599 thus violates the Takings Clause of the Illinois Constitution. Public Act 98-0599 takes away, without just compensation, a substantial and material portion of the pension amount and other benefits that each of the Representative Plaintiffs and each Class Member otherwise would receive upon retirement absent Public Act 98-0599.

**ANSWER:** Defendants deny the allegations in Paragraph 172.

173. Accordingly, Public Act 98-0599 is illegal and of no force or effect.

**ANSWER:** Defendants deny the allegations in Paragraph 173.

**COUNT IV**  
**TAKINGS CLAUSE OF THE ILLINOIS CONSTITUTION –**  
**FAILURE TO SUFFICIENTLY FUND EACH PENSION OR RETIREMENT SYSTEM**

174. Plaintiffs incorporate paragraphs 1 through 146 of their Complaint as if incorporated herein by reference.

**ANSWER:** Defendants repeat and reincorporate their answers above.

175. Each Representative Plaintiff and Class Member has a private, vested contractual right to, and a legitimate expectation that she or he would receive, upon retirement the pension amount and other retirement benefits for which the Pension Code provided when she or he first became a member of her or his respective State retirement system as well as any increase in or other improvements to those benefits. The Representative Plaintiffs and the Class Members rely on those benefits as security in retirement.

**ANSWER:** Defendants lack knowledge sufficient to form a belief as to the allegation that the named individual plaintiffs and putative class members rely on their pension benefits for retirement security and therefore deny those allegations. The remaining allegations in Paragraph 175 consist of legal conclusions that Defendants deny, and to the extent they contain any factual allegations, Defendants deny them. Further answering, Defendants state that Plaintiffs' allegations that the Act violates the Takings Clause of the Illinois Constitution fail to state a valid

claim because the affected interests under the Pension Code do not constitute a private property interest protected by the Takings Clause, the changes in those affected interests do not result in a compensable "taking," the financial impact of those changes is a necessary consequence of the regulatory scheme established by the legislature, and those changes do not unreasonably interfere with investment-backed expectations.

176. In exchange for their vested pension and other retirement benefits, each Representative Plaintiff and Class Member has contributed a substantial portion of his or her salary to SERS, SURS or TRS, as the Illinois Pension Code required. Further, each serves, or in the case of retired or inactive SERS, SURS or TRS members, served the State and its citizens.

**ANSWER:** Defendants admit that each of the named individual plaintiffs and putative class members made contributions to SERS, SURS or TRS as required by the Pension Code and provided services for a public employer whose employees are eligible to be members of one of these systems. The remaining allegations of Paragraph 176 consist of legal conclusions to which no answer is required.

177. The State has acknowledged that it knowingly and systematically failed to pay into each of SERS, SURS and TRS an actuarially-sufficient amount to adequately fund what SERS, SURS and TRS each need to meet their pension payment obligations. As a result, the State now contends that each of SERS, SURS and TRS cannot fully meet its obligations. The State thus intends to implement Public Act 98-0599 as a purported remedy.

**ANSWER:** Defendants admit that in certain past years the General Assembly has contributed to the defendant retirement systems amounts less than the systems' actuaries said were necessary to cover the estimated cost of the members' benefits for services during that year, as well as additional amounts necessary to achieve 100% or 90% funding over time. Defendants deny the remaining of Paragraph 177. Further answering, Defendants incorporate by reference their answer to paragraph 6 above and the affirmative matter in defense of the plaintiffs' claims asserted at the end of this pleading.

178. Of course, the State has had the power, authority and ability to adequately fund each of SERS, SURS and TRS – and it still does. By voluntarily choosing not to, and now claiming that it will not adequately fund those State pension systems absent implementation of Public Act 98-0599, the State has effected a taking of a material and substantial portion of the vested, enforceable property rights of each Representative Plaintiff and Class Member to the pension amount and other retirement benefits she or he would otherwise receive had the State allocated funds to each of SERS, SURS and TRS sufficient to meet their respective obligations to their members under the Illinois Pension Code, as it exists prior to implementation of Public Act 98-0599.

**ANSWER:** Defendants deny the allegations in Paragraph 178. Further answering, Defendants incorporate by reference their answer to paragraph 6 above and the affirmative matter in defense of the plaintiffs' claims asserted at the end of this pleading.

179. The Takings Clause of the Illinois Constitution instructs:

Private property shall not be taken or damaged for public use without just compensation as provided by law.

(Ill. Const. 1970, art. I, § 15.)

**ANSWER:** Defendants admit that Paragraph 179 accurately quotes the Takings Clause of the Illinois Constitution.

180. The State has not offered the Representative Plaintiffs or Class Members consideration that would justly compensate them for impairment and diminishment of their pension benefits resulting from the State's failure to properly fund SERS, SURS and TRS. The State cannot avoid its unconstitutional taking of the private property of each Representative Plaintiff and Class Member by further breaking the law. In other words, the State cannot avoid the ramifications of its unlawful conduct through enactment and application of the Public Act 98-0599, which itself is unconstitutional.

**ANSWER:** Paragraph 180 consists of legal conclusions that Defendants deny. Further answering, Defendants state that Plaintiffs' allegations that the Act violates the Takings Clause of the Illinois Constitution fail to state a valid claim because the affected interests under the Pension Code do not constitute a private property interest protected by the Takings Clause, the changes in those affected interests do not result in a compensable "taking," the financial impact of those changes is a necessary consequence of the regulatory scheme established by the



legislature, and those changes do not unreasonably interfere with investment-backed expectations.

**AFFIRMATIVE MATTER IN DEFENSE OF CLAIMS ASSERTED**  
(Reserved Sovereign Powers)

Pursuant to Section 2-613(d) of the Code of Civil Procedure, Defendants further respond to the Amended Complaint by alleging the following affirmative matter in defense of the claims asserted by the plaintiffs in this suit:

1. All causes of action asserted in the Plaintiffs' Complaint fail to state a claim and are barred because Public Act 98-599 (the "Act") is a permissible exercise of the State of Illinois' reserved sovereign powers (sometimes referred to as the State's police powers). Plaintiffs cannot sustain their burden of establishing that Public Act 98-599 is unconstitutional.

2. Starting around 2000 and continuing through the financial crisis and deep recession that began in 2008, underfunding in the state-funded retirement systems (*i.e.*, asset levels below the actuarially required amounts needed to pay all benefits for services provided by members) contributed significantly to a severe financial crisis for the State that adversely affected the long-term financial soundness of those retirement systems, the cost of financing the State's operations and outstanding debt, and the State's ability to provide critical services to Illinois residents and businesses.

3. From fiscal year 1999 to fiscal year 2013, the unfunded actuarial liability of the four state-funded retirement system affected by Public Act 98-599 (hereinafter the "Systems"), according to the Systems' actuarial reports for those years, increased as follows (rounded to the nearest million dollars):

|        | 1999             | 2013             |
|--------|------------------|------------------|
| TRS    | \$10,968,000,000 | \$55,732,000,000 |
| SERS   | \$2,012,000,000  | \$22,843,000,000 |
| SURS   | \$1,855,000,000  | \$20,110,000,000 |
| GARS   | \$94,000,000     | \$269,000,000    |
| Total: | \$14,929,000,000 | \$98,954,000,000 |

The causes of this underfunding included, but were not limited to, significant unforeseen and unanticipated events, including, among other things: (1) prolonged and unusually poor investment results and reasonable future investment return expectations due to systemic, severe market downturns, including in the wake of the worst financial crisis since the Great Depression; (2) historically low rates of inflation; (3) significant increases in life expectancy; and (4) other changes in actuarial assumptions. These events not only increased significantly the Systems' unfunded actuarial liabilities, but also led to substantial reductions in the State's revenues available to make contributions to the Systems and for other expenditures, including wages, salaries and other benefits for state employees.

4. Although the Systems have been underfunded for many years, their underfunding now greatly exceeds the State's annual budget for all categories of expenditure, including, without limitation, public education, public health and safety, medical coverage for the poor and for current and retired public employees, road construction, repair and maintenance, and all other public services provided by state employees.

5. Before passage of the Act, the Systems' unsustainable and worsening liabilities greatly contributed to higher debt financing costs for the State, which passage of the Act

immediately and substantially alleviated. The Systems' unsustainable and worsening pension liabilities, which the Act was intended to address, also contributed to substantial uncertainty in the State's climate for attracting and retaining businesses that provide employment to Illinois residents, contribute to a thriving state economy, and pay taxes that support important public services and provide revenues to fund the Systems. A significant factor contributing to the magnitude of System's liabilities and corresponding underfunding is that the 3% compounded annual annuity increases, which are not part of the core pension benefit, have in recent years substantially exceeded actual inflation and were not matched with higher employee contributions.

6. Before enacting Public Act 98-599, the General Assembly took multiple other steps to address the State's financial crisis, including the increasingly urgent problem presented by the Systems' underfunding. Those steps included, among other things, enacting a separate program of less generous pension benefits for persons who became system members after 2010 (identified as "Tier II" members); significantly reducing public spending on other programs, including support for public education, Medicaid, health insurance benefits for current and retired state employees, and other social services for Illinois residents; raising income taxes; and deferring billions of dollars in payments owed to state vendors and other creditors. These measures proved insufficient to adequately address the State's financial crisis, and its credit rating continued to suffer, causing it to incur still higher costs to finance its debt, thereby further reducing the revenues that could be devoted to providing critical services to Illinois residents and reducing the Systems' unfunded liabilities.

7. Only after taking these other measures to promote the actuarial soundness of the Systems and address the State's financial crisis resulting from this underfunding problem did the

General Assembly pass the Act, which includes a schedule for actuarially prescribed, automatic state contributions to the Systems that will progressively eliminate their underfunding, a mechanism for enforcing those contributions, reductions in contributions to the Systems by their active members, and for persons who became members of the Systems before 2011 (referred to as “Tier I” members), modifications to future pension increases for active and retired members.

8. The pension modifications provided in the Act include prospective reductions in future increases in annual annuity adjustments (often referred to as cost-of-living adjustments, or COLAs) that are designed to have the least impact on members with the lowest salaries on which their pensions are calculated, on members who put in the most years of public service, and on members who retired before July 1, 2014.

9. The pension modifications provided in the Act also include increases in the retirement age at which active members below the age of 46 are entitled to receive a pension. Those increases, up to a maximum of five years, are lowest for the oldest active members and are progressively greater for younger active members.

10. The pension modifications provided in the Act further include a cap on the pensionable salary of active members with a salary presently above about \$110,000, and a change in 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.

11. In light of the above-described unanticipated exigencies contributing to the Systems’ unsound financial condition and the State’s related fiscal crisis, the Act represented a reasonable response to these circumstances. In light of the measures already taken by the General Assembly to address the Systems’ financial condition and the State’s fiscal crisis, and in

light of the serious negative effects of other alternatives, the Act's limited changes to pensions were necessary to address these circumstances.

12. The legislative findings in the Act include the following:

a. "Illinois has both atypically large debts and structural budgetary imbalances that will, unless addressed by the General Assembly, lead to even greater and rapidly growing debts and deficits. Already, Illinois has the lowest credit rating of any state, and it faces the prospect of future credit downgrades that will further increase the high cost of borrowing."

b. "The State has taken significant action to address these fiscal troubles, including, but not limited to, increasing the income tax and reducing pension benefits for future employees. Further, the State has enacted a series of budgets over the last several fiscal years that resulted in deep cuts to important discretionary programs that are essential to the people of Illinois."

c. "[T]he State's retirement systems have unfunded actuarially accrued liabilities of approximately \$100 billion."

d. "[W]ithout significant pension reform, the unfunded liability and the State's pension contribution will continue to grow, and further burden the fiscal stability of both the State and its retirement systems."

e. "Having considered other alternatives that would not involve changes to the retirement systems, the General Assembly has determined that the fiscal problems facing the State and its retirement systems cannot be solved without making some changes to the structure of the retirement systems. As a result, this amendatory Act requires more fiscal responsibility of the State, while minimizing the impact on current and retired State employees."

13. These legislative findings are reasonable and justified. They confirm and establish that the Act represents a reasonable and necessary means by the General Assembly to achieve an important public purpose.

14. The Act is presumed constitutional. The Act's presumption of constitutionality includes the reasonableness and necessity for its provisions in light of the circumstances faced by the State and the General Assembly when it was enacted.

15. In light of the magnitude of the pension problem and all of the other efforts the State has made to date, the Act represents a valid exercise of the State's reserved sovereign

powers to modify contractual rights and obligations, including contractual obligations of the State established under Article I, Section 16 and Article XII, Section 5 of the Illinois Constitution.

WHEREFORE, Defendants pray for entry of judgment in their favor and against the plaintiffs on all of their claims, and for such further relief as is warranted in the circumstances.

Date: May 15, 2014

Respectfully Submitted,

LISA MADIGAN  
Illinois Attorney General



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IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT,  
SANGAMON COUNTY, ILLINOIS

IN RE: PENSION REFORM LITIGATION

No. 2014 MR 1  
Hon. John W. Belz

**This document relates to:**

GWENDOLYN A. HARRISON, GARY F.  
KROESCHEL, CHRISTINE M. BONDI, JULIE A.  
YOUNG, STEPHEN C. MITTONS, MONICA S.  
BUTTS, GARY L. CIACCIO, THOMAS W. TATE,  
JOSE M. PRADO, EDWARD F. CORRIGAN,  
CARYL E. WADLEY-FOY, ELLEN M. LARRIMORE,  
LEE A. AYERS, JAMES S. SHERIDAN, J. TODD  
LOUDEN, KENNETH N. DUGAN, JENNIFER L.  
EDWARDS, D'ANN URISH, JAMES P.  
HERRINGTON, TERRI L. GIFFORD, MICHAEL  
E. DAY, DENISE M. FUNFSINN, ELAINE G.  
FERGUSON, MARLENE M. KOERNER and  
DAVID L. BEHYMER, for themselves and on  
behalf of a class of all persons similarly situated,  
and WE ARE ONE ILLINOIS COALITION,  
Plaintiffs,

v.

PATRICK QUINN, not individually but solely in his  
capacity as Governor of the State of Illinois, JUDY  
BAAR TOPINKA, not individually but solely in her  
capacity as Comptroller of the State of Illinois, DAN  
RUTHERFORD, not individually but solely in  
his capacity as Treasurer of the State of Illinois,  
TEACHERS' RETIREMENT SYSTEM OF THE  
STATE OF ILLINOIS, BOARD OF TRUSTEES  
OF THE TEACHERS' RETIREMENT SYSTEM  
OF THE STATE OF ILLINOIS, STATE EMPLOYEES'  
RETIREMENT SYSTEM OF ILLINOIS, BOARD OF  
TRUSTEES OF THE STATE EMPLOYEES'  
RETIREMENT SYSTEM OF ILLINOIS, STATE  
UNIVERSITIES RETIREMENT SYSTEM OF  
ILLINOIS, and BOARD OF TRUSTEES OF THE  
STATE UNIVERSITIES RETIREMENT SYSTEM OF  
ILLINOIS,

Defendants.

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


**NOTICE OF FILING**



To: See attached Certificate of Service

PLEASE TAKE NOTICE that on the 15<sup>th</sup> day of May, 2014, the attached **ANSWER AND DEFENSES** was filed with the Clerk of the Circuit Court for the Seventh Judicial Circuit, Sangamon County, Illinois, at the Sangamon County Courthouse, 200 South Ninth Street, Springfield, Illinois 62701.

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## CERTIFICATE OF SERVICE

I, Joshua Ratz, an attorney, hereby certify that on May 15, 2014, true and correct copies of the foregoing Answer and Defenses were served by email; and United States Mail, first class postage prepaid, upon all counsel of record as follows:

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