

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
KANE COUNTY, ILLINOIS

ARLINGTON HEIGHTS PPF¹, AURORA PPF, CHAMPAIGN PPF)
CHICAGO HEIGHTS PPF, CHICAGO RIDGE PPF, CICERO PPF,)
DeKALB PPF, ELGIN PPF, ELMHURST PPF, EVANSTON PPF,)
MOKENA PPF, PALOS HEIGHTS PPF, RANTOUL PPF, VILLA)
PARK PPF, WOOD DALE PPF, WOODRIDGE PPF, MAYWOOD)
FFPD, PLEASANTVIEW FFPD, THOMAS HENDERSON, SCOTT)
MAY, LAWRENCE SUTTLE, DANIEL HOFFMAN, PATRICK)
SIMONS, PATRICK KELLY, GENE KEELER, STEVEN ANKARLO,)
LEE MORRIS, DEAN MANN, WILLIAM MADDEN, RICHARD)
TROJANKE, PAUL MOTT, JIM KAYES, JAMES ROSCHER,)
THOMAS QUIGLEY, VICTOR VALDEZ, THOMAS TUREK,)
WILLIAM CZAJKOWSKI, DAVID DELANEY, RICHARD WEIKAL,)
DAVID FLOWERS, SR., ROBERT MILLER, DAN RANKOVICH,)
AARON WERNICK, TIMOTHY SCHOOLMASTER, DAVE)
LOEHMAN, MIKE HERBERT, MATTHEW BROSS, MICHAEL)
TITTLE, SCOTT SHROEDER, BENJAMIN DEFILIPPIS, JORDAN)
ANDERSON, DENNIS KOLETOS, WILLIAM BODNAR, and FRED)
MALAYTER, for themselves and on behalf of a class of all)
persons and funds similarly situated,)

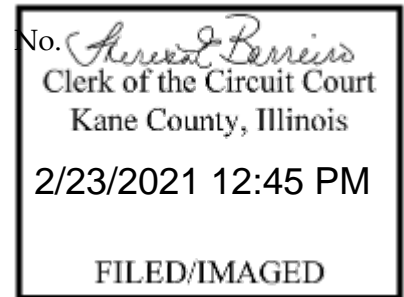
Plaintiffs,)

v.)

JAY ROBERT "J.B." PRITZKER, not individually but solely in his)
capacity as Governor of the State of Illinois, CHRISTOPHER B.)
MEISTER, not individually but solely in his capacity as Executive)
Director of the Illinois Finance Authority; DANA POPISH)
SEVERINGHAUS, not individually but solely in her capacity as)
Acting Director of the Illinois Department of Insurance; THE BOARD)
OF TRUSTEES FOR THE POLICE OFFICERS' PENSION)
INVESTMENT FUND; THE BOARD OF TRUSTEES FOR THE)
FIREFIGHTERS' PENSION INVESTMENT FUND; and THE)
ILLINOIS DEPARTMENT OF INSURANCE)

Defendants.)

21-CH-000055



COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND OTHER RELIEF

**NOTICE
BY ORDER OF THE COURT THIS CASE IS HEREBY SET FOR
CASE MANAGEMENT CONFERENCE ON THE DATE BELOW.
FAILURE TO APPEAR MAY RESULT IN THE CASE BEING
DISMISSED OR AN ORDER OF DEFAULT BEING ENTERED.
Judge: Busch, Kevin T
6/11/2021 9:00 AM**

¹ PPF denotes "Police Pension Fund" and FFPD denotes "Firefighters Pension Fund"

Plaintiffs, ARLINGTON HEIGHTS PPF; AURORA PPF, CHAMPAIGN PPF, CHICAGO HEIGHTS PPF, CHICAGO RIDGE PPF, DeKALB PPF, ELGIN PPF, ELMHURST PPF, EVANSTON PPF, MOKENA PPF, PALOS HEIGHTS PPF, RANTOUL PPF, VILLA PARK PPF, WOOD DALE PPF, WOODRIDGE PPF, MAYWOOD FFPF, PLEASANTVIEW FFPF, THOMAS HENDERSON, SCOTT MAY, LAWRENCE SUTTLE, DANIEL HOFFMAN, GENE KEELER, STEVEN ANKARLO, PATRICK SIMONS, PATRICK KELLY, LEE MORRIS, DEAN MANN, WILLIAM MADDEN, RICHARD TROJANKE, PAUL MOTT, JIM KAYES, JAMES ROSCHER, THOMAS QUIGLEY, VICTOR VALDEZ, THOMAS TUREK, WILLIAM CZAJKOWSKI, DAVID DELANEY, RICHARD WEIKAL, DAVID FLOWERS, SR., ROBERT MILLER, DAN RANKOVICH, AARON WERNICK, TIMOTHY SCHOOLMASTER DAVE LOEHAM, MIKE HERBERT, MATTHEW BROSS, MICHAEL TITTLE, SCOTT SHROEDER, BENJAMIN DEFILIPPIS, JORDAN ANDERSON, DENNIS KOLETOS, WILLIAM BODNER, and FRED MALAYTER, for themselves and on behalf of a class of all persons and funds similarly situated, by and through their attorneys in this regard, KONICEK & DILLON, P.C., and for their Complaint against Defendants, JAY ROBERT "J.B." PRITZKER, not individually but solely in his capacity as Governor of the State of Illinois, CHRISTOPHER MEISTER, not individually but solely in his capacity as Executive Director of the Illinois Finance Authority; DANA POPISH SEVERINGHAUS, not individually but solely in her capacity as Acting Director of the Illinois Department of Insurance; THE BOARD OF TRUSTEES FOR THE POLICE OFFICERS' PENSION INVESTMENT FUND; and THE BOARD OF TRUSTEES FOR THE FIREFIGHTERS' PENSION INVESTMENT FUND, Plaintiffs state as follows:

NATURE OF THE ACTION

1. Plaintiffs bring this action to protect against the unconstitutional infringement of their rights by the Governor and General Assembly of the State of Illinois.

2. As part of the 1970 Illinois Constitutional Convention, Illinois promised its public servants that the State would honor its pension obligations, unequivocally proclaiming:

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

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

3. The Pension Protection Clause “means precisely what it says; ‘if something qualifies as a benefit of the enforceable contractual relationship resulting from membership in one of the State’s pension or retirement systems, it cannot be diminished or impaired.’” In re Pension Reform Litig., 2015 IL 118585, ¶ 45, citing *Kanerva v. Weems*, 2014 IL 115811, ¶ 38.

4. In 1988, and then again twenty years later in 2008, the citizens of Illinois have now twice rejected reexamining the Pension Protection Clause.

5. The named Plaintiffs, and the public safety employees and retirees they represent have complied with their part of the contract, protecting and serving the public, fighting crime, fires, and other hazards and risks on a daily basis, often putting their own lives and limbs at great peril for Illinois and its citizens. Plaintiffs have spent years earning, contributing to, managing, and/or investing their own pension funds based upon their own unique set of factors – including but not limited to, the size of their funds, the number and age of their participants, and the

acceptable investments, risks, and rates of return for the participants, and in consideration of the costs and expenses their funds are willing bear.

6. The Governor and General Assembly, through Public Act 101-0610, have failed to meet their end of the bargain. Through Public Act 101-0610, the Governor and the General Assembly unlawfully usurped the powers previously extended to Plaintiffs pursuant to Section 3-131 and -3-132 of the Pension Code, and now purport to require Plaintiffs to transfer their investment authority, securities, funds, assets and/or monies to the "Police Officers' Pension Investment Fund" and the "Firefighters' Pension Investment Fund."

7. Public Act 101-0610 strips Plaintiffs of their autonomy and their authority, demanding that all assets be transferred to a newly created "Transition Board." Moreover, this "Transition Board" will have the authority to hire custodians, investment consultants and analysts, and other professionals to implement and verify the transition of all of Plaintiffs' assets. Similarly, Public Act 101-0610 authorizes the "Transition Board" to hire a Certified Public Accountant to audit each of Plaintiffs' pension funds and provide an asset list to the Transition Board. After this time, Plaintiffs are prohibited to purchase or sell any of their own assets.

8. Public Act 101-0610 further requires a "Transfer Date" to be set, where all of Plaintiffs' pension funds and assets will be deposited and transferred to the Transitional Boards.

9. Importantly, the cost associated with the transition process set forth in Public Act 101-0610 is to be paid for by Plaintiffs' monies. The Illinois Finance Authority will "loan" the Police Officers' Pension Investment Fund and the Firefighters' Pension Investment Fund money, and these newly created funds will be required to pay back the Illinois Finance Authority at an interest rate tied to the Federal Fund or the equivalent established variable rate.

10. Furthermore, Article I of the Illinois Constitution provides, “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). It further provides that “[p]rivate property shall not be taken or damaged for public use without just compensation as provided by law.” (Ill. Const. 1970, art. I, §2, §15).

11. In passing Public Act 101-0610 into law, the Governor and General Assembly have acted in dereliction of their duties to uphold the Illinois Constitution. Plaintiffs must therefore turn to this Court to protect their rights and pensions they have earned, invested, and managed.

12. Plaintiffs request that this Court declare Public Act 101-0610 unconstitutional in its entirety, rendering it void and unenforceable.

13. Likewise, Plaintiffs request this Court enter a preliminary injunction so as to preserve the status quo and enjoin Defendants, as well as any other person or entity acting on behalf of Defendants, from implementing Public Act 101-0610 pending a decision on the merits of this lawsuit.

PARTIES

14. Plaintiff ARLINGTON HEIGHTS POLICE PENSION FUND, of which THOMAS HENDERSON is an active participant and SCOTT MAY is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code.² As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Arlington Heights Police Pension Fund had 68 active-, 51 retiree-, and 2 deferred-participants.

² Arlington Heights Police Pension Fund, and the other plaintiff/class member funds are collectively referred to herein as the “Fund-Plaintiffs / Class Members” and the individual participant plaintiffs are collectively referred to herein as the “Individual-Plaintiffs / Class Members.”

15. Plaintiff AURORA POLICE PENSION FUND, of which LAWRENCE SUTTLE is an active participant and DANIEL HOFFMAN is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Aurora Police Pension Fund had 307 active-, 223 retiree-, and 10 deferred-participants.

16. Plaintiff CHAMPAIGN POLICE PENSION FUND, of which PATRICK SIMONS is an active participant and PATRICK KELLY is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Champaign Police Pension Fund had 124 active-, 128 retiree-, and 3 deferred-participants.

17. Plaintiff CHICAGO HEIGHTS POLICE PENSION FUND, of which GENE KEELER is an active participant and STEVEN ANKARLO is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Chicago Heights Police Pension Fund had 71 active-, 87 retiree-, and 1 deferred-participants.

18. Plaintiff CHICAGO RIDGE POLICE PENSION FUND, of which LEE MORRIS is an active participant and DEAN MANN is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Chicago Ridge Police Pension Fund had 31 active-, 28 retiree-, and 0 deferred-participants.

19. Plaintiff CICERO POLICE PENSION FUND, of which WILLIAM MADDEN is an active participant and RICHARD TROJANKE is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Cicero Police Pension Fund had 154 active-, 124 retiree-, and 8 deferred-participants.

20. Plaintiff DeKALB POLICE PENSION FUND, of which PAUL MOTT is an active participant and JIM KAYES is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, DeKalb Police Pension Fund had 60 active-, 56 retiree-, and 6 deferred-participants.

21. Plaintiff ELGIN POLICE PENSION FUND, of which JAMES ROSCHER is an active participant and THOMAS QUIGLEY is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Elgin Police Pension Fund had 183 active-, 141 retiree-, and 12 deferred-participants.

22. Plaintiff ELMHURST POLICE PENSION FUND, of which VICTOR VALDEZ is an active participant and THOMAS TUREK is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Elmhurst Police Pension Fund had 66 active-, 79 retiree-, and 3 deferred-participants.

23. Plaintiff EVANSTON POLICE PENSION FUND, of which AARON WERNICK is an active participant and TIMOTHY SCHOOLMASTER is a retired-beneficiary participant, is a

pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Evanston Police Pension Fund had 155 active-, 184 retiree-, and 5 deferred-participants.

24. Plaintiff MOKENA POLICE PENSION FUND, of which ROBERT MILLER is an active participant and DAN RANKOVICH is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Mokena Police Pension Fund had 31 active-, 9 retiree-, and 0 deferred-participants.

25. Plaintiff PALOS HEIGHTS POLICE PENSION FUND, of which WILLIAM CZAJKOWSKI is an active participant and DAVID DELANEY is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Palos Heights Police Pension Fund had 28 active-, 22 retiree-, and 1 deferred-participants.

26. Plaintiff RANTOUL POLICE PENSION FUND, of which WILLIAM CZAJKOWSKI is an active participant and DAVID DELANEY is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Rantoul Police Pension Fund had 29 active-, 28 retiree-, and 0 deferred-participants.

27. Plaintiff VILLA PARK POLICE PENSION FUND, of which SCOTT SCHROEDER is an active participant and BENJAMIN DEFILIPPIS is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020

Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Villa Park Police Pension Fund had 39 active-, 47 retiree-, and 0 deferred-participants.

28. Plaintiff WOOD DALE POLICE PENSION FUND, of which JORDAN ANDERSON is an active participant and DENNIS KOLETOS is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Wood Dale Police Pension Fund had 35 active-, 26 retiree-, and 0 deferred-participants.

29. Plaintiff WOODRIDGE POLICE PENSION FUND, of which WILLIAM BODNAR is an active participant and FRED MALAYTER is a retired-beneficiary participant, is a pension fund established under Article 3 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Woodridge Police Pension Fund had 51 active-, 44 retiree-, and 1 deferred-participants.

30. Plaintiff MAYWOOD FIREFIGHTERS' PENSION FUND, of which RICHARD WEIKAL is an active participant and DAVID FLOWER, SR. is a retired-beneficiary participant, is a pension fund established under Article 4 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Maywood Firefighters' Pension Fund had 40 active-, 50 retiree-, and 1 deferred-participants.

31. Plaintiff PLEASANTVIEW FIREFIGHTERS' PENSION FUND, of which RICHARD WEIKAL is an active participant and DAVID FLOWER, SR. is a retired-beneficiary participant, is a pension fund established under Article 4 of the Illinois Pension Code. As of reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, Pleasantview Firefighters' Pension Fund had 37 active-, 45 retiree-, and 2 deferred-participants.

32. Collectively, based on reporting in the 2020 Public Pension Report, Book II Detailed Financial Data for Fiscal Year 2019, the foregoing Fund-Plaintiffs had a combined \$2,881,164.51 in Investment Manager/Adviser fees on \$1,249,886,082.87 in total investments for an investment expense ratio of 23 basis points, and a 13.77% rate of return on investments.

33. Defendant JAY ROBERT "J.B." PRITZKER is the Governor of the State of Illinois, with an office located at 207 State House, Springfield, Illinois. 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 Pritzker is being sued in his official capacity.

34. Defendant CHRISTOPHER B. MEISTER is the Executive Director for the Illinois Finance Authority for the State of Illinois, with an office located at 500 East Monroe, Springfield, Illinois. Pursuant to Public Act 101-0610, Defendant Meister and the Illinois Finance Authority has the power to, *inter alia*, make loans, enter into loan agreements, fix, determine, charge and collect premiums, fees, charges, costs and expenses with Defendant BOARD OF TRUSTEES FOR THE POLICE OFFICERS' PENSION INVESTMENT FUND and the BOARD OF TRUSTEES FOR THE FIREFIGHTERS' PENSION INVESTMENT FUND. Executive Director Meister is being sued in his official capacity.

35. Defendant DANA POPISH SEVERINGHAUS is the Acting Director of the Illinois Department of Insurance for the State of Illinois, with an office located at 320 W. Washington St., Springfield, Illinois. The Public Pension Division is a division within the Illinois Department of Insurance. Director Muriel is being sued in his official capacity.

36. Defendant BOARD OF TRUSTEES FOR THE POLICE OFFICERS' PENSION INVESTMENT FUND is an entity created by Public Act 101-0610.

37. Defendant BOARD OF TRUSTEES FOR THE FIREFIGHTERS' PENSION INVESTMENT FUND is an entity created by Public Act 101-0610.

38. Pursuant to Public Act 101-0610, the Police Officers' Pension Investment Fund, the Firefighters' Pension Investment Fund, or the Public Pension Division of the Department of Insurance shall examine and investigate each of Plaintiffs' pension funds, including but not limited to, "1) an audit of [Plaintiffs'] financial transactions, investment policies, and procedures; 2) an examination of [Plaintiffs'] books, records, documents, files, and other pertinent memoranda relating to financial statistical, and administrative operations; 3) a review of policies and procedures maintained for the administration and operation of the pension fund; 4) a determination of whether or not full effect is being given to the statutory provisions governing the operation of the pension fund."

39. Further, Public Act 101-0610 requires Plaintiffs to submit annual statements to the Police Officers' Pension Investment Fund, the Firefighters' Pension Investment Fund, and/or the Public Pension Division of the Department of Insurance annual statements with their balance sheets, statistical data on all of their participants, facts about disability claims, details on investment transactions, details on administrative expenses, and actuarial and interest tables used by Plaintiffs. Failure to timely file an annual statement results in a penalty of up to \$100 per day.

40. Public Act 101-0610 requires Plaintiffs to pay the Illinois Department of Insurance an "annual compliance fee" prior to the conclusion of the transition period. After the transition

period, the “annual compliance fee” is to be paid to the Illinois Department of Insurance by the Police Officers’ Pension Investment Fund and the Firefighters’ Pension Investment Fund.

CLASS ALLEGATIONS

41. Pursuant to Section 2-801 of the Illinois Code of Civil Procedure, Plaintiffs bring this action on behalf of themselves and on behalf of each similarly situated pension board and/or participant who has their voting diluted or has been divested of its authority and autonomy to manage pensions and who has been ordered to transfer its assets and incur the costs associated with that transfer pursuant to Public Act 101-0610.

42. This case is a Constitutional challenge and therefore presents the type of legal issues that are appropriate for a class action.

43. The members of the Class are so numerous that joinder of all members of the Class is impracticable. Upon information and belief, representative Plaintiffs believe there are more than 650 members of the Class comprised of discrete pension funds, whereas those funds are comprised of approximately 25,010 active, retiree, and deferred Article 3 participants, and 18,451 active, retiree, and deferred Article 4 participants.

44. The Plaintiffs’ claims are typical of the claims of the Class Members, as Public Act 101-0610 causes each Class Member to suffer impairment and diminishment to their pension benefits by incurring debt and diluting voting participation, both as a result of consolidation. Accordingly, there are questions of fact and law common to all members of the Class, which common questions predominate over any questions that might impact only individual members of the Class.

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

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

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

ILLINOIS SUPREME COURT RULE 19 NOTICE

48. This Complaint challenges the unconstitutionality of Public Act 101-0610. Accordingly, Plaintiffs are providing Notice of the same to the State pursuant to Illinois Supreme Court Rule 19.

JURISDICTION AND VENUE

49. This Court has subject matter jurisdiction over this case, which raises a constitutional challenge to Public Act 101-0610.

50. This Court has personal jurisdiction over each Defendant pursuant to 735 ILCS 5/2-2-9(a)(1), 735 ILCS 5/2-209(a)(7), and 735 ILCS 5/2-2-9(b), as Defendants are residents of, elected officials of, work and/or conduct business in, and breached a contract within the State of Illinois.

51. Venue is proper because the impact of the unconstitutional Public Act 101-0610 will occur in this judicial district and throughout Illinois.

FACTS COMMON TO ALL COUNTS

52. Public Act 101-0610 dilutes the Individual-Plaintiffs' autonomy and terminates the Fund-Plaintiffs' authority to exclusively manage and control their investment expenditures and income, including interest dividends, capital gains, and other distributions on investments.

53. Public Act 101-0610 requires the Plaintiffs to fully transfer all of their securities, funds, assets, monies, and cash reserves to newly created entities and divests Plaintiffs of all investment authority.

54. Instead of Plaintiffs having the autonomy to manage their own funds for the benefit of their own participants in their own communities, Public Act 101-0610 creates the “Police Officers’ Pension Investment Fund” and the “Firefighters’ Pension Investment Fund.”

55. The “transition” Board of Trustees for the Police Officers’ Pension Investment Fund and for the Firefighters’ Pension Investment Fund is made up of individuals appointed by Defendant J.B. Pritzker, Governor of Illinois.

56. Public Act 101-0610 states that permanent trustees for the Police Officers’ Pension Investment Fund and the Firefighters’ Pension Investment Fund will be elected “in accordance with rules adopted by the board.”

57. Moreover, whereas participants previously voted for their local trustees and the local trustees had the power to select investment managers, Public Act 101-0610 consolidates the selection of investment managers to the Permanent Board, selected in accordance with Public Act 101-0610 from among all active or beneficiary participants of the consolidated funds, thereby substantially and unconstitutionally diluting the voting power of each Individual-Plaintiff and their say as to the acceptable investment managers, investments, risks, rates of return, costs and expenses they were willing to bear.

58. For example, comparing the number of participants in a particular fund versus all of the downstate funds’ participants – as of reporting in the 2020 Public Pension Report, Book II

Detailed Financial Data for Fiscal Year 2019 – shows the following consequence from Public Act 101-0610:

- a. Plaintiff WILLIAM CZAJKOWSKI is an active participant in the PALOS HEIGHT POLICE PENSION FUND;
 - Prior to the January 1, 2020 effective date of Public Act 101-0610, he had the benefit of a 3.5% vote (1 out of 28) for the two active-participant-selected members of the five-person board of the PALOS HEIGHT POLICE PENSION FUND, and thus, effectively a 1.43% say regarding that board's selection of an investment manager or advisor; but
 - As a result of Public Act 101-0610, he will only have the benefit of a 1/13,804 vote (1 out of 13,804) for the three active-participant-selected members of the nine-person Permanent Board, and thus, effectively just a 0.0025% say regarding the Permanent Board's selection of an investment manager or advisor.

- b. Plaintiff DAVID DELANEY is a retired-beneficiary participant in the PALOS HEIGHT POLICE PENSION FUND;
 - Prior to the January 1, 2020 effective date of Public Act 101-0610, he had the benefit of a 4.5% vote (1 out of 22) for the one beneficiary-selected member of the PALOS HEIGHT POLICE PENSION FUND, and thus, effectively a 0.91% say regarding the Board's selection of an investment manager or advisor; but
 - As a result of Public Act 101-0610, he will only have the benefit of a 1/11,432 vote (1 out of 11,432) for the two beneficiary-selected members of the nine-person Permanent Board, and thus, effectively just a 0.0019% say regarding the Permanent Board's selection of an investment manager or advisor.

- c. Plaintiff DAVE LOEHMAN is an active participant in the PLEASANTVIEW FIREFIGHTERS' PENSION FUND;
 - Prior to the January 1, 2020 effective date of Public Act 101-0610, he had the benefit of a 2.7% vote (1 out of 37) for the two active-participant-selected members of the five-person board of the PLEASANTVIEW FIREFIGHTERS' PENSION FUND, and thus, effectively a 1.08% say regarding that board's selection of an investment manager or advisor; but

- As a result of Public Act 101-0610, he will only have the benefit of a 1/9,251 vote (1 out of 9,251) for the three active-participant-selected members of the nine-person Permanent Board, and thus, effectively just a 0.0036% say regarding the Permanent Board's selection of an investment manager or advisor.
- d. Plaintiff MIKE HERBERT is a retired-beneficiary participant in the PALOS HEIGHT POLICE PENSION FUND;
- Prior to the January 1, 2020 effective date of Public Act 101-0610, he had the benefit of a 2.1% vote (1 out of 47) for the one beneficiary-selected member of the PLEASANTVIEW FIREFIGHTERS' PENSION FUND, and thus, effectively a 0.43% say regarding the Board's selection of an investment manager or advisor; but
 - As a result of Public Act 101-0610, he will only have the benefit of a 1/8,830 vote (1 out of 8,830) for the one beneficiary-selected member of the nine-person Permanent Board, and thus, effectively just a 0.0013% say regarding the Permanent Board's selection of an investment manager or advisor.

59. Public Act 101-0610 provides the transition Boards of Trustees for the Police Officers' Pension Investment Fund and the Firefighters' Pension Investment Fund the power to appoint an Executive Director who will operate and administer the Funds. Public Act 101-0610 also provides the transition Boards the authority to set the Executive Director's compensation.

60. Public Act 101-0610 also grants the transition Boards of Trustees the power to appoint one or more "custodians" to "facilitate the transfer of pension fund assets during the transition period." The transition Boards of Trustees are also permitted to hire "outside legal counsel," an "independent auditing firm," "investment advisors," and "other consultants" as well as "personnel, professional or clerical" and fix compensation for each. The transition Boards are fully vested with the power to enter into contracts on behalf of the Police Officers' Pension Investment Fund and the Firefighters' Pension Investment Fund.

61. Public Act 101-0610 directs the Defendant Illinois Finance Authority to loan the Police Officers' Pension Investment Fund and the Firefighters' Pension Investment Fund up to \$7,500,000 each in order to pay expenses relating to the transition process.

62. Public Act 101-0610 provides that transitional Boards of Trustees for each Fund and the Illinois Finance Authority are to enter into a loan or other agreement setting forth the interest rates, the period of the loans, the payment intervals, the procedures for making periodic loans, the variable rate methodology to which the interest rate for the loans would be tied, the funds the Illinois Finance Authority will use to provide the loans, and all other terms of the loans.

COUNT I
(Pension Protection Clause)

63. Plaintiffs adopt and incorporate Paragraphs 1-62 as though fully set forth herein.

64. Each Plaintiff and each Class Member is a "Transferor Pension Fund" or participant as referenced in Public Act 101-0610.

65. Prior to the enactment of Public Act 101-0610, each Fund-Plaintiff / Class Member had a contractual and enforceable right to exclusively manage and control their investment expenditures and income, including interest dividends, capital gains, and other distributions on investments.

66. Prior to the enactment of Public Act 101-0610, each Individual-Plaintiff / Class Member had voting power and say in the selection of the investment managers, investments, risks, rates of return, costs and expenses they were willing to bear that was not diluted by the number of active and beneficiary participants participating in other Article 3 and Article 4 funds throughout the State.

67. Each Plaintiff / Class Member has satisfied its obligations under the respective pension system contracts in existence prior to Public Act 101-0610.

68. Public Act 101-0610 diminishes and impairs the pension benefits to which each Fund-Plaintiff / Class Member is entitled, including but not limited to requiring each to ultimately bear all costs of transition, up to \$15,000,000, plus interest.

69. Moreover, Public Act 101-0610 diminishes and impairs the pension benefits of Individual-Plaintiffs / Class Members' pension plans by diluting the voting power of the Individual-Plaintiff / Class Members.

70. The State's unilateral diminishment of its contractual obligations and impairment of the pension benefits and rights of the Plaintiffs / Class Members is an illegal exercise of its sovereign powers. As such, each Defendant's implementation of Public Act 101-0610 and application of Public Act 101-0610 to the Plaintiffs / Class Members violates the Pension Clause of the Illinois Constitution.

WHEREFORE, Plaintiffs respectfully request this Honorable Court:

- a. Enter a preliminary injunction enjoining Defendants, as well as any other person or entity acting on behalf of Defendants, from implementing Public Act 101-0610;
- b. Declare Public Act 101-0610 violates the Pensions Clause of the Illinois Constitution and is therefore illegal and is of no force and effect;
- c. Award Representative Plaintiffs and Class Members the fees and costs incurred to enforce their rights, including prosecution of this lawsuit; and
- d. Award Representative Plaintiffs and Class Members such additional relief as is just and equitable.

COUNT II

(Violation of the Contracts Clause of the Illinois Constitution)

71. Plaintiffs reference and incorporate Paragraphs 1-62 as though fully set forth herein.

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

73. Article I, Section 16 of the Illinois Constitution provides, "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).

74. Prior to the enactment of Public Act 101-0610, each Fund-Plaintiff / Class Member had a contractual and enforceable right to exclusively manage and control their investment expenditures and income, including interest dividends, capital gains, and other distributions on investments.

75. Prior to the enactment of Public Act 101-0610, each Individual-Plaintiff / Class Member had voting power and say in the selection of the investment managers, investments, risks, rates of return, costs and expenses they were willing to bear that was not diluted by the number of active and beneficiary participants participating in other Article 3 and Article 4 funds throughout the State.

76. Each Representative Plaintiff and each Class Member has satisfied its obligations under the respective pension system contracts in existence prior to Public Act 101-0610.

77. Public Act 101-0610 diminishes and impairs the pension benefits to which each Fund-Plaintiff / Class Member is entitled, including but not limited to requiring each to ultimately bear all costs of transition, up to \$15,000,000, plus interest.

78. Moreover, Public Act 101-0610 diminishes and impairs the pension benefits of Individual-Plaintiffs / Class Members' pension plans by diluting the voting power of the Individual-Plaintiff / Class Members.

79. The State's unilateral diminishment of the Plaintiffs' / Class Members' contractual rights and impairment of the pension benefits and rights of the Plaintiffs / Class Members is an illegal exercise of its sovereign powers. As such, each Defendant's implementation of Public Act 101-0610 and application of Public Act 101-0610 to the Representative Plaintiffs and Class Members violates the Contracts Clause of the Illinois Constitution.

80. In passing Public Act 101-0610 into law, the Governor and General Assembly have acted in dereliction of their duties to uphold the Illinois Constitution. Plaintiffs must therefore turn to this Court to protect their rights and pensions they have earned, invested, and managed.

WHEREFORE, Plaintiffs respectfully request this Honorable Court:

- a. Enter a preliminary injunction enjoining Defendants, as well as any other person or entity acting on behalf of Defendants, from implementing Public Act 101-0610;
- b. Declare Public Act 101-0610 violates the Contracts Clause of the Illinois Constitution and is therefore illegal and is of no force and effect;
- c. Award Representative Plaintiffs and Class Members the fees and costs incurred to enforce their rights, including prosecution of this lawsuit; and
- d. Award Representative Plaintiffs and Class Members such additional relief as is just and equitable.

COUNT III

(Violation of the Takings Clause of the Illinois Constitution)

81. Plaintiffs reference and incorporate Paragraphs 1-62 as though fully set forth herein.

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

83. Article I of the Illinois Constitution provides that “[p]rivate property shall not be taken or damaged for public use without just compensation as provided by law.” (Ill. Const. 1970, art. I, §15).

84. Prior to the enactment of Public Act 101-0610, each Fund-Plaintiff / Class Member had a contractual and enforceable right to exclusively manage and control their investment expenditures and income, including interest dividends, capital gains, and other distributions on investments.

85. Prior to the enactment of Public Act 101-0610, each Individual-Plaintiff / Class Member had voting power and say in the selection of the investment managers, investments, risks, rates of return, costs and expenses they were willing to bear that was not diluted by the number of active and beneficiary participants participating in other Article 3 and Article 4 funds throughout the State.

86. Each Representative Plaintiff and each Class Member has satisfied its obligations under the respective pension system contracts in existence prior to Public Act 101-0610.

87. Public Act 101-0610 diminishes and impairs the pension benefits to which each Fund-Plaintiff / Class Member is entitled, including but not limited to requiring each to ultimately bear all costs of transition, up to \$15,000,000, plus interest.

88. Moreover, Public Act 101-0610 diminishes and impairs the pension benefits of Individual-Plaintiffs / Class Members’ pension plans by diluting the voting power of the Individual-Plaintiff / Class Members.

89. The State’s unilateral diminishment of the Plaintiffs’ / Class Members’ contractual rights and impairment of the pension benefits and rights of the Plaintiffs / Class Members is an

illegal exercise of its sovereign powers. As such, each Defendant's implementation of Public Act 101-0610 and application of Public Act 101-0610 to the Representative Plaintiffs and Class Members violates the Takings Clause of the Illinois Constitution.

90. In passing Public Act 101-0610 into law, the Governor and General Assembly have acted in dereliction of their duties to uphold the Illinois Constitution. Plaintiffs must therefore turn to this Court to protect their rights and pensions they have earned, invested, and managed.

WHEREFORE, Plaintiffs respectfully request this Honorable Court:

- a. Enter a preliminary injunction enjoining Defendants, as well as any other person or entity acting on behalf of Defendants, from implementing Public Act 101-0610;
- b. Declare Public Act 101-0610 violates the Takings Clause of the Illinois Constitution and is therefore illegal and is of no force and effect;
- c. Award Representative Plaintiffs and Class Members the fees and costs incurred to enforce their rights, including prosecution of this lawsuit; and
- d. Award Representative Plaintiffs and Class Members such additional relief as is just and equitable.

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Respectfully submitted,

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