

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SANGAMON

EUGENE T. GOEGLEIN, MARK ALAN
DRONE, TERRY FRANCIS STRAUCH,
and BARBARA ANN DALY,

Plaintiffs,

v.

PAT QUINN, Governor of the State of Illinois,
CHRISTOPHER A. KOCH, State
Superintendent of Education; JESSE H. RUIZ,
Chair of the State Board of Education;
CHRISTOPHER J. WARD, Member of the
State Board of Education; VINNI M. HALL,
Member of the State Board of Education;
JAMES W. BAUMAN, Member of the State
Board of Education; ANDREA S. BROWN,
Member of the State Board of Education;
DAVID L. FIELDS, Member of the State Board
of Education; STEVEN R. GILFORD, Member
of the State Board of Education; MELINDA A.
LABARRE, Member of the State Board of
Education; DAVID VAUGHT, Director of the
Governor's Office of Management and Budget;
and JUDY BAAR TOPINKA, Comptroller of
the State of Illinois,

Defendants.

No.

**VERIFIED COMPLAINT FOR DECLARATORY,
INJUNCTIVE, AND MANDAMUS RELIEF**

Plaintiffs, Eugene T. Goeglein, Mark Alan Drone, Terry Francis Strauch, and Barbara Ann Daly, by their attorneys, Hinshaw & Culbertson LLP, for their Complaint for Declaratory, Injunctive, and Mandamus Relief against Defendants, allege and state as follows:

NATURE OF CASE

1. This action is brought to stop the unlawful reduction of the salary of the Regional Superintendents of Schools ("Regional Superintendents") and Assistant Regional Superintendents of School ("Assistant Superintendents") implemented pursuant to the

Emergency Budget Act of Fiscal Year 2011 (“the Act”) and to compel the payment of their salaries in the amounts previously determined for their current term of office and as appropriated by the General Assembly. The Act is unconstitutional as applied to the Regional Superintendents of Schools Plaintiffs in that, by decreasing the salaries at this time, it transgresses the Constitutional proscription of decreasing the salary of elected officials of units of local government during the term which they were elected, contained in Section 9(b) of Article VII of the Illinois Constitution. The Act is also facially unconstitutional as a violation of the principle of separation of powers, as espoused in Article II, §1 of the Illinois Constitution, in that it constitutes an unlawful delegation of the legislature’s exclusive appropriation powers as described in Article VIII, §2(b) of the Illinois Constitution, or, alternatively, it is a delegation without sufficient standards. Finally, the Act as applied to all Plaintiffs violates Article XIII, §5 of the Illinois Constitution in that it will diminish and impair the pension benefits of all Plaintiffs.

JURISDICTION AND VENUE

2. Plaintiffs’ claims arise under the Illinois Constitution and involve ongoing violations thereof by Defendants. This Court has subject matter jurisdiction over this matter pursuant to Section 9 of the Article VI of the Illinois Constitution. The State Lawsuit Immunity Act, 735 ILCS 5/0.01 *et seq.*, does not apply hereto and does not deprive this Court of jurisdiction in that this suit seeks prospective relief designed to prevent Defendants from violating the Illinois Constitution and from taking action in excess of their lawful authority. This Court also has jurisdiction over this controversy pursuant to the declaratory judgment statute, 735 ILCS 5/2-701, the Injunction Article of the Code of Civil Procedure, 735 ILCS 5/11-101 *et seq.*, and the Mandamus Article of the Code of Civil Procedure, 735 ILCS 5/14-101 *et seq.*

3. Venue is proper in Sangamon County under Sections 2-101 and 2-103 of the Code of Civil Procedure, 735 ILCS 5/2-101, 2-103, in that the causes of action alleged herein arose out of activities which, in whole or in part, occurred in Sangamon County. Additionally, Defendants maintain offices in Sangamon County.

THE PARTIES

4. Plaintiff Eugene T. Goeglein is the duly elected and qualified Regional Superintendent of Schools for Regional Office of Education No. 44, an educational service region consisting of McHenry County.

5. Superintendent Goeglein was first elected to that office in the general election held _____, and plans to retire in 2011. Superintendent Goeglein's current term in office as Regional Superintendent of Schools began on July 1, 2007, and expires June 30, 2011.

6. Plaintiff Mark Alan Drone is the duly elected and qualified Regional Superintendent of Schools for Regional Office of Education No. 3, an educational service region consisting of Bond, Effingham, and Fayette Counties.

7. Superintendent Drone was first elected to that office in the general election held _____, and was most recently re-elected to a four-year term at the general election held November 2, 2010. Superintendent Drone's current term in office as Regional Superintendent of Schools began on July 1, 2007, and expires on June 30, 2011.

8. Plaintiff Terry Francis Strauch is the duly appointed Assistant Regional Superintendent of Schools for Regional Office of Education No. 40, an educational service region consisting of Calhoun, Greene, Jersey, and Macoupin Counties.

9. Plaintiff Barbara Ann Daly is the duly appointed Assistant Regional Superintendent of Schools for Regional Office of Education No. 9, an educational service region consisting of Champaign and Ford Counties.

10. Defendant Pat Quinn is the Governor of the State of Illinois and is joined herein in that capacity.

11. Defendant Christopher A. Koch is the State Superintendent of Education for the State of Illinois and is joined herein in that capacity.

12. Defendant Jesse H. Ruiz is the Chairman of the State Board of Education and is joined herein in that capacity.

13. Defendants Christopher J. Ward, Vinni M. Hall, James W. Bauman, Andrea S. Brown, David L. Fields, Steven R. Gilford, Lanita Koster, and Melinda A. LaBarre are members of the State Board of Education and are joined herein in that capacity. (Defendants Ruiz, Ward, Hall, Bauman, Brown, Fields, Gilford, Koster, and LaBarre are collectively referred to herein as the “State Board of Education.”)

14. Defendant David Vaught is the Director of the Governor’s Office of Management and Budget and is joined herein in that capacity.

15. Defendant Judy Baar Topinka is the Comptroller of the State of Illinois and is joined herein in that capacity.

**REGIONAL SUPERINTENDENTS, ASSISTANT SUPERINTENDENTS,
AND EDUCATION SERVICE REGIONS**

16. The Office of Regional Superintendent of Schools, known until 1975 as the “County Superintendent of Schools,” was created by the General Assembly to serve as the chief administrative officer of an “educational service region” or “regional office of education.” *See* 105 ILCS 5/3-0.01, 3A-2.

17. An educational service region is a local public entity consisting of a county, a portion of a county, or two or more counties consolidated into one region. *See* 105 ILCS 5/3A-1, 3A-3, 3A-4.

18. The Office of the Regional Superintendent of Schools is filled by the voters in the educational service region at a general election held in 1978 and every four years thereafter. 105 ILCS 5/3-1, 3A-6; 10 ILCS 5/2A-1.2(a)(7), 2A-20.

19. The most recent general election for the office of Regional Superintendent of Schools occurred on November 2, 2010. Persons elected to the Office of Regional Superintendent of Schools at that election assume office on July 1, 2011. 105 ILCS 5/3-1.

20. The term of Regional Superintendents of Schools elected at the 2006 general election began on July 1, 2007, and expires on June 30, 2011.

21. If a vacancy in the office of Regional Superintendent of Schools occurs, the vacancy is filled by appointment of the chairman of the county board with the advice and consent of the county board, or if a multi-county educational service region, by a committee composed the chairman of the county boards of the counties in the education service region. 105 ILCS 5/3A-6; 10 ILCS 5/25-11, 25-11.1.

22. If a vacancy in nomination for the office of Regional Superintendent of Schools occurs after the last day for filing nomination papers for county offices, the county central committee of the established political party or, if a multi-county education service region, a committee consisting of the chairman of the county central committees of the counties in the educational service region, nominate the candidate for the office. 105 ILCS 5/3A-6; 10 ILCS 5/7-8.02.

23. The duties of a Regional Superintendent of Schools are confined to the educational service region for which he or she was elected and include:

- a) presenting periodic reports of his or her official acts to the county board of each county in the educational service region (105 ILCS 5/3-5);
- b) submitting for approval a budget for the office to the county board of each county in the educational service region (105 ILCS 5/3A-7);
- c) arranging for or conduct institute days (105 ILCS 5/3-11);
- d) appointing a county truant officer (105 ILCS 5/3-13).
- e) exercising supervision and control over all school districts within the educational service region (105 ILCS 5/3-14.2);
- f) inspecting building and other plans and specifications for schools (105 ILCS 5/3-14.20);
- g) inspecting school buildings (105 ILCS 5/3-14.21);
- h) conducting school bus driver education courses (105 ILCS 5/3-14.23);
- i) assisting school districts with grant applications (105 ILCS 5/3-14.30);
- j) reporting to the State Board of Education information relating to the schools in the educational service region (105 ILCS 5/3-15.8); and
- k) administering high school equivalency tests (105 ILCS 5/3-15.12).

24. The costs of operating the educational service region, including support services, office space, equipment and supplies, and other operational expenses are borne by the county or counties comprising the region. 105 ILCS 5/3A-7, 3A-8.

25. The State's Attorney of the county in which the office of the Regional Superintendent of Schools is located is the legal representative of the Regional Superintendent. 105 ILCS 5/3A-15.

26. An educational service region, acting through the Regional Superintendent of Schools, is empowered to invest its funds and to enter contracts relating to deposit and investment of those funds. 105 ILCS 5/3-91.

27. The Regional Superintendent of Schools has the power to enter into contracts to administer and provide cooperative educational programs for two or more school districts. 105 ILCS 5/3-15.14.

28. As a “local educational agency,” the Regional Superintendent of Schools may apply for grants, loans, program authorization, and other assistance provided to such local education agencies by the State Board of Education. 105 ILCS 5/3-15.15.

29. The General Assembly has designated educational service regions to be municipalities (*see* 40 ILCS 5/7-105) or separate local reporting entities (40 ILCS 5/7-132.2) for purposes of the Illinois Pension Code, 40 ILCS 5/1-101 *et seq.*

30. The General Assembly has designated educational service regions to be local public entities entitled to the immunities, benefits, and privileges afforded under the Local Government and Governmental Employees Tort Immunity Act (*see* 745 ILCS 10/1-206), and, accordingly, Regional Superintendents are deemed to be employees, defined to include officers, of local public entities (*see* 745 ILCS 10/1-202; *see also* 1992 Ill. Att’y Gen. Op. No. 92-007, issued April 22, 1992.)

31. An educational service region constitutes a unit of local government within the parameters of Section 1 of Article VII of the Illinois Constitution.

32. As provided in Section 3-15.10 of the School Code, 105 ILCS 5/3-15.10, Regional Superintendents are authorized to employ an Assistant Regional Superintendent of Schools.

**SALARIES OF REGIONAL SUPERINTENDENTS
AND ASSISTANT SUPERINTENDENTS**

33. Since July 23, 1999, the salary for a Regional Superintendent or the method of calculating that salary has been legislatively fixed with a base amount, determined by the population of the educational service region, and an annual adjustment in the amount of the increase in the Consumer Price Index to a maximum increase of 2.9%. *See* Public Act 91-276, effective July 23, 1999, a copy of which is attached as Exhibit A.

34. Section 3-2.5 of the School Code, 105 ILCS 5/3-2.5, establishes the annual salary of Regional Superintendents as follows:

Except as otherwise provided in this Section, the Regional Superintendents of Schools shall receive for their services an annual salary according to the population, as determined by the last preceding federal census, of the region they serve, as set out in the following schedule:

**SALARIES OF REGIONAL
SUPERINTENDENT OF SCHOOLS**

POPULATION OF REGION	ANNUAL SALARY
Less than 48,000	\$73,500
48,000 to 99,999	\$78,000
100,000 to 999,999	\$81,500
1,000,000 and over	\$83,500

* * *

Beginning July 1, 2000, the salary that the Regional Superintendent of Schools receives for his or her services shall be adjusted annually to reflect the percentage increase, if any, in the most recent Consumer Price Index, as defined and officially reported by the United States Department of Labor, Bureau of Labor Statistics, except that no annual increment may exceed 2.9%. If the percentage of change in the Consumer Price Index is a percentage decrease, the salary that the Regional Superintendent of Schools receives shall not be adjusted for that year.

* * *

35. The annual salary for Superintendent Goeglein in State Fiscal Year 2010 (July 1, 2009, to June 30, 2010) was \$_____.

36. The annual salary for Superintendent Drone in State Fiscal Year 2010 (July 1, 2009, to June 30, 2010) was \$_____.

37. On July 1, 2010, the salaries of the Regional Superintendents were not adjusted to reflect the percentage increase in then most recent Consumer Price Index, which was 1.1%.

38. Section 3-2.5 of the School Code also establishes the annual salary of Assistant Superintendents as follows:

When regional superintendents are authorized by the School Code to appoint assistant regional superintendents, the assistant regional superintendent shall receive an annual salary based on his or her qualifications and computed as a percentage of the salary of the regional superintendent to whom he or she is assistant, as set out in the following schedule:

**SALARIES OF ASSISTANT REGIONAL
SUPERINTENDENTS**

QUALIFICATIONS OF ASSISTANT REGIONAL SUPERINTENDENT	PERCENTAGE OF SALARY OF REGIONAL SUPERINTENDENT
No Bachelor's degree, but State certificate valid for teaching and supervising.	70%
Bachelor's degree plus State certificate valid for supervising.	75%
Master's degree plus State certificate valid for supervising.	90%

However, in any region in which the appointment of more than one assistant regional superintendent is authorized, whether by Section 3-15.10 of this Code or otherwise, not more than one assistant may be compensated at the 90% rate and any other assistant shall be paid at not exceeding the 75% rate, in each case depending on the qualifications of the assistant.

39. The annual salary for Superintendent Drone in State Fiscal Year 2010 (July 1, 2009, to June 30, 2010) was \$_____.

40. The annual salary for Assistant Superintendent Strauch in State Fiscal Year 2010 (July 1, 2009, to June 30, 2010) was \$_____.

41. The salaries set by Section 3-2.5 of the School Code for the Regional Superintendents and Assistant Superintendents are to be paid by the State through the Comptroller upon the presentment of vouchers by the State Board of Education for payment of “compensation as fixed by law.” 105 ILCS 5/18-5.

**THE LEGISLATIVE APPROPRIATION FOR THE
SALARIES OF THE REGIONAL SUPERINTENDENTS**

42. With respect to the Fiscal Year 2011, the State Board of Education submitted to the General Assembly a proposed budget which included the salaries of the Regional Superintendents and the Assistant Regional Superintendents. The relevant portion of the proposed budget is attached as Exhibit B, an increase of 3.30%. From the Fiscal Year 2010 appropriation for the Regional Superintendents and their assistants of \$9,100,000 was proposed totaling, \$9,400,000.

43. By Public Act 96-956, effective July 1, 2010 (Article 19, Section 30), the General Assembly appropriated \$9,100,000 to the State Board of Education to pay the salaries of the Regional Superintendents and the Assistant Regional Superintendents. The relevant portion of Public Act 96-956 is attached as Exhibit C.

**GOVERNOR QUINN ORDERS A DECREASE IN THE
SALARIES OF THE REGIONAL SUPERINTENDENTS**

44. During the Spring 2010 Legislative Session, the General Assembly found and declared “that the State is confronted with an unprecedented fiscal crisis.” 30 ILCS 187/1-5. Accordingly, it enacted the Emergency Budget Act of Fiscal Year 2011, 30 ILCS 187/1-1 *et seq.*,

added by Public Act 96-958, effective July 1, 2010. The purpose of the Act included “authoriz[ing] changes in State programs that are necessary to implement the State Fiscal Year 2011 budget.” A copy of the Act is attached as Exhibit D.

45. The Act delegated to the Governor the power to “designate amounts to be set aside as a contingency reserve from the amounts appropriated” from certain funds, including the Common School Fund, up to one-third of the combined total of the amount of vouchers submitted to the Comptroller for payment but which have not been paid as of July 1, 2010, and the amount of any mandated statutory transfers for Fiscal Year 2010 not executed as of July 1, 2010. 30 ILCS 187/1-10.

46. Amounts placed in contingency reserve cannot be obligated, encumbered, or spent without acting by the Governor. 30 ILCS 187/1-15, 1-20.

47. In early Fiscal Year 2011, Governor Quinn, acting under authority purportedly granted by the Emergency Budget Act of Fiscal Year 2011, designated 9.2% of the Fiscal Year 2011 State Board of Education appropriation for the salaries of the Regional Superintendents and the Assistant Regional Superintendents to be set aside in contingency reserve.

48. Pursuant to directions from Governor Quinn and his Director of the Office of Management and Budget, the State Superintendent of Education and the State Board of Education have reduced or intend to reduce the salaries of the Regional Superintendents and Assistant Superintendents for Fiscal Year 2011 by 9.2% from the levels set for Fiscal Year 2010.

49. In March 2011, the State Superintendent of Education notified the Regional Superintendents and Assistant Superintendents that their salaries would be reduced by 9.2% and that the reduction would be either allocated over the paychecks received in April, May, and June

2011, or implemented by withholding the scheduled June 2011 paychecks. A copy of that communication is attached as Exhibit E.

COUNT I – VIOLATION OF §9(b) OF ARTICLE VII

(Declaratory Judgment)

50. Plaintiffs Goeglein and Drone reallege and incorporate by reference Paragraphs 1 through 49 as though fully set forth herein.

51. Section 9(b) of Article VII of the Illinois Constitution provides:

An increase or decrease in the salary of an elected officer of any unit of local government shall not take effect during the term for which that officer is elected.

52. Commencing as early as April 12, 2011, as a result of the actions of the Defendants, the Regional Superintendents will sustain a reduction in their compensation during the term in which they were elected.

53. The Emergency Budget Act of Fiscal Year 2011, as applied to Plaintiffs Goeglein and Drone by Defendants, and the actions of Defendants directed to the Regional Superintendents with respect to decreasing their salaries for Fiscal Year 2011 contravenes Article VII, §9(b) in that Regional Superintendents are elected officers of units of local government and the reduction will take effect during the term for which they were elected.

54. An actual controversy exists between Plaintiffs Goeglein and Drone and Defendants, and the Court is vested with the power to declare the rights and duties of the parties as well as grant such other relief as it deems just and proper.

WHEREFORE, Plaintiffs Goeglein and Drone pray that this Court enter judgment in their favor and against Defendants, and declare that:

a) the Emergency Budget Act of Fiscal Year 2011 as applied to Regional Superintendents of Schools to effectuate a decrease in their salaries in Fiscal Year 2011 is unconstitutional;

b) Governor Quinn, the State Board of Education, the State Superintendent of Education, and the other Defendants have no authority to take any action to place funds appropriated to pay the salaries of the Regional Superintendents of Schools in contingency reserve or to otherwise decrease or cause a decrease in the salaries of the Regional Superintendents of Schools for Fiscal Year 2011;

c) The Regional Superintendents of Schools have the right to receive and shall receive the full salary for Fiscal Year 2011 as determined under Section 3-2.5 of the School Code and as appropriated by the legislature; and

d) Plaintiffs Goeglein and Drone shall receive other and further relief to which they are entitled.

COUNT II – VIOLATION OF §9(b) OF ARTICLE VII

(Injunctive Relief)

55. Plaintiffs Goeglein and Drone reallege and incorporate by reference Paragraphs 1 through 54 as though fully set forth herein.

56. Plaintiffs Goeglein and Drone have no adequate remedy at law and will be irreparably injured absent the entry of an injunction prohibiting the unconstitutional conduct as described herein, including but not limited to the loss of income and a reduction in pension benefits.

WHEREFORE, Plaintiffs Goeglein and Drone pray that this Court:

a) preliminarily and permanently enjoin and restrain Defendants and all persons acting in concert with them from directly or indirectly applying the Emergency Budget Act of Fiscal Year 2011 to the Regional Superintendents of Schools to effectuate a decrease in their salaries;

b) preliminarily and permanently enjoin and restrain Governor Quinn, the other Defendants, and all persons acting in concert with them from directly or indirectly taking any action to place funds appropriated to pay the salaries of the Regional Superintendents of Schools in contingency reserve or to otherwise decrease or cause a decrease in the salaries of the Regional Superintendents of Schools for Fiscal Year 2011;

c) enter mandatory, preliminary and permanent injunctions requiring Defendants and all persons acting in concert with them to pay the Regional Superintendents of Schools the salaries for Fiscal Year 2011 as provided in Section 3-2.5 of the School Code and as appropriated by the legislature; and

d) grant such other and further relief as to which Plaintiffs Goeglein and Drone are entitled.

COUNT III – VIOLATION OF §9(b) OF ARTICLE VII

(Mandamus)

57. Plaintiffs Goeglein and Drone reallege and incorporate by reference Paragraphs 1 through 56 as though fully set forth herein.

58. By virtue of the constitution and statutes of the State of Illinois as described above and in accordance with the appropriations of the General Assembly, it became and is the duty of Defendants to pay the Regional Superintendents of Schools in Fiscal Year 2011 as provided in Section 3-2.5 of the School Code.

59. The Regional Superintendents of Schools have complied with and performed all legal conditions precedent to the performance of the duty by Defendants.

60. Defendants have refused to perform that duty.

61. By reason of the refusal of Defendants to perform that duty, Plaintiffs Goeglein and Drone have been injured by a loss of income and a reduction in pension benefits.

WHEREFORE, Plaintiffs Goeglein and Drone pray that a judgment of mandamus be entered, directed to each Defendant, commanding them to undertake all action necessary to pay the Regional Superintendents of Schools the salaries as determined by Section 3-2.5 of the School Code for Fiscal Year 2011 and for such other and further relief as to which Plaintiffs Goeglein and Drone are entitled.

COUNT IV – VIOLATION OF ARTICLE II, §1 AND ARTICLE VIII, §2(b)

(Declaratory Judgment)

62. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 49 as though fully set forth herein.

63. Section 2(b) of Article VIII of the Illinois Constitution provides in part:

The General Assembly by law shall make appropriations for all expenditures of public funds by the State. * * *

64. The making of appropriations is the setting apart from public revenue a certain sum of money for a specific object. *See, e.g., Illinois Municipal Retirement Fund v. City of Barry*, 52 Ill.App.3d 644, 646, 367 N.E.2d 1048, 1049, 10 Ill.Dec. 439, 440 (4th Dist. 1977).

65. The Illinois Constitution has expressly adopted the principle of separation of powers:

The legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another.

Ill. Const. 1970, art. II, §1.

66. The Emergency Budget Act of Fiscal Year 2011 is facially unconstitutional and void in that it violates Article II, §1 and Article VII, §2(b) of the Illinois Constitution by unlawfully delegating to the Governor the power to appropriate and set aside public funds, a power that exclusively belongs to the legislature, and which cannot be delegated.

67. Alternatively, the Emergency Budget Act of Fiscal Year 2011 is facially unconstitutional and void in that it violates Article II, §1 and Article VII, §2(b) of the Illinois Constitution by delegating a legislative power to the Governor without sufficient standards to guide the Governor in the exercise of the powers delegated to him and vests the Governor with arbitrary discretion to determine the true level of appropriations for specific purposes in Fiscal Year 2011.

68. By executing the Emergency Budget Act of Fiscal Year 2011, Defendants have unconstitutionally harmed the Regional Superintendents of Schools by causing a decrease in their salaries and loss of pension and social security benefits.

69. An actual controversy exists between Plaintiffs and Defendants, and the Court is vested with the power to declare the rights and duties of the parties as well as grant such other relief as it deems just and proper.

WHEREFORE, Plaintiffs pray that this Court enter judgment in their favor and against Defendants and declare that:

a) the Emergency Budget Act of Fiscal Year 2011 is facially unconstitutional and void;

b) Governor Quinn, the State Board of Education, the State Superintendent of Education, and the other Defendants have no authority to take any action to place funds appropriated to pay the salaries of the Regional Superintendents of Schools and the

Assistant Superintendents in contingency reserve or to otherwise decrease or cause a decrease in the salaries of the Regional Superintendents of Schools and Assistant Superintendents for Fiscal Year 2011;

c) The Regional Superintendents of Schools and the Assistant Superintendent have the right to receive and shall receive the full salary for Fiscal Year 2011 as determined under Section 3-2.5 of the School Code and as appropriated by the legislature; and

d) Plaintiffs shall receive other and further relief to which they are entitled.

COUNT V – VIOLATION OF ARTICLE II, §1 AND ARTICLE VIII, §2(b)

(Injunctive Relief)

70. Plaintiffs reallege and incorporate by reference Paragraphs 62 through 69 as though fully set forth herein.

71. Plaintiffs have no adequate remedy at law and will be irreparably injured absent the entry of an injunction prohibiting the unconstitutional conduct as described herein, including but not limited to the loss of income and a reduction in pension benefits.

WHEREFORE, Plaintiffs pray that this Court:

a) preliminarily and permanently enjoin and restrain Defendants and all persons acting in concert with them from directly or indirectly executing or implementing the Emergency Budget Act of Fiscal Year 2011;

b) preliminarily and permanently enjoin and restrain Governor Quinn, the other Defendants, and all persons acting in concert with them from directly or indirectly taking any action to place funds appropriated to pay the salaries of the Regional Superintendents of Schools and the Assistant Superintendents in contingency reserve or

to otherwise decrease or cause a decrease in the salaries of the Regional Superintendents and Assistant Superintendents for Fiscal Year 2011;

c) enter mandatory, preliminary and permanent injunctions requiring Defendants and all persons acting in concert with them to pay the Regional Superintendents of Schools and the Assistant Superintendents the salaries for Fiscal Year 2011 as provided in Section 3-2.5 of the School Code and as appropriated by the legislature; and

d) grant such other and further relief as to which Plaintiffs are entitled.

COUNT VI – VIOLATION OF ARTICLE II, §1 AND ARTICLE VIII, §2(b)

(Mandamus)

72. Plaintiffs reallege and incorporate by reference Paragraphs 62 through 71 as though fully set forth herein.

73. By virtue of the constitution and statutes of the State of Illinois as described above and in accordance with the appropriations of the General Assembly, it became and is the duty of Defendants to pay the Regional Superintendents of Schools and Assistant Superintendents in Fiscal Year 2011 as provided in Section 3-2.5 of the School Code.

74. Plaintiffs have complied with and performed all legal conditions precedent to the performance of the duty by Defendants.

75. Defendants have refused to perform that duty.

76. By reason of the refusal of Defendants to perform that duty, Plaintiffs have been injured by a loss of income and a reduction in pension benefits.

WHEREFORE, Plaintiffs pray that a judgment of mandamus be entered, directed to each Defendant, and commanding them to undertake all action necessary to pay the Regional Superintendents of Schools and the Assistant Superintendents the salaries as determined under

Section 3-2.5 of the School Code and for such other and further relief as to which Plaintiffs are entitled.

COUNT VII – VIOLATION OF ARTICLE XIII, §5

(Declaratory Judgment)

77. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 49 as though fully set forth herein.

78. Section 5 of Article XIII of the Illinois Constitution provides:

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.

79. Plaintiffs are participating members in the Teachers Retirement System of the State of Illinois, 40 ILCS 5/16-106.

80. By reducing Plaintiffs' salary to an amount not authorized by Section 3-2.5 of the School Code and different from that appropriated by the legislature, are unconstitutionally diminishing and impairing Plaintiffs' pension or retirement benefits.

81. An actual controversy exists between Plaintiffs and Defendants, and the Court is vested with the power to declare the rights and duties of the parties as well as grant such other relief as it deems just and proper.

WHEREFORE, Plaintiffs pray that this Court enter judgment in their favor and against Defendants and declare that:

a) the Emergency Budget Act of Fiscal Year 2011 as applied to Plaintiffs, is unconstitutional and void;

b) Governor Quinn, the State Board of Education, the State Superintendent of Education, and the other Defendants have no authority to take any action to place funds

appropriated to pay the salaries of the Regional Superintendents of Schools and the Assistant Superintendents in contingency reserve or to otherwise decrease or cause a decrease in the salaries of the Regional Superintendents of Schools and Assistant Superintendents for Fiscal Year 2011;

c) The Regional Superintendents of Schools and the Assistant Superintendent have the right to receive and shall receive the full salary for Fiscal Year 2011 as determined under Section 3-2.5 of the School Code and as appropriated by the legislature; and

d) Plaintiffs shall receive other and further relief to which they are entitled.

COUNT VIII – VIOLATION OF ARTICLE XIII, §5

(Injunctive Relief)

82. Plaintiffs reallege and incorporate by reference Paragraphs 77 through 81 as though fully set forth herein.

83. Plaintiffs have no adequate remedy at law and will be irreparably injured absent the entry of an injunction prohibiting the unconstitutional conduct as described herein, including but not limited to the loss of income and a reduction in pension benefits.

WHEREFORE, Plaintiffs pray that this Court:

a) preliminarily and permanently enjoin and restrain Defendants and all persons acting in concert with them from directly or indirectly executing or implementing the Emergency Budget Act of Fiscal Year 2011;

b) preliminarily and permanently enjoin and restrain Governor Quinn, the other Defendants, and all persons acting in concert with them from directly or indirectly taking any action to place funds appropriated to pay the salaries of the Regional Superintendents of Schools and the Assistant Superintendents in contingency reserve or

to otherwise decrease or cause a decrease in the salaries of the Regional Superintendents and Assistant Superintendents for Fiscal Year 2011;

c) enter mandatory, preliminary and permanent injunctions requiring Defendants and all persons acting in concert with them to pay the Regional Superintendents of Schools and the Assistant Superintendents the salaries for Fiscal Year 2011 as provided in Section 3-2.5 of the School Code and as appropriated by the legislature; and

d) grant such other and further relief as to which Plaintiffs are entitled.

COUNT IX – VIOLATION OF ARTICLE XIII, §5

(Mandamus)

84. Plaintiffs reallege and incorporate by reference Paragraphs 77 through 83 as though fully set forth herein.

85. By virtue of the constitution and statutes of the State of Illinois as described above and in accordance with the appropriations of the General Assembly, it became and is the duty of Defendants to pay the Regional Superintendents of Schools and Assistant Superintendents in Fiscal Year 2011 as provided in Section 3-2.5 of the School Code.

86. Plaintiffs have complied with and performed all legal conditions precedent to the performance of the duty by Defendants.

87. Defendants have refused to perform that duty.

88. By reason of the refusal of Defendants to perform that duty, Plaintiffs have been injured by a loss of income and a reduction in pension benefits.

WHEREFORE, Plaintiffs pray that a judgment of mandamus be entered, directed to each Defendant, and commanding them to undertake all action necessary to pay the Regional Superintendents of Schools and the Assistant Superintendents the salaries as determined under

Section 3-2.5 of the School Code and for such other and further relief as to which Plaintiffs are entitled.

Dated: _____

Attorneys for Plaintiffs EUGENE T. GOEGLEIN,
MARK ALAN DRONE, TERRY FRANCIS
STRAUCH, and BARBARA ANN DALY,

By: HINSHAW & CULBERTSON LLP

By: _____
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217/528-7375 (phone)
217/528-0075 (fax)

VERIFICATION

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

Under penalties as provided by law pursuant to 735 ILCS 5/1-109 of the Code of Civil Procedure, I, EUGENE T. GOEGLEIN, Plaintiff in the above-captioned matter, hereby certify that the statements as forth in this instrument are true and correct.

EUGENE T. GOEGLEIN

VERIFICATION

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

Under penalties as provided by law pursuant to 735 ILCS 5/1-109 of the Code of Civil Procedure, I, MARK ALAN DRONE, Plaintiff in the above-captioned matter, hereby certify that the statements as forth in this instrument are true and correct.

MARK ALAN DRONE

VERIFICATION

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

Under penalties as provided by law pursuant to 735 ILCS 5/1-109 of the Code of Civil Procedure, I, TERRY FRANCIS STRAUCH, Plaintiff in the above-captioned matter, hereby certify that the statements as forth in this instrument are true and correct.

TERRY FRANCIS STRAUCH

VERIFICATION

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

Under penalties as provided by law pursuant to 735 ILCS 5/1-109 of the Code of Civil Procedure, I, BARBARA ANN DALY, Plaintiff in the above-captioned matter, hereby certify that the statements as forth in this instrument are true and correct.

BARBARA ANN DALY