

NEW JERSEY EDUCATION ASSOCIATION; NEW JERSEY STATE POLICEMEN'S BENEVOLENT ASSOCIATION, INC.; COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO; NEW JERSEY FRATERNAL ORDER OF POLICE; NEW JERSEY STATE FIREFIGHTERS' MUTUAL BENEVOLENT ASSOCIATION; PROFESSIONAL FIREFIGHTERS ASSOCIATION OF NEW JERSEY; AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, COUNCIL 1, AFL-CIO; AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, COUNCIL 73, AFL-CIO; AMERICAN FEDERATION OF TEACHERS NEW JERSEY STATE FEDERATION, AFL-CIO; INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL EMPLOYEES, AFL-CIO, LOCAL 194; INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL EMPLOYEES, AFL-CIO, LOCAL 195; INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL EMPLOYEES, AFL-CIO, LOCAL 200; PROBATION ASSOCIATION OF NEW JERSEY; NEWARK FIREFIGHTERS UNION; MORRIS COUNCIL NOS. 6 AND 6A, NJCSA, IFPTE, AFL-CIO; JERSEY CITY POLICE OFFICERS BENEVOLENT ASSOCIATION; CAMDEN COUNTY COUNCIL #10; INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 97; BELLEVILLE PBA LOCAL 28; NEW JERSEY ASSOCIATION OF SCHOOL ADMINISTRATORS; NEW JERSEY PRINCIPALS AND SUPERVISORS ASSOCIATION; NEW JERSEY ASSOCIATION OF SCHOOL BUSINESS OFFICIALS; NEW JERSEY RETIREES' EDUCATION ASSOCIATION; PETER BURKHALTER; DEE TRUCHON; GEORGE O'BRIEN; THOMAS TEVLIN; ROBERT BROWER; ROSEMARIE JANKOWSKI; IRIS J. ELLIOTT; KENNETH D. KING; FRANK ELMER HICKS; WILLIAM A. PARKER; BRAD FAIRCHILD; DWIGHT COVALESKI; ANTHONY F. WIENERS; GARY SOUSS; WILLIAM LAVIN; CHARLES WEST; MARIAN LEZGUS; MELANIE HAFDELIN; STEVEN ENGRAVALLE; CINDY BARR-RAGUE; DOMINICK MARINO; JOHN J. GEROW; JANET S. ZYNROZ; ALFRED CRESCI,

Plaintiffs,

V.

STATE OF NEW JERSEY; CHRIS CHRISTIE,
GOVERNOR OF THE STATE OF NEW JERSEY, in
his official and individual capacities;
ANDREW SIDAMON-ERISTOFF, TREASURER, STATE
OF NEW JERSEY, in his official and
individual capacities; THE NEW JERSEY
STATE SENATE; THE NEW JERSEY STATE
GENERAL ASSEMBLY,

Defendants.

Plaintiffs, by way of complaint against Defendants, state
as follows:

NATURE OF ACTION

This is a proceeding for declaratory and injunctive relief
and monetary damages to redress the deprivation of rights
secured to plaintiffs by 42 U.S.C. § 1983; Article I, Section 10
of, and the Fifth and Fourteenth Amendments to, the United
States Constitution; and Article IV, section 7, paragraph 3 and
Article 1, paragraph 1 of the New Jersey Constitution.
Plaintiffs request that this Court declare unconstitutional, and
enjoin the implementation of, those portions of Public Law 2011,
Chapter 78 ("Chapter 78") enacted on June 28, 2011, that would
impermissibly impair the obligation of contracts and violate due
process rights by reducing pension benefits through the
suspension of pension adjustments or COLAs, increasing the
contributions of active employees to the pension systems,
continuing to underfund the pension systems, delegating to

pension committees the unrestrained authority to reduce pension and change eligibility requirements, and increasing the contributions that certain public employees with fewer than 20 years of service will be required to pay for medical benefits in retirement.

JURISDICTION

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1343 on the ground that this action arises under Article I, Section 10 of the United States Constitution, the Fifth and Fourteenth Amendments to the United States Constitution, and under 42 U.S.C. §§ 1983 and 1988. Further, this Court has jurisdiction to render declaratory judgments pursuant to the Declaratory Judgment Act, 28 U.S.C. 2201 et seq. The Court's pendent jurisdiction of claims arising under State law is also invoked pursuant to 28 U.S.C. 1367.

VENUE

2. All claims herein arose within the jurisdiction of the United States District Court for the District of New Jersey and involve defendants who reside within the jurisdictional limits. Venue is accordingly invoked pursuant to 28 U.S.C. §1391(b) and (c).

PARTIES

3. Union Plaintiff New Jersey Education Association (NJEA) is a labor organization with offices located at 180 West State Street Trenton, New Jersey 08607. NJEA, through its local affiliates, represents over 125,000 school board employees who are members of the Teachers Pension and Annuity Fund (TPAF) and additional employees who are in the Public Employees' Retirement System (PERS).
4. Union Plaintiff New Jersey State Policemen's Benevolent Association, Inc. (State PBA), located at 158 Main Street, Woodbridge, New Jersey 07095, is a not-for-profit association that represents the collective bargaining, professional and economic interests of approximately 33,000 active and over 17,000 retired law enforcement officers who are, or were, employed by law enforcement agencies in State, county and municipal government, and whose membership constitutes the majority of the participants in the Police and Firemen's Retirement System (PFRS). The State PBA is also the parent organization of over 350 local PBA affiliates that represent law enforcement officers at all levels of government in New Jersey.
5. Union Plaintiff Communications Workers of America, AFL-CIO (CWA) is a labor organization with offices located at 102 South Warren Street, Trenton, New Jersey 08608. CWA,

directly or through its affiliates, is the collective negotiations representative for over 45,000 employees of the State, counties, municipalities and independent authorities who participate in PERS and TPAF.

6. Union Plaintiff New Jersey Fraternal Order of Police (FOP) is a labor organization with offices located at 108 West State Street, Trenton, New Jersey 08608. The FOP, through its affiliates, represents over 16,000 employees of the State, counties, municipalities and independent authorities who participate in PERS.

7. Union Plaintiff New Jersey State Firefighters' Mutual Benevolent Association (FMBA) is a labor organization with offices located at 1447 Campbell Street, Rahway, New Jersey 07065. The FMBA, through its affiliates, represents over 5,000 active and over 1,000 retired professional firefighters, EMTs and fire dispatchers employed by the State, and by counties, municipalities and independent authorities, whose members consist primarily of participants in PERS.

8. Union Plaintiff Professional Firefighters Association of New Jersey (IAFF) is a labor organization with offices located at 24 West Lafayette Street, Trenton, New Jersey 08608. The IAFF, through its affiliates, represents over

3,500 employees of the State, counties, municipalities and independent authorities who participate in PFRS.

9. Union Plaintiff American Federation of State, County and Municipal Employees, Council 1, AFL-CIO (AFSCME Council 1) is a labor organization with offices located at 2930 South Broad Street, Trenton, New Jersey 08610. AFSCME Council 1 represents approximately 10,000 employees of the State of New Jersey State employees who participate in PERS. In addition to its collective negotiations agreement with the State, AFSCME Council 1, through its affiliated Councils and Locals, represents approximately 30,000 public employees of counties, municipalities, State colleges and universities, and other public entities.

10. Union Plaintiff American Federation of State, County and Municipal Employees, Council 73, AFL-CIO (AFSCME Council 73) is a labor organization with offices located at 2653-A Whitehorse-Hamilton Square Road, Hamilton, New Jersey 08690. AFSCME Council 73 and its 64 locals represent State, county and municipal employees who participate in PERS.

11. Union Plaintiff American Federation of Teachers New Jersey State Federation, AFL-CIO (AFT) is a labor organization with offices located at 629 Amboy Avenue, Edison, New

Jersey 08837. AFT represents higher education and school district employees who participate in TPAF.

12. Union Plaintiff International Federation of Professional and Technical Employees, AFL-CIO, Local 194, with offices located in Milltown, New Jersey, represents employees at the New Jersey Turnpike Authority who participate in PERS.
13. Union Plaintiff International Federation of Professional and Technical Employees, AFL-CIO, Local 195, with offices located in Milltown, New Jersey, represents employees of the State of New Jersey, counties and various Authorities who participate in PERS.
14. Union Plaintiff International Federation of Professional and Technical Employees, AFL-CIO, Local 200, with offices located in Iselin, New Jersey, represents employees at the New Jersey Turnpike Authority who participate in PERS.
15. Union Plaintiff Probation Association of New Jersey (PANJ), with offices located at United Professional Center, 617 Union Avenue, Unit 2-20, Brielle, New Jersey 08730, represents approximately 3,000 line staff and supervisory probation officers employed by the New Jersey Judiciary.
16. Union Plaintiff Newark Firefighters Union, with offices at 238 Murray Street, Newark, New Jersey 07102, represents

approximately 500 active professional firefighters employed by the City of Newark who participate in PFRS.

17. Union Plaintiff Morris Council Nos. 6 and 6A, NJCSA, IFPTE, AFL-CIO, with offices at 6 Court Street, Morristown, New Jersey 07960, represents approximately 1,400 blue and white collar employees employed by Morris County and municipalities within Morris County, New Jersey who participate in PERS.
18. Union Plaintiff Jersey City Police Officers Benevolent Association, with offices at 282 Central Avenue, 3rd Floor, Jersey City, New Jersey 07307, represents approximately 655 non-supervisory police officers and detectives employed by the City of Jersey who participate in PFRS.
19. Union Plaintiff Camden County Council #10, with offices at 330 Market Street, Camden, New Jersey 08102, represents over 1,700 blue and white collar employees employed by Camden County and its constituent agencies, the City of Camden, and various municipalities within Camden County who participate in PERS.
20. Union Plaintiff International Brotherhood of Teamsters Local 97, is a labor organization with offices located at 485 Chestnut Street, Union, New Jersey 07083. Local 97

represents approximately 9,700 workers employed in the public and private sectors. Approximately 5,700 persons represented by Local 97 are employed in white and blue collar positions by various municipalities and counties in New Jersey and by various independent State authorities and autonomous agencies who participate in PERS.

21. Union Plaintiff Belleville PBA Local 28, an affiliate of the State PBA, is the certified majority representative for all Police Officers, Sergeants, Lieutenants, Captains and Deputy Chiefs employed by the Township of Belleville.
22. Organizational Plaintiff New Jersey Association of School Administrators, with offices at 920 West State Street, Trenton, New Jersey 08618, is an unincorporated association of school administrators, who are employed by school districts throughout New Jersey and participate in TPAF.
23. Organizational Plaintiff New Jersey Principals and Supervisors Association, with offices at 12 Center Drive Monroe, New Jersey 08831, is an association of principals and supervisors who are employed by school districts throughout New Jersey and who participate in TPAF.
24. Organizational Plaintiff New Jersey Association of School Business Officials, with offices at 4AAA Drive,

Robbinsville, New Jersey 08691, is an unincorporated association of school business administrators who are employed by school districts throughout New Jersey and participate in TPAF.

25. Organizational Plaintiff New Jersey Retirees' Education Association, with offices at 180 West State Street, Trenton, New Jersey 08607, is an association of over 24,000 retired education personnel.
26. Class Plaintiff Peter Burkhalter, a retiree residing in Trenton, New Jersey 08609, was employed by the State of New Jersey, Department of Environmental Protection. Plaintiff retired from State employment with 32 years and 1 month of service and is receiving a disability pension from PERS.
27. Class Plaintiff Dee Truchon, a retiree residing in Trenton, New Jersey 08609, was employed by the State of New Jersey, Department of State. Plaintiff retired with 19 years of service and is receiving a pension from PERS.
28. Class Plaintiff George O'Brien, a retiree residing in Ocean County, New Jersey, was employed by the City of Clifton. Plaintiff retired from employment with 26 years of service and is receiving a pension from PERS. Plaintiff is not

eligible to receive Social Security as a result of his employment with Clifton.

29. Class Plaintiff Thomas Tevlin, a retiree residing in Caldwell, New Jersey, was employed by the Township of Maplewood. Plaintiff retired from employment with 33 years of service and is receiving a pension from PFRS.
30. Class Plaintiff Robert Brower, a retiree residing in Brick, New Jersey was employed by the Township of Union. Plaintiff retired from employment with 31 years of service and is receiving a pension from PFRS.
31. Class Plaintiff Rosemarie Jankowski, a retiree residing in Long Beach Township, New Jersey retired from employment with 25 years of service and is receiving a pension from PERS.
32. Class Plaintiff Iris J. Elliott, a retiree residing in Mt. Laurel, New Jersey, retired from employment with 32 years of service and is receiving a pension from TPAF.
33. Class Plaintiff Kenneth D. King, a retiree residing in Forked River, New Jersey, retired from employment with over 40 years of service and is receiving a pension from TPAF.

34. Class Plaintiff Frank Elmer Hicks, a retiree residing in Medford, New Jersey, retired from employment with 31 years of service and is receiving a pension from TPAF.
35. Class Plaintiff William A. Parker, residing in Medford, New Jersey, retired from employment with 38 years of service and is receiving a pension from TPAF. In August 2011, he reached his 25th month of retirement and, under pension laws, would have been entitled to a cost-of-living adjustment, which he is now being denied.
36. Class Plaintiff Dominick Marino, residing in Brick, New Jersey, retired from employment with more than 25 years of service and is receiving a pension from PFRS.
37. Class Plaintiff John J. Gerow, residing in Lake Como, New Jersey, retired from employment with more than 25 years of service and is receiving a pension from PFRS.
38. Class Plaintiff Janet S. Zynroz, a retiree residing in Succasunna, New Jersey, retired from employment and is receiving a pension from TPAF.
39. Individual Plaintiff Brad Fairchild, residing in Pittsgrove, New Jersey, is an employee of the New Jersey State Judiciary and is a vested and active member of PERS

and has over 30 years of credited service toward his pension.

40. Individual Plaintiff Dwight Covaleski, residing in Cinnaminson, New Jersey, is an employee of the New Jersey State Judiciary and is a vested and active member of PERS and has over 17 years of credited service toward his pension.

41. Individual Plaintiff Anthony F. Wieners, began his employment with the Belleville Police Department over 30 years ago. Plaintiff Wieners has over 32 years of credited service in PERS and is a vested and active member of that system.

42. Individual Plaintiff Gary Souss, residing in Essex County, New Jersey, is currently employed as a detective by the Township of Belleville and is a member of PBA Local 28. Plaintiff Souss is a vested and active member of PERS. He has approximately 19 1/2 years of credited service in that system.

43. Individual Plaintiff William Lavin, residing in Woodbridge, New Jersey, has over 23 years of credited service in PERS and is a vested and active member of that system.

44. Individual Plaintiff Charles West, residing in Rockaway, New Jersey, has over 22 years of credited service in PFRS and is a vested and active member of that system.
45. Individual Plaintiff Marian Lezgas, residing in Denville, New Jersey, is an active member of TPAF with over 19 years of service.
46. Individual Plaintiff Melanie Hafdelin, residing in Lake Hopatcong, New Jersey, is an active member of TPAF with 18 years of service.
47. Individual Plaintiff Steven Engravalle, residing in Howell, New Jersey, is an active member of TPAF with more than 10 years of credited service toward his pension.
48. Individual Plaintiff Cindy Barr-Rague, residing in Marlboro, New Jersey, is an active member of TPAF with more than ten years of service.
49. Individual Plaintiff Alfred Cresci, residing in Piscataway, New Jersey, is an active member of TPAF with more than 18 years of service.
50. Defendant State of New Jersey is a body politic that established PERS, TPAF and PFRS as defined benefit pension plans and the State Health Benefits Program and School

Employees Health Benefits Program as health benefit plans for employees and retirees of the State and its political subdivisions. The State, through the Department of Treasury, Division of Pensions and Benefits, administers PERS, TPAF, and PFRS and the State Health Benefits Program and the School Employee Health Benefits Program.

51. Defendant Governor Chris Christie is the chief executive of the State of New Jersey and is charged with ensuring that the laws and Constitutions are faithfully executed.
52. Defendant Andrew Sidamon-Eristoff is the Treasurer of the State of New Jersey and is a member of the boards of trustees of PERS, TPAF and PFRS. He has a fiduciary and legal obligation to ensure that payments required to be made from the State Treasury to PERS, TPAF and PFRS are made.
53. Defendants New Jersey State Senate and New Jersey State General Assembly in their respective capacities constitute the Legislature of New Jersey which has created retirement systems for State and other public employees and has made and continues to make laws governing PERS, PFRS and TPAF and their obligations to members. The Legislature has a legal authority and fiduciary obligation to make

appropriations sufficient to provide for the State's obligations to TPAF, PERS and PFRS.

CLASS ACTION ALLEGATIONS

54. The class action allegations are brought by Class Plaintiffs on behalf of themselves and others similarly situated, as a class action under Fed. R. Civ. P. 23.
55. The class consists of all current retirees of the State or its political subdivisions who have retired and are collecting a pension from PERS, TPAF or PFRS.
56. Class Plaintiffs are members of the class they seek to represent. Class Plaintiffs have standing to bring this action because they are retirees under PERS, TPAF or PFRS and were injured as a result of the enactment of P.L. 2011, Chapter 78, approved on June 28, 2011.
57. Class Plaintiffs Peter Burkhalter, Dee Truchon and Rosemarie Jankowski are members of the class of retirees and members of a subclass of plaintiffs who are receiving a pension under PERS.
58. Class Plaintiffs Iris J. Elliott, William A. Parker and Kenneth D. King are members of the class of retirees and members of a subclass of plaintiffs who are former

employees of local school boards and who are receiving a pension under TPAF.

59. Class Plaintiffs George O'Brien, Thomas Tevlin, Robert Brower, Dominick Marino and John J. Gerow are members of the class of retirees and members of the subclass of plaintiffs who are receiving a pension under PFRS.
60. The exact number of members of the class and subclasses represented Class Plaintiffs is presently unknown, but it is believed by Class Plaintiffs, based on the Comprehensive Annual Report for the fiscal year ending June 30, 2010 issued by the Division of Pensions and Benefits, that the class consists of at least 802,154 members who participate in the various pension systems administered by the Division.
61. As more fully stated below, there are common questions of law and fact in this action involving both the rights of each member of the class and the relief sought by the entire class.
62. As more fully stated below, the claims being asserted by Class Plaintiffs in this action are typical of the claims of each member of the class and Class Plaintiffs will fairly and adequately represent the interests of the class

as a whole. Defendants have acted in a manner inconsistent with the entire class and therefore it is appropriate to grant the injunctive and declaratory relief and monetary damages sought in this action with respect to the class as a whole.

FACTUAL ALLEGATIONS

63. The State of New Jersey established PFRS in 1944. The Division of Pensions and Benefits is assigned all administrative functions of the retirement system except for investment. PFRS is established and governed by N.J.S.A. 43:16A-1 et seq. Employees are vested in PFRS after having obtained ten years of service credit.
64. The State of New Jersey established PERS in 1954, in place of the former State Employees' Retirement System. The Division of Pensions and Benefits is assigned all administrative functions of the retirement system except for investment. PERS is governed by N.J.S.A. 43:15A-1 et seq. Employees are vested in PERS after having obtained ten years of service credit.
65. The State of New Jersey originally established TPAF in 1919, and the current structure of the TPAF was established in 1955. The Division of Pensions and Benefits is assigned all administrative functions of the retirement system

except for investment. TPAF is governed by N.J.S.A. 18A:66-1 et seq. Membership is mandatory for substantially all teachers or members of the professional staff certified by the State Board of Examiners, and employees of the Department of Education who have titles that are unclassified, professional, and certified. Employees are vested in TPAF after having obtained ten years of service credit.

66. TPAF, PERS and PFRS are "defined benefit" plans. A defined benefit plan, unlike a defined contribution plan, is one in which retirees are paid a specific benefit based primarily on their final average salary and years of service, rather than upon contributions made by the employers and/or employee or upon returns on investments. TPAF, PERS and PFRS must maintain reserves sufficient to pay pension benefits when due, and for the remainder of the life of the participants and/or beneficiaries.

67. TPAF, PERS and PFRS are each managed by a board of trustees. See N.J.S.A. 18A:66-56, 43:15A-17 and 43:16A-13.

68. As of June 30, 2010 there were approximately 144,492 active employees in TPAF, 309,099 active employees in PERS (91,126 in State PERS and 217,973 in Local PERS) and 44,858 active

employees in PFRS (36,632 in Local PFRS and 7,572 in State PFRS).

69. As of June 30, 2010, there were approximately 137,186 retirees in PERS (43,835 in State PERS and 93,351 in Local PERS), 78,214 retirees in TPAF, and 34,303 retirees in PFRS.

70. TPAF, PERS and PFRS are funded by contributions from employees and employers. Employee contributions are set by statute as a percentage of salary. All employee contributions have been made each year. The State and other employers' contribution obligations are determined after the employees' contributions are made, and the more the employees contribute, the more the State's and other contributing employers' obligations to contribute are reduced.

71. Effective June 5, 1997, the New Jersey Legislature enacted P.L. 1997, Chapter 113, which provides that the State is required to make an annual normal contribution ("Normal Cost") and an annual unfunded liability contribution ("Amortization Payment") to each system or fund pursuant to standard actuarial practices, unless there is no existing unfunded accrued liability contribution due to the system at the close of the valuation period applicable to the

upcoming fiscal year and there are excess valuation assets in excess of the actuarial accrued liability of the system or fund at the close of the valuation period applicable to the upcoming fiscal year. N.J.S.A. 43:3C-9.5. The aggregate of the Normal Cost and the Amortization Payment is the annual required contribution (ARC). N.J.S.A. 43:3C-9.5(c)(1) provides that the Normal Contributions shall be determined by each pension fund's board and actuary, and that the Amortization Payments shall be calculated based upon standard actuarial practices authorized by law.

72. Chapter 78 provides that members of PERS, TPAF and PFRS have contractual rights to securely funded pension systems. Chapter 78 recognizes that this contractual right is based upon consideration of their years of service and constitutes deferred compensation for their work. N.J.S.A. 43:3C-9.5(C)(2).

73. Chapter 78 also expressly provides that despite the State's right to amend or modify the pension system, the right to full funding is a protected "contractual right." Section 9.5(e) (as amended by Chapter 78).

74. In P.L. 1997, Chapter 113, the Legislature also declared that vested members of the TPAF, PERS and PFRS shall have a non-forfeitable right to receive benefits as provided under

the laws governing the retirement system or fund upon the attainment of five years of service credit in the retirement system. A "non-forfeitable right to receive benefits" is defined to mean that the "benefits program" cannot be reduced for any employee for whom the right has attached. N.J.S.A. 43:3C-9.5(a), (b).

75. In 2006, the Attorney General of the State of New Jersey provided a legal opinion to the Treasurer, which was also submitted to the Legislature, concluding that the non-forfeitable rights created in Section 9.5(a) and (b) are contractual and constitutionally protected. In 2006, the Office of Legislative Services issued a similar opinion letter to the Legislature.

76. Pursuant to P.L. 1958, Chapter 143, effective January 1, 1959, the State has provided participants in the various pension systems with cost-of-living adjustments (also referred to as "COLA"). Since that time, the COLA benefit has been improved or extended, primarily by P.L. 1977, Chapter 306. N.J.S.A. 43:3B-1 et seq. The cost of the COLA is part of the Normal Cost of the pension funds as determined by the actuary. Contributions from employees are used to pay for the COLAs.

77. COLAs are part of the benefit program to which employees, who satisfy the criteria under N.J.S.A. 43:3C-9.5, have non-forfeitable rights. Prior to the enactment of Chapter 78, every participant in the pension funds who vested/and or has retired, not only had the COLA as part of the pension benefit program when offered employment, but also as of the date of vesting and retirement (if retired).
78. COLAs for members and beneficiaries of PERS, TPAF and PFRS shall be paid by the retirement system and shall be funded as employer obligations by the same method provided by law for the funding of employer obligations for the basic retirement benefits provided by the retirement system. N.J.S.A. 43:15A-24.1; 18A:66-18.1; 43:16A-15.6.
79. The unfunded liability of PERS increased from \$2.6 billion in 2006 to an estimated \$15.6 billion in 2011. The unfunded liability of TPAF increased from \$5.8 billion in 2004 to an estimated \$31.2 billion in 2011. The unfunded liability of PFRS increased from approximately \$3.5 billion in 2004 to an estimated \$11 billion in 2011.
80. The funded ratio of the State part of PERS based on actuarial value of the assets decreased from 84.7% in 2004 to 52.2% in 2010. During that same period, the funded ratios of TPAF decreased from 77.4% to 45.5%, of the Local

part of PERS decreased from 96.1% to 69.1%, of the State part of PERS decreased from 77.4% to 57.6% and of the Local part of PERS decreased from 84.8% to 71.5%.

81. The increase in the unfunded liabilities and the decrease in funded ratios of TPAF, State PERS and State PFRS are attributable, in significant part, to the State's failure to make its statutorily required contributions from 2004 to present.

82. The increase in unfunded liabilities and the decrease in funded ratios of Local PERS and Local PFRS are attributable, in significant part, to reduced contributions by local government employers since 2003, which did not comport with standard actuarial principles.

83. In 2010 the Legislature adopted P.L. 2010, Chapter 1 ("Chapter 1"), which was effective May 21, 2010. Chapter 1 deferred for seven years the State's obligation to make its full Annual Required Contribution to PERS, TPAF and PFRS. Chapter 1 permits the State to contribute $1/7^{\text{th}}$ of its ARC in fiscal year 2012, and to increase the amount of its contribution by $1/7^{\text{th}}$ each fiscal year thereafter until the State makes its full ARC in fiscal year 2019. This deferral of State contributions is hereafter referred to as the "Deferral Period." The schedule and use of deferral

payments of contributions is inconsistent with and in contravention of standard actuarial principles and will increase the underfunding. The possibility of improvement in the funding ratio of the pension funds is thereby impeded and the security of the pension systems is eviscerated.

84. Effective June 28, 2011, Chapter 78, Sections 8 and 10, increased employee contributions in TPAF and PERS respectively from 5.5% to 6.5%, with an additional contribution of 1% to be phased-in in equal installments over a period of seven years commencing with the first year following that effective date. The State has not provided any offsetting or comparable benefits to the participants.
85. Prior to June 28, 2011, employees participating in PFRS contributed 8.5% of compensation to the system pursuant to P.L. 1979, Chapter 109.
86. Effective June 28, 2011, Chapter 78, Section 15 increased employee contributions in PFRS from 8.5% to 10%, without any offsetting or comparable benefits to the participants.
87. Commencing June 28, 2011, Chapter 78, Section 25 suspended the COLAs to the monthly retirement allowance or pension

granted to current and future retirees who have non-forfeitable, contractual rights to the COLAs.

88. Chapter 78 does not permit the restoration of COLAs until TPAF, State PERS, Local PERS, State PFRS and Local PFRS reach the "Target Funded Ratio" as set by statute. The "Target Funded Ratio" means a ratio of the actuarial value of assets to the actuarially determined accrued liabilities expressed as a percentage that shall be for the State part of each system and the local part of each system, if any, 75% in State fiscal year 2012, and increased in each fiscal year thereafter by equal increments for seven years until the ratio reaches 80% at which it shall remain for all subsequent years.
89. Under the statutory scheme and methodology in Chapter 78, the increased employee contributions will not serve to increase the pension funds' assets but will, instead, primarily serve to reduce the State's obligations.
90. The underfunding of the pension funds since 2003, the continued underfunding systemically imposed by the Deferral Period reduced employer contributions, the reductions in State contributions as a result of the increase in employee contributions, have resulted in the State reducing and

suspending member benefits, while, and for the purpose of, further reducing the State's obligations.

91. Chapter 78 establishes committees for TPAF, State PERS, Local PERS, State PFRS and Local PFRS. When a pension system or part of system attains the Target Funded Ratio, the committee for that system or part of a system shall have the discretionary authority to activate the application of the Pension Adjustment Act, N.J.S.A. 43:3B-1 et seq. for retirees for the period that the system or that part of the system is at or above the Target Funded Ratio.
92. Even after a system or part of a system attains the Target Funded Ratio, the COLA may not be restored. The discretionary authority to restore the COLA resides with committees established pursuant to Chapter 78.
93. The committees also have the discretionary authority to modify the basis for the calculation of the adjustment and set the duration and extent of the activation.
94. The committees also have the discretionary authority to modify the members' contribution rate; the formula for calculation of final compensation; the fraction of compensation applied to service credited after the modification; the age at which a member may be eligible for

and the benefits for service or early retirement; and benefits provided for disability retirement. The only statutory standard to guide decisions of the committees to reduce, eliminate or modify non-forfeitable benefits is that no decision of the committees shall be implemented if the result of the decisions will be that the funded ratio of that part falls below the target funded ratio in any valuation period during the 30 years following the implementation of the decision.

95. Class Plaintiffs Burkhalter, Truchon, Calabrese, O'Brien, Mesics, Reiter, Tevlin and Brower retired and have collected COLAs every year since they became eligible for them after retirement. While employed and when they retired, these Class Plaintiffs fully expected and relied upon the promise that they would receive the promised and required COLAs every year.

96. Individual Plaintiffs Miskowski, Kaighn, Bauer, Jacobs, Wieners, Souss, Roeder, Smith, West and Lavin expect to retire and have calculated the payment they would receive in retirement. Plaintiffs fully expected and relied upon the fact that the COLA would still be in place when they retired and, in fact, they counted on the COLA in addition to their retirement allowance in planning their retirement.

Plaintiffs expected that their retirement benefit, including COLAs, would be the primary source of their income.

97. The State part of PERS and PFRS, and the TPAF, are not projected to reach a funded ratio of 80% for approximately 30 years from the effective date of Chapter 78.

98. By increasing the unfunded liability and decreasing the funding of TPAF, State PERS and State PFRS over the next seven years, the State's funding of the pension systems, and its ability to make payments to retirees based on the pension benefit program to which they are entitled, has been substantially impaired.

99. To partially offset the continued losses to the pension systems resulting from the State's decision to underfund the pension systems through 2019, and in order to reduce the State's contributions, Chapter 78 suspended the payment of non-forfeitable COLAs without providing employees with comparable benefits.

100. Chapter 103 provided that retirees who had vested in their pension rights under the TPAF would likewise have legal protection against cost sharing or contributing towards

premiums for their health insurance in retirement. Chapter 103 provides:

d. Notwithstanding any law to the contrary, the payment in full of premium or periodic charges for eligible retirees and their dependents pursuant to sections 3 of P.L.1987, c. 384 (C.52:14-17.32f), section 2 of P.L. 1992, c. 126 (C.52:14-17.32f1), or section 1 of P.L.1995, c. 357 (C.52:14-17.32f2) shall be continued without alteration or interruption and there shall be no premium sharing or periodic charges for school employees in retirement once they have met the criteria for vesting for pension benefits, which criteria for purposes of this subsection only shall mean the criteria for vesting in the Teachers' Pension and Annuity Fund. For purposes of this subsection, "premium sharing or periodic charges" shall mean payments by eligible retirees based upon a proportion of the premiums for health care benefits.

[N.J.S.A.52:14-17.46.9(d) (emphasis added)]

101. The purpose and effect of N.J.S.A. 52:14-17.46.9(d), as part of the establishment of the SEHBP, was and is to provide a public school employee who vests in his or her pension rights under TPAF, a vested and protected contractual right to payment by the State of the full cost of the employee's health insurance coverage in retirement without any "premium sharing or periodic charges" payable by the retiree.

102. While the protected right to health care coverage without premium sharing or periodic charges after retirement is legally guaranteed upon vesting in TPAF, the statute

imposes an eligibility requirement that the employee have either a total of 25 years of service or retirement on a disability pension.

103. Chapter 78, Section 40, requires that, subject to the expiration of any applicable binding collective negotiation agreement in force on the effective date, any employee with less than 20 years of creditable service in one or more State or locally-administered retirement systems, including TPAF, and including those who vested prior to the enactment of Chapter 78, who retires on or after the effective date, must make a substantial statutorily specified contribution toward the cost of his or her retiree health insurance coverage in retirement.

104. Section 40 abrogates the contractual entitlement of and wrongfully divests public school employees who have vested in their pension rights under N.J.S.A. 52:14-17.46.9, of their earned and statutorily vested and protected right to premium-free health insurance coverage in retirement.

105. Belleville and PBA Local 28 are parties to a collective negotiations agreement setting terms and conditions for all bargaining unit members (Agreement). The Agreement is effective from January 1, 2010 through December 31, 2014.

106. In the Agreement, Belleville agreed to pay the entire health insurance premium for all retired police officers, and guaranteed that health benefits to all such retirees would, after retirement, remain consistent with the benefits package in effect at the time of their retirement. This contractual provision, or one similar in content, has been included in agreements between the PBA and the Township for over 30 years.

107. These contractual provisions are the product of negotiations in which the PBA and its members made concessions regarding other terms and conditions of employment in order to obtain and maintain this benefit. Police officers in Belleville rely upon the fact that they will not have to pay for health insurance when they retire, and plan the timing of their retirement based on the receipt of free retiree medical benefits. The police officers in Belleville negotiated and performed their duties in reliance upon the benefits set forth in these contracts.

108. Many of the local PBAs that are affiliates of the State PBA have similar provisions in collective negotiations agreements requiring the employer to provide fully paid health benefits for retirees.

109. Many law enforcement and professional fire agencies in New Jersey are not participants in the Social Security program. As a result, law enforcement officers and professional firefighters who retire from those agencies are not eligible to receive Social Security benefits that most other private sector employees and public sector employees will receive. To the extent that they have performed their duties and obligations under valid contracts, and have retired based upon having fulfilled their contractual obligations, the failure of the employer to abide by its contractual obligations will result in harm and damages that are substantial, which dramatically and adversely affect the life of the retiree and his/her family, and for which they have no other replacement source of income such as Social Security.

110. Plaintiff Gary Souss relied upon the contractual provision and promises contained in the Agreements between PBA Local 28 and Belleville that the Township would pay the cost of premiums for his health coverage when he became eligible to retire. Under the provisions of Chapter 78, however, Plaintiff Souss will no longer receive free health benefits when he retires because he fell six months short of the 20

years of credited service that the new law requires for eligibility for paid health insurance on retirement.

111. Similar provisions pertaining to post-retirement medical benefits are included in the collective negotiations agreements between public employers and the Plaintiff Unions and/or the affiliated locals of Plaintiff Unions. For example, in Union County, CWA Local 1080 agreed to forgo salary increases for two years to secure the right to employer-paid post-retirement medical benefits.

COUNT ONE

SUSPENSION OF COLAS FOR ACTIVE MEMBERS OF PERS, TPAF AND PFRS - IMPAIRMENT OF CONTRACTUAL RIGHTS UNDER THE UNITED STATES AND NEW JERSEY CONSTITUTIONS

112. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

113. Article I, Section 10 of the United State Constitution provides that "No state . . . shall . . . pass any . . . law impairing the obligation of contracts. . . ."

114. Article IV, Section 7, paragraph 3 of the New Jersey Constitution provides that the Legislature shall "not pass any law impairing the obligation of contracts or depriving

a party of any remedy for enforcing a contract which existed when the contract was made."

115. P.L. 1997, Chapter 113 created a non-forfeitable right to receive pension benefits and specifically provides that the benefits program, for any employee for whom the right has attached, cannot be reduced.

116. The COLA is part of the benefits program to which the participants are entitled when they acquire a non-forfeitable right to pension benefits.

117. In addition, the pension laws are a term and condition of employment, and represent deferred compensation, which constitute part of the offer of employment. Upon the employee's acceptance of employment and performance of work in reliance upon the pension, the employees have a contractual right to the pension benefits promised them, and in which they have vested. The COLA has been an integral part of the pension funds since 1959. The employees who have accepted employment and have performed their work, are therefore contractually entitled to their COLAs upon retirement.

118. The terms of the pension benefits programs under TPAF, PERS and PFRS are deferred compensation in which contributing

participants, vested participants and retirees have a contractual and property interest.

119. All contributing vested participants, and retirees of TPAF, PERS and PFRS, have a contractual entitlement to pension benefits at levels defined by statute before June 28, 2011.

120. The suspension without reimbursement of the statutory cost-of-living adjustments represents a substantial reduction in constitutionally protected retirement benefits, and is not a rational, reasonable or necessary means to serve an important public purpose.

121. Defendants' conduct impairs a contractual obligation in violation of Article I of the United States Constitution and in violation of Article IV, Section 7, paragraph 3 of the New Jersey Constitution, and constitutes a violation of 42 U.S.C. §1983.

COUNT TWO

SUSPENSION OF COLAS FOR ACTIVE MEMBERS OF PERS, TPAF AND PFRS - VIOLATION OF SUBSTANTIVE AND PROCEDURAL DUE PROCESS RIGHTS, AND A TAKING, UNDER THE UNITED STATES AND NEW JERSEY CONSTITUTIONS

122. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

123. The Fifth and Fourteenth Amendments of the United States Constitution provide that no person shall be deprived of life, liberty or property without due process of law. The Fifth Amendment is made applicable to the Defendants through the incorporation doctrine.

124. Article I, paragraph 1 of the New Jersey Constitution provides that all persons have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

125. The participants in the pensions funds have a property interest in the benefits program of the pension funds, pursuant to offer and performance, and vesting.

126. The suspension without reimbursement of the statutory cost-of-living adjustments was a substantial change in retirement benefits and was not rationally related to the purpose of the pension funds to provide benefits to beneficiaries and members.

127. The suspension without reimbursement of non-forfeitable rights, for which plaintiffs fully performed, without any

hearing constitutes a violation of procedural due process and an unconstitutional taking of property.

128. Defendants' conduct violates Plaintiffs' substantive and procedural due process rights under the Fifth and Fourteenth Amendments and under Article I, Paragraph 1 of the New Jersey Constitution, and constitutes a violation of 42 U.S.C. §1983.

COUNT THREE

SUSPENSION OF COLAS FOR ACTIVE MEMBERS OF PERS, TPAF AND PFRS UPON RETIREMENT - PROMISSORY ESTOPPEL

129. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

130. Defendants made a clear and definite promise of COLAs upon retirement; the promise was made with the expectation that Plaintiffs would rely upon it; Plaintiffs in fact reasonably relied on the promise; and Plaintiffs incurred a definite and substantial loss in reliance on the promise.

COUNT FOUR

SUSPENSION OF COLAS FOR RETIRED MEMBERS OF PERS, TPAF AND PFRS - IMPAIRMENT OF CONTRACTUAL RIGHTS UNDER THE UNITED STATES AND NEW JERSEY CONSTITUTIONS

131. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

132. The suspension of the statutory cost-of-living adjustments was a substantial change in retirement benefits and was not rational, reasonable and necessary to serve an important public purpose.

133. The right to the COLAs for retirees is a contractual right founded in the non-forfeitable right and as deferred compensation for the full performance of the offer and terms of employment.

134. Defendants' conduct impairs a contractual obligation in violation of Article I of the United States Constitution and in violation of Article IV, Section 7, Paragraph 3 of the New Jersey Constitution, and constitutes a violation of 42 U.S.C. §1983.

COUNT FIVE

SUSPENSION OF COLAS FOR RETIRED MEMBERS OF PERS, TPAF AND PFRS - VIOLATION OF SUBSTANTIVE AND PROCEDURAL DUE PROCESS RIGHTS, AND A TAKING, UNDER THE UNITED STATES AND NEW JERSEY CONSTITUTIONS

135. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

136. The retirees have a property right in their pensions, including the COLAs.

137. The suspension of the cost-of-living adjustments was not rationally related to the purpose of the pension funds to provide benefits to beneficiaries and members.

138. The deprivation of the individual Plaintiffs' rights was without any hearings, without any renegotiation of contracts, and without any due process.

139. Defendants' conduct violates the plaintiffs' substantive and procedural due process rights under the Fifth and Fourteenth Amendments of the United States Constitution and under Article I, paragraph 1 of the New Jersey Constitution, constitutes an unconstitutional taking, and constitutes a violation of 42 U.S.C. §1983.

COUNT SIX

**SUSPENSION OF COLAS FOR RETIRED MEMBERS - PROMISSORY
ESTOPPEL**

140. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

141. Defendants made a clear and definite promise of COLAs upon retirement; the promise was made with the expectation that Class Plaintiffs would rely upon it; Class Plaintiffs in fact reasonably relied on the promise; and Class Plaintiffs incurred a definite and substantial loss in reliance on the promise.

COUNT SEVEN

**INCREASE IN PENSION CONTRIBUTIONS FOR ACTIVE MEMBERS OF
PERS, TPAF and PFRS - IMPAIRMENT OF CONTRACTUAL RIGHTS
UNDER THE UNITED STATES AND NEW JERSEY CONSTITUTIONS**

142. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

143. An increase in the contribution rates by participants constitutes a reduction in benefits in that the participants are paying more of their own monies for the same or, in this case, lesser benefits. The terms of the pension benefits programs under TPAF, PERS and PFRS are deferred compensation in which contributing participants,

vested participants and retirees have contractual and property interests.

144. The levels of employee pension contributions are part of the benefits program to which employees are entitled when they acquire a non-forfeitable right to pension benefits.

145. The increases in employee contribution levels were not rational, reasonable and necessary to serve an important public purpose.

146. Defendants' conduct impairs a contractual obligation in violation of Article I of the United States Constitution and in violation of Article IV, Section 7, paragraph 3 of the New Jersey Constitution, and constitutes a violation of 42 U.S.C. §1983.

COUNT EIGHT

INCREASE IN PENSION CONTRIBUTIONS FOR ACTIVE MEMBERS OF PERS, TPAF and PFRS - VIOLATION OF SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE UNITED STATES AND NEW JERSEY CONSTITUTION

147. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

148. The changes to the employee contribution levels were substantial and were not rationally related to the purpose of the pension funds to provide benefits to beneficiaries and members.

149. Defendants' conduct violates Plaintiffs' substantive due process rights under the Fifth and Fourteenth Amendments of the United States Constitution and under Article I, paragraph 1 of the New Jersey Constitution, and constitutes a violation of 42 U.S.C. §1983.

COUNT NINE

**FAILURE OF STATE TO MAKE ANNUAL REQUIRED CONTRIBUTIONS -
IMPAIRMENT OF CONTRACTUAL RIGHTS OF ACTIVE MEMBERS UNDER
THE UNITED STATES AND NEW JERSEY CONSTITUTIONS**

150. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

151. As a result of continued underfunding pursuant to the Deferral Period, the pension systems are in jeopardy of becoming insolvent.

152. To offset the continued underfunding of the pension systems, the State suspended the payment of COLAs and

increased employee contributions, impairing non-forfeitable, contractual rights.

153. Defendants' failure to make Annual Required Contributions to PERS, TPAF and PFRS impairs the contractual rights of active members of those systems in violation of Article I of the United States Constitution and in violation of Article IV, Section 7, paragraph 3 of the New Jersey Constitution, and constitutes a violation of 42 U.S.C. §1983..

COUNT TEN

**FAILURE OF STATE TO MAKE ANNUAL REQUIRED CONTRIBUTIONS -
VIOLATES THE SUBSTANTIVE DUE PROCESS RIGHTS OF ACTIVE
MEMBERS UNDER THE UNITED STATES AND NEW JERSEY
CONSTITUTIONS**

154. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

155. Defendants' failure to make Annual Required Contributions to PERS, TPAF and PFRS violates the substantive due process rights of active members of those systems under the Fifth and Fourteenth Amendments of the United States Constitution and under Article I, paragraph 1 of the New Jersey

Constitution, and constitutes a violation of 42 U.S.C. §1983.

COUNT ELEVEN

**FAILURE OF STATE TO MAKE ANNUAL REQUIRED CONTRIBUTIONS -
IMPAIRMENT OF CONTRACTUAL RIGHTS OF RETIREES UNDER THE
UNITED STATES AND NEW JERSEY CONSTITUTIONS**

156. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

157. Defendants' failure to make Annual Required Contributions to PERS, TPAF and PFRS impairs the contractual rights of Class Plaintiffs in violation of Article I of the United States Constitution and in violation of Article IV, Section 7, paragraph 3 of the New Jersey Constitution, and constitutes a violation of 42 U.S.C. §1983.

COUNT TWELVE

**FAILURE OF STATE TO MAKE ANNUAL REQUIRED CONTRIBUTIONS -
IMPAIRMENT OF SUBSTANTIVE DUE PROCESS RIGHTS OF RETIREES
UNDER THE UNITED STATES AND NEW JERSEY CONSTITUTIONS**

158. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

159. Defendants' failure to make Annual Required Contributions to PERS, TPAF and PFRS violates Class Plaintiffs' substantive due process rights under the Fifth and Fourteenth Amendments of the United States Constitution and under Article I, paragraph 1 of the New Jersey Constitution, and constitutes a violation of 42 U.S.C. §1983.

COUNT THIRTEEN

**IMPROPER DELEGATION OF AUTHORITY TO PENSION COMMITTEES TO
CHANGE BENEFIT LEVELS AND ELIGIBILITY REQUIREMENTS -
IMPAIRMENT OF CONTRACTUAL RIGHTS UNDER THE UNITED STATES
AND NEW JERSEY CONSTITUTIONS**

160. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

161. Defendants' delegation of authority to the pension committees in each of the pension systems without adequate standards for the reduction, elimination or modification of benefits or eligibility requirements impairs the contractual rights of members of those systems to non-forfeitable benefits in violation of Article I of the United States Constitution and in violation of Article IV, Section 7, paragraph 3 of the New Jersey Constitution, and constitutes a violation of 42 U.S.C. §1983.

COUNT FOURTEEN

**INCREASE IN CONTRIBUTIONS OF SCHOOL EMPLOYEES WITH FEWER
THAN 20 YEARS OF SERVICE FOR MEDICAL BENEFITS IN RETIREMENT
- IMPAIRMENT OF CONTRACTUAL RIGHTS UNDER THE UNITED STATES
AND NEW JERSEY CONSTITUTIONS**

162. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

163. The elimination of health insurance coverage free of any "premium sharing or periodic charges" was a substantial change in retirement benefits and was not reasonable and necessary to serve an important public purpose.

164. Defendants have failed to provide the affected and aggrieved employees with any offsetting or compensating benefit and have violated the contractual rights granted by the Legislature to public school employees under the legislative scheme in Chapter 103.

165. Chapter 78, Section 40, violates the Contract Clauses of both the United States and New Jersey Constitutions because it impairs the earned and vested statutorily created contract right of employees to health insurance coverage free of any "premium sharing or periodic charges" upon

meeting the eligibility requirement prior to retirement, and constitutes a violation of 42 U.S.C. §1983.

COUNT FIFTEEN

INCREASE IN CONTRIBUTIONS OF SCHOOL EMPLOYEES WITH FEWER THAN 20 YEARS OF SERVICE FOR MEDICAL BENEFITS IN RETIREMENT - VIOLATION SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE UNITED STATES AND NEW JERSEY CONSTITUTIONS

166. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

167. Defendants have stripped public school employees who have vested in their pension rights under Chapter 103 (Section 46.9(d)), but have less than 20 years, of an earned and vested statutory and/or contractual promise of health insurance coverage in retirement free of any "premium sharing or periodic charges."

168. Defendants' conduct violates Plaintiffs' substantive due process rights under the Fifth and Fourteenth Amendments of the United States Constitution and under Article I, Paragraph 1 of the New Jersey Constitution, and constitutes a violation of 42 U.S.C. §1983.

COUNT SIXTEEN

**INCREASE IN CONTRIBUTIONS OF NON-SCHOOL EMPLOYEES WITH
FEWER THAN 20 YEARS OF SERVICE FOR MEDICAL BENEFITS IN
RETIREMENT - IMPAIRMENT OF CONTRACTUAL RIGHTS UNDER THE
UNITED STATES AND NEW JERSEY CONSTITUTIONS**

169. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

170. Under the law applicable to collective negotiations in New Jersey, specifically, Art. 1, ¶19 of the New Jersey Constitution, the New Jersey Employer Employee Relations Act, N.J.S.A. 34:13A-1 et seq., and the New Jersey Police and Fire Public Interest Arbitration Reform Act, N.J.S.A. 34:13A-14 et seq., the terms and conditions of employment in collective negotiations agreements and the benefits promised therein, are enforceable bilateral contracts whose benefits cannot be reduced or diminished.

171. Terms and conditions of employment, negotiated by employers and certified majority representatives, particularly payment of health benefits on retirement, are promises made by employers to their employees with the imprimatur of State law and are relied upon by current and past employees. Provisions that promise payment of health benefits on retirement are a form of deferred compensation for past service by the employee to the employer. All of

these provisions establish, create and constitute a legally enforceable contract.

172. Defendants' actions in invalidating the negotiated right to health benefits on retirement, contained in negotiated agreements between employers and the bargaining representatives of their employees, and without any opportunity to renegotiate, violates the promises made to, and the contractual and property rights of, active public employees with less than 20 years of credited service in violation of Article I, Section 10 of the Constitution of the United States and Article IV, Section 7 of the New Jersey Constitution.

COUNT SEVENTEEN

INCREASE IN CONTRIBUTIONS OF NON-SCHOOL EMPLOYEES WITH FEWER THAN 20 YEARS OF SERVICE FOR MEDICAL BENEFITS IN RETIREMENT - IMPAIRMENT OF SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE UNITED STATES AND NEW JERSEY CONSTITUTIONS

173. Plaintiffs repeat the allegations of the previous paragraphs of the Complaint as if set forth at length herein.

174. Defendants' actions in invalidating the negotiated right to health benefits on retirement, contained in negotiated agreements between employers and the bargaining

representatives of their employees, violates Plaintiffs' substantive due process rights under the Fifth and Fourteenth Amendments of the United States Constitution and under Article I, paragraph 1 of the New Jersey Constitution, and constitutes a violation of 42 U.S.C. §1983.

WHEREFORE, Plaintiffs request that Judgment be rendered, and an Order entered:

1. Declaring that Sections 1, 3, 4, 8, 10, 15, 25, 39, 40, 41, 42, 43, 44, 77, 78 and 79 of P.L. 2011, Chapter 78, enacted on June 28, 2011, violate Article I, Section 10 of the United States Constitution.
2. Declaring that Sections 8, 10, 15, 25, 39, 40, 41, 42, 43, 44, 77, 78 and 79 of P.L. 2011, Chapter 78, enacted on June 28, 2011, violate the Fifth and Fourteenth Amendments to the United States Constitution.
3. Declaring that Sections 1, 3, 4, 8, 10, 15, 25, 39, 40, 41, 42, 43, 44, 77, 78 and 79 of P.L. 2011, Chapter 78, enacted on June 28, 2011, violate Article IV, Section 7, Paragraph 3 of the New Jersey Constitution.
4. Declaring that Sections 8, 10, 15, 25, 39, 40, 41, 42, 43, 44, 77, 78 and 79 of P.L. 2011, Chapter 78, enacted

on June 28, 2011, violate Article I, Paragraph 1 of the New Jersey Constitution.

5. Permanently enjoining Defendants from administering, enforcing or otherwise implementing the foregoing provisions of Chapter 78.
6. Directing Defendants to commence immediately the full funding of TPAF, PERS and PFRS.
7. Directing Defendants to make Class Plaintiffs whole for any monetary damages they have suffered as a result of the unlawful suspension of COLAs.
8. Directing Defendants to pay Plaintiffs' attorneys fees, disbursements and costs pursuant to 42 U.S.C. §1988 or other legal basis.
9. Granting such other relief as the Court deems just and proper.

Dated: August 31, 2011

Respectfully submitted:

On behalf of:

New Jersey Education Association
New Jersey Retirees' Education Association
New Jersey State Policemen's Benevolent
Association, Inc.
American, Federation of State,

County and Municipal Employees,
Council 1, AFL-CIO
Belleville PBA Local 28
George O'Brien
Rosemarie Jankowski
Iris J. Elliott
William A. Parker
Anthony Wieners
Gary Souss
Marian Lezgus
Melanie Hafdelin

Zazzali, Fagella, Nowak,
Kleinbaum & Friedman

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Kenneth I. Nowak, Esq.

By: s/ Richard A. Friedman
Richard A. Friedman, Esq.

By: s/ Paul L. Kleinbaum
Paul L. Kleinbaum, Esq.

By: s/ Robert A. Fagella
Robert A. Fagella, Esq.

By: s/ Sidney H. Lehmann
Sidney H. Lehmann, Esq.

On behalf of:

Communications Workers of America,
AFL-CIO
American Federation of State, County and
Municipal Employees, Council 73
International Federation of Professional and
Technical Engineers, AFL-CIO & CLC, Local
194
International Federation of Professional and
Technical Engineers, AFL-CIO & CLC, Local
200
Peter Burkhalter
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Steven P. Weissman, Esq.

By: s/ Ira W. Mintz
Ira W. Mintz, Esq.

By: s/ Annmarie Pinarski
Annmarie Pinarski, Esq.

On behalf of:
New Jersey Fraternal Order of Police

Markowitz and Richman

By: s/ Matthew D. Areman
Matthew D. Areman, Esq.

On behalf of:
New Jersey State Firefighters'
Mutual Benevolent Association of
New Jersey
Probation Association of New Jersey
Newark Firefighters Union
Morris Council Nos. 6 and 6A,
NJCSA, IFPTE, AFL-CIO
Thomas Tevlin
Robert Brower
Brad Fairchild
Dwight Covalleski
William Lavin
Charles West

Fox and Fox LLP

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David I. Fox, Esq.

By: s/ Craig S. Gumpel
Craig S. Gumpel, Esq.

On behalf of:
Professional Firefighters Association of New
Jersey
American Federation of Teachers New Jersey
Federation, AFL-CIO
International Brotherhood of Teamsters
Local 97

Dominick Marino
John J. Gerow

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By: s/ Kevin P. McGovern
Kevin P. McGovern, Esq.

On behalf of:

International Federation of Professional and
Technical Engineers, AFL-CIO & CLC, Local
195

Oxford Cohen PC

By: s/ Arnold Shep Cohen
Arnold Shep Cohen, Esq.

On behalf of:

Jersey City Police Officers Benevolent
Association

Detsky & Hunter, LLC

By: s/ Stephen B. Hunter
Stephen B. Hunter, Esq.

On behalf of:

Camden County Council #10

Spear Wilderman, P.C.

By: s/ James Katz
James Katz, Esq.

On behalf of:

New Jersey Association of School
Administrators
Kenneth D. King
Steven Engravalle

Maria M. Lepore, Chief Counsel
New Jersey Association of School
Administrators

By: s/ Maria M. Lepore
Maria M. Lepore, Esq.

On behalf of:
New Jersey Principals and Supervisors
Association
Janet S. Zynroz
Alfred Cresci

By: s/ Robert Schwartz
Robert Schwartz, Esq.

On behalf of:
New Jersey Association of School Business
Officials
Frank Elmer Hicks
Cindy Barr-Raque

Medina Law Group, LLC

By: s/ Victor J. Medina
Victor J. Medina, Esq.