

No. _____

**IN THE SUPREME COURT
OF THE STATE OF ILLINOIS**

JOHN J. CULLERTON, individually and in his official capacity as President of the Illinois Senate, and MICHAEL J. MADIGAN, individually and in his official capacity as Speaker of the Illinois House of Representatives,

Plaintiffs-Appellees,

v.

PAT QUINN, Governor of the State of Illinois, in his official capacity,

Defendant-Appellant,

-and-

JUDY BAAR TOPINKA, Comptroller of the State of Illinois, in her official capacity,

Defendant.

Currently pending in the Appellate Court of Illinois, First District No. 13-3029

There on Appeal from the Circuit Court of Cook County, Illinois, County Department, Chancery Division, No. 13 CH 17921, Hon. Neil H. Cohen, Judge Presiding

***** Electronically Filed *****

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10/02/2013

Supreme Court Clerk

MOTION BY GOVERNOR PAT QUINN FOR DIRECT APPEAL

Defendant-Appellant, Governor Pat Quinn, hereby moves, pursuant to Supreme Court Rule 302(b), for entry of an order directing that the pending appeal in this matter be transferred directly to the Supreme Court. This case arises out of Governor Quinn's line-item veto of appropriations for salaries of members of the General Assembly. The public interest requires an expeditious and conclusive determination by this Court of the important issues in this case regarding: (1) the ripeness of this proceeding for judicial determination in light of the fact that the plaintiffs and their colleagues in the General Assembly have not attempted to override the

veto; and (2) should this case be or become ripe, whether the veto comported with the provision in article IV, section 11 of the Illinois Constitution prohibiting mid-term changes in the salaries of members of the General Assembly.

In support of his motion for direct appeal, Governor Quinn states as follows:

Nature and History of This Litigation

1. Plaintiffs-Appellees, John J. Cullerton and Michael J. Madigan, are the President of the Illinois Senate and the Speaker of the Illinois House of Representatives, respectively. On July 20, 2013, they commenced this action seeking declaratory and injunctive relief against Governor Quinn and Comptroller Judy Baar Topinka regarding the effect and constitutionality of Governor Quinn's line-item veto of appropriations for legislators' salaries contained in House Bill 214.

2. Count I of the plaintiffs' two-count complaint alleged that the Governor's line-item veto did not have the effect of eliminating the appropriations for the legislators' salaries because the Governor vetoed the line-item appropriations without also vetoing the totals in the appropriations bill. Count II alleged that the Governor's veto violated the provision in article IV, section 11 of the Illinois Constitution which provides that "changes in the salary of a member [of the General Assembly] shall not take effect during the term for which he has been elected."

3. The plaintiffs and Governor Quinn filed cross-motions for summary judgment on August 16, 2013, and August 30, 2013, respectively.

4. On September 26, 2013, the circuit court, the Honorable Neil H. Cohen presiding, entered an order: (a) granting Governor Quinn's motion for summary judgment on Count I of the complaint and denying the plaintiffs' motion for summary judgment on Count I; and (b) granting the plaintiffs' motion for summary judgment on Count II of the complaint and

denying Governor Quinn's motion for summary judgment on Count II. A copy of the circuit court's memorandum opinion and order is included as Appendix A in the Supporting Record accompanying this motion.

5. Governor Quinn immediately filed a notice of appeal to the Appellate Court for the First District. A copy of the notice of appeal is included as Appendix B in the Supporting Record.

6. Governor Quinn now seeks direct review by this Court pursuant to Supreme Court Rule 302(b). That Rule implements article VI, section 4(b) of the Constitution, which requires direct review from judgments imposing the death penalty and states that "[t]he Supreme Court shall provide by rule for direct appeal in other cases." Rule 302(b) authorizes a direct appeal "in a case in which the public interest requires prompt adjudication by the Supreme Court" The following discussion explains why this is such a case.

Grounds for a Direct Appeal to This Court

7. This lawsuit features a struggle between the legislative and executive branches of our State government. The threshold question is at what point in such a struggle may one of the political branches call upon the judicial branch to decide the outcome. Ordinarily, when a veto rankles the General Assembly, the appropriate and constitutionally sanctioned response is to seek to override it. Here, the plaintiffs are asking the courts to intercede in this controversy before the General Assembly has decided whether to try to override the veto and, therefore, before it has become apparent whether the legislative and executive branches will reach an impasse. This raises an important ripeness issue for which prompt adjudication by this Court will serve the public interest.

8. The circuit court’s ruling on the constitutional claim asserted in Count II of the complaint would likewise present important issues warranting direct review if this Court were to conclude that it is necessary or appropriate to reach the merits of plaintiffs’ lawsuit. The circuit court held that the Governor’s authority, under article IV, section 9(d) of the Constitution, to “veto any item of appropriations” was trumped by the provision in article IV, section 11 prohibiting mid-term changes in legislators’ salaries. The court based its ruling on the conclusion that article IV, section 11 prohibits mid-term decreases, as well as increases, in legislators’ salaries. That interpretation conflicts with—and fails to address—prior decisions of this Court, relevant constitutional history, and the plaintiffs’ own actions and pronouncements bearing on the meaning of article IV, section 11. By relying solely on a dictionary definition of the word “changes,” the circuit court failed to consider:

- a. Decisions by this Court recognizing that gubernatorial vetoes could lawfully apply to appropriations for legislators’ salaries. *See Quinn v. Donnewald*, 107 Ill. 2d 179, 191, 483 N.E.2d 216, 222 (1985) (appropriations of legislative salaries established pursuant to the Compensation Review Act were subject to the Governor’s veto power over appropriations contained in article IV, section 9(d) of the Constitution); *People ex rel. Millner v. Russel*, 311 Ill. 96, 99-100, 142 N.E. 537, 538 (1924) (line-item veto power applies to appropriations for the salaries of legislators and other state officers).
- b. Statements by delegates at the 1970 Constitutional Convention, including the delegate who led the consideration at the Convention of what became article IV, section 11, explaining that that provision applied to mid-term

increases in legislators' salaries. *See, e.g.*, Sixth Illinois Constitutional Convention, Record of Proceedings (July 15, 1970), p. 2705 (article IV, section 11 was intended to provide "protection against danger that . . . legislators . . . might run wild with their own salaries").

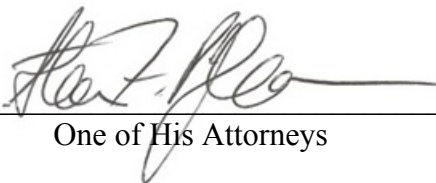
- c. Repeated actions by the General Assembly evincing its understanding that article IV, section 11 only prohibits mid-term increases in their salaries. There have been at least seven instances—the last one coming just 16 days before this lawsuit was filed—in which the General Assembly has passed laws decreasing legislators' salaries. *See* P.A. 92-607; P.A. 96-45; P.A. 96-800; P.A. 96-958; P.A. 97-71; P.A. 97-718; and P.A. 98-30. These laws, several of which were sponsored by the plaintiffs, would be unconstitutional under the interpretation of article IV, section 11 espoused by the plaintiffs in this lawsuit.
- d. The fact that article IV, section 11 does not prohibit all "changes" to legislators' salaries, but merely those that "take effect during the term for which [the legislators have] been elected." Placing "changes" in context is crucial, because the absence of any reason to prevent members of the General Assembly from immediately decreasing their own salaries underscores that this provision was only intended to prevent mid-term increases.

WHEREFORE, in light of the important ripeness and constitutional issues in this case warranting prompt adjudication by this Court, Governor Quinn respectfully requests entry of an order allowing his motion for direct appeal.

Dated: October 2, 2013

Respectfully submitted,

GOVERNOR PAT QUINN

By: 
One of His Attorneys

Steven F. Pflaum
Stephen Fedo
Eric Y. Choi
Andrew G. May
Alex Hartzler
Special Assistant Attorneys General
NEAL, GERBER & EISENBERG LLP
Two North La Salle Street
Suite 1700
Chicago, IL 60602-3801
(312) 269-8000
spflaum@ngelaw.com
sfedo@ngelaw.com
echoi@ngelaw.com
amay@ngelaw.com
ahartzler@ngelaw.com