

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

FRANK CLARK, President and Chairman of the
Board of the Business Leadership Council; the
BUSINESS LEADERSHIP COUNCIL, KAREN
RILEY, its Executive Director, and its members,
LEON FINNEY, ELZIE HIGGINBOTTOM,
and JOHN HOOKER; the CHINATOWN
CHAMBER of COMMERCE, and its President,
RAYMOND CHIN; the LITTLE VILLAGE
CHAMBER OF COMMERCE, and its
President, JULIO RODRIGUEZ, and its
Executive Director, JAIME DI PAULO;
FERNANDO GRILLO; JORGE PEREZ;
CRAIG CHICO; DONALD R. JACKSON;
ERNESTINE JACKSON; HELEN KING;
JACKIE PETTY; and ANTHONY MARTINEZ,

Plaintiffs,

v.

ILLINOIS STATE BOARD OF ELECTIONS,
JESSE R. SMART, Chairman, CHARLES W.
SCHOLZ, Vice-Chairman, HAROLD BYERS,
BETTY J. COFFRIN, ERNEST L. GOWEN,
WILLIAM M. McGUFFAGE, BRYAN A.
SCHNEIDER, and CASSANDRA B.
WATSON, members, in their official capacity;
JUDY BAAR TOPINKA, State Comptroller, in
her official capacity; DAN RUTHERFORD,
State Treasurer, in his official capacity; JESSE
WHITE, Secretary of State, in his official
capacity; DAVID D. ORR, County Clerk of
Cook County in his official capacity; BOARD
OF ELECTION COMMISSIONERS FOR THE
CITY OF CHICAGO, LANGDON D. NEAL,
Chairman, RICHARD A. COWEN and
MARISOL HERNANDEZ, Commissioners, in
their official capacity,

Defendants.

Case No.

**COMPLAINT TO ENJOIN DISBURSEMENTS OF PUBLIC FUNDS
OF THE STATE AND FOR DECLARATORY RELIEF**

Plaintiffs, FRANK CLARK, President and Chairman of the Board of the BUSINESS LEADERSHIP COUNCIL, the BUSINESS LEADERSHIP COUNCIL, a not-for-profit voluntary organization, its Executive Director, KAREN RILEY, and its members DR. LEON FINNEY, ELZIE HIGGINBOTTOM, AND JOHN HOOKER; CHINATOWN CHAMBER OF COMMERCE, a not-for profit voluntary association, RAYMOND CHIN, its President; LITTLE VILLAGE CHAMBER OF COMMERCE, a not-for-profit association, JULIO RODRIGUEZ, its President, JAIME DI PAULO, its Executive Director; FERNANDO GRILLO, Chairman of ASPIRA Illinois; JORGE PEREZ, Executive Director of the Hispanic American Construction Industry Association; CRAIG CHICO, Executive Director of the Back of the Yards Neighborhood Council; DONALD R. JACKSON, President of the Peoria Branch NAACP; ERNESTINE JACKSON, HELEN KING, and JACKIE PETTY, members of the Peoria Branch NAACP; and ANTHONY MARTINEZ, Executive Director of the Civil Rights Agenda, all citizens and taxpayers of the State of Illinois, by their attorneys, Michael J. Kasper, Michael Leyden, Richard J. Prendergast, and Heather Wier Vaught, complain of the Defendants, ILLINOIS STATE BOARD OF ELECTIONS, JESSE R. SMART, Chairman, CHARLES W. SCHOLZ, Vice-Chairman, and its members, HAROLD BYERS, BETTY J. COFFRIN, ERNEST L. GOWEN, WILLIAM M. McGUFFAGE, BRYAN A. SCHNEIDER, and CASSANDRA B. WATSON; JUDY BAAR TOPINKA, as State Comptroller; DAN RUTHERFORD, as State Treasurer; JESSE WHITE, as Secretary of State; DAVID D. ORR, as County Clerk of Cook County; BOARD OF ELECTIONS COMMISSIONERS FOR THE CITY OF CHICAGO, LANGDON D. NEAL, Chairman, and Commissioners RICHARD A. COWEN and MARISOL HERNANDEZ, as follows:

INTRODUCTION

1. This Complaint is brought to enjoin the wrongful disbursement of public monies and for a declaratory judgment. This taxpayer action seeks to restrain the expenditure of public funds to consider the propriety of two petitions proposing multiple amendments to the Legislative Article of the Illinois Constitution which should be enjoined because each of these proposed petitions fails to comply with the constitutional requirements of Section 3 of Article XIV of the Illinois Constitution for such amendments. One of the petitions (the “Term Limits Initiative”) proposes amendments that are invalid for several reasons, most obvious that it imposes term limits on members of the Illinois General Assembly, which the Illinois Supreme Court already held to be an improper subject for amendments to Article IV. The other petition (the “Redistricting Initiative”) is likewise invalid for several reasons, including that it contains not a single structural or procedural change to Article IV, and in fact reaches far beyond Article IV to impose new eligibility requirements on all legislative, executive, and judicial branch officeholders.

2. Article XIV, Section 3 of the Illinois Constitution of 1970 provides a method and the conditions for proposing an initiative petition to amend to the Legislative Article of the Constitution. It expressly and narrowly limits amendments to the Constitution by initiative:

Amendments to Article IV of this Constitution may be proposed by a petition signed by a number of electors equal in number to at least eight percent of the total votes cast for candidates for Governor in the preceding gubernatorial election. *Amendments shall be limited to structural and procedural subjects contained in Article IV.* A petition shall contain the text of the proposed amendment and the date of the general election at which the proposed amendment is to be submitted, shall have been signed by the petitioning electors not more than twenty-four months preceding that general election and shall be filed with the Secretary of State at least six months before that general election. The procedure for determining the validity and sufficiency of a petition

shall be provided by law. If the petition is valid and sufficient, the proposed amendment shall be submitted to the electors at that general election and shall become effective if approved by either three-fifths of those voting on the amendment or a majority of those voting in the elections.

Ill.Const.1970, art. XIV, § 3. (emphasis added). Because the public initiatives challenged in this Complaint fail to comply with Article XIV, § 3, they are invalid, and any public monies expended to consider their validity and to certify them for placemen of the ballot should be enjoined.

3. Two separate electors' petitions (collectively referred to as the "Initiatives"), purporting to be submitted pursuant to Section 3 of Article XIV of the Illinois Constitution have been (or shortly will be) filed with the SECRETARY OF STATE and delivered to the ILLINOIS STATE BOARD OF ELECTIONS. Each petition proposes that constitutional amendments be submitted for the approval or rejection by the voters of the State of Illinois at the General Election to be held on November 4, 2014. Plaintiffs bring this action because both petitions are unconstitutional under Article XIV, Section 3 of the Illinois Constitution.

JURISDICTION AND VENUE

4. Jurisdiction is proper pursuant to Section 2-701 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-701, because an actual controversy exists between Plaintiffs and Defendants involving the construction of the Illinois Constitution of 1970. Jurisdiction is proper pursuant to Section 11-303 of the Illinois Code of Civil Procedure, 735 ILCS 5/11-303, because all Plaintiffs are private citizens and taxpayers seeking to enjoin the disbursement of public funds by officers of the State.

5. Venue is proper pursuant to Section 2-101 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-101, because some or all of the transactions giving rise to this lawsuit took place in Cook County and because each Defendant maintains a governmental office in Cook County.

THE PARTIES

6. Plaintiff, the BUSINESS LEADERSHIP COUNCIL, a not-for-profit organization composed of African American business people with the goal of improving the quality of life in the African American community, is vitally interested in the laws of the State of Illinois and has an interest in ensuring that amendments to the Illinois Constitution are made in a constitutional manner as provided under the Constitution. Plaintiffs FRANK CLARK, the President and Chairman of the Board, KAREN RILEY, the Executive Director, and DR. LEON FINNEY, ELZIE HIGGINBOTTOM, AND JOHN HOOKER, members of the BUSINESS LEADERSHIP COUNCIL, are now and have been at all times pertinent to the allegations contained in this Complaint, citizens, residents, and taxpayers of the State of Illinois.

7. Plaintiff, the CHINATOWN CHAMBER OF COMMERCE, a not-for-profit organization with the goal of improving and expanding business opportunities to education on the history, culture, and customs of the Chinese American community, is vitally interested in the laws of the State of Illinois and has an interest in ensuring that amendments to the Illinois Constitution are made in a constitutional manner as provided under the Constitution. Plaintiff RAYMOND CHIN is the President of the Chinatown Chamber of Commerce. Plaintiff RAYMOND CHIN is now and has been at all times pertinent to the allegations contained in this complaint, a citizen, resident, and taxpayer of the State of Illinois.

8. Plaintiff, the LITTLE VILLAGE CHAMBER OF COMMERCE, a not-for-profit organization whose mission is to promote growth and success of businesses and the unique

cultural identity of Little Village, is a not-for-profit association vitally interested in the laws of the State of Illinois and has an interest in ensuring that amendments to the Illinois Constitution are made in a constitutional manner as provided under the Constitution. Plaintiff JULIO RODRIGUEZ is the President of the Little Village Chamber of Commerce. Plaintiff JAIME DI PAULO is the Executive Director of the Little Village Chamber of Commerce. Plaintiffs RODRIGUEZ and DI PAULO are now and have been at all times pertinent to the allegations contained in this Complaint, citizens, residents, and taxpayers of the State of Illinois.

9. Plaintiff FERNANDO GRILLO is the Chairman of ASPIRA Illinois, a Puerto Rican not-for-profit organization committed to the self-determination of Latinos and other underserved youth through education, leadership development and cultural awareness. Plaintiff FERNANDO GRILLO is now and has been at all times pertinent to the allegations contained in this complaint, a citizen, resident, and taxpayer of the State of Illinois.

10. Plaintiff JORGE PEREZ is the Executive Director of the Hispanic American Construction Industry Association (“HACIA”), a not-for-profit organization that works to ensure the equitable participation of its constituents in the construction industry. Plaintiff JORGE PEREZ is now and has been at all times pertinent to the allegations contained in this complaint, a citizen, resident, and taxpayer of the State of Illinois.

11. Plaintiff CRAIG CHICO is the Executive Director of the Back of the Yards Neighborhood Association, a community organization whose mission is to enhance the general welfare of all residents, organizations, and businesses in its area. Plaintiff CRAIG CHICO is now and has been at all times pertinent to the allegations contained in this complaint, a citizen, resident, and taxpayer of the State of Illinois.

12. Plaintiff DONALD R. JACKSON is the President of the Peoria Branch of the National Association for the Advancement of Colored People (“NAACP”), whose mission is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination. Plaintiffs ERNESTINE JACKSON, HELEN KING, and JACKIE PETTY are members of the Peoria Branch NAACP. Plaintiffs JACKSON, JACKSON, KING, and PETTY have been at all times pertinent to the allegations contained in this complaint, citizens, residents, and taxpayers of the State of Illinois.

13. Defendant, ILLINOIS STATE BOARD OF ELECTIONS, is responsible, pursuant to Section 10 ILCS 5/1A-8 (10), for determining the validity and sufficiency of the petitions and signatures attached to the two petitions. Plaintiffs are informed and believe that in order to determine the validity and sufficiency of the petitions, the ILLINOIS STATE BOARD OF ELECTIONS has already expended tens of thousands of taxpayer dollars and will continue to expend to expend tens of thousands of additional taxpayer dollars over the next several months to establish: (a) the authenticity of signatures on the petition; (b) whether there is any duplication of signatures; (c) whether the signatories to the petition are validly registered voters; and (d) whether the signatures were secured in the manner required by law.

14. The ILLINOIS STATE BOARD OF ELECTIONS, also has the duty of preparing and certifying the form of ballot for any proposed amendment to the Constitution of the State of Illinois, and such certification must occur no later than 74 days prior to the November 4, 2014 election. 10 ILCS 5/1a-8 (5); 10 ILCS 5/28-5.

15. JUDY BAAR TOPINKA, the State Comptroller, pursuant to 15 ILCS 405/10.01, upon ascertaining the amount due any person from the treasury of the State, has the duty to draw

her warrant on the treasury and to direct DAN RUTHERFORD, the State Treasurer, to pay the sum due.

16. Further, upon certification by the ILLINOIS STATE BOARD OF ELECTIONS, DAVID D. ORR, the County Clerk of Cook County, and the BOARD OF ELECTION COMMISSIONERS FOR THE CITY OF CHICAGO, will be under a duty to print ballots containing the proposed amendments and furnish them to election judges, to cause ballot boxes to be located in each precinct within their respective jurisdictions to hire personnel to aid in the performance of their statutory duty of conducting an election concerning the two referenda, and to canvass the results of such referenda. In accordance with 10 ILCS 5/16-6 and as requested on the signed petitions, each proposal to amend the Constitution must be printed or submitted on a separate ballot of a “distinctly blue color.”

17. Plaintiffs are informed and believe that the cost of performing these duties will be at least tens of thousands of dollars within the election jurisdiction of the BOARD OF ELECTION COMMISSIONERS FOR THE CITY OF CHICAGO and at least the same amount within the part of Cook County outside the City of Chicago that is within the election jurisdiction of DAVID ORR, the County Clerk of Cook County.

18. Additionally, JESSE WHITE, Secretary of State, pursuant to 5 ILCS 20/2, is responsible for publishing a notice of the proposed amendments in various newspapers throughout the State, and for preparing and sending to all mailing addresses in the State a pamphlet containing both the current and proposed constitutional provisions, an explanation of the proposals and arguments for and against each of the two initiatives.

19. The plaintiffs are informed and believe that JESSE WHITE, Secretary of State, will expend millions of taxpayer dollars in furtherance of these duties and obligations.

**COUNT 1: The Term Limits Initiative Fails to Comply
With the Requirements of Article XIV, Section 3**

20. For several independent reasons, the Term Limits Initiative violates Article XIV, Section 3 of the Constitution. First, the Term Limits Initiative imposes term limits on state legislators, which the Illinois Supreme Court has already held to be an improper subject for amendments to Article IV. Second, it amends provisions of the Illinois Constitution beyond Article IV, including provisions in Article I and Article 3. Third, it heightens the requirement for veto overrides, which is neither a structural nor procedural change to the legislature, but rather is an impermissible restriction of the General Assembly's legislative power and an enhancement of the Governor's power. For all of these reasons, or any one of them independently, the Term Limits Initiative violates the Illinois Constitution.

21. First, the Term Limits Initiative proposes a limitation on the number of years a member may serve in the General Assembly. In particular, the Term Limits Initiative would provide that, beginning with the next General Assembly, a member becomes ineligible to serve in the General Assembly after completing eight years of prior service. If a member is appointed to fill an unexpired term, the voters will be unable to elect the person to serve a total of eight years. The Term Limits Initiative also proposes to amend the Constitution to increase the number of Representative districts from 118 to 123 and reduce the number of Legislative districts from 59 to 41. Beginning in 2023, the Term Limits Initiative would also change the length of Senators' elective terms in office from the current staggered four year and two year system to make all terms four years. The Term Limits Initiative would also increase the vote threshold necessary for the General Assembly to override a Governor's veto from the current requirement of 3/5 of those elected in both houses to 2/3 of those elected. The full text of the Term Limits Initiative is attached hereto as Exhibit A.

22. In *Chicago Bar Association v. State Board of Elections*, 161 Ill.2d 502, 509, 641 N.E.2d 525, 529 (1994), the Illinois Supreme Court ruled that a proposal to impose term limits on members of the General Assembly “does not meet the ‘structural and procedural’ requirement of article XIV, section 3. The eligibility or qualifications of an individual legislator does not involve the structure of the legislature *as an institution*. ... Likewise, the eligibility or qualifications of an individual legislator does not involve any of the General Assembly’s procedure. The *process* by which the General Assembly adopts a law would remain unchanged.” The Supreme Court further stated “...even if the word ‘and’ in the ‘structural and procedural’ requirement meant ‘or,’ the result in this case would not change. As we explained, the proposed amendment does not meet *either* the structural or the procedural requirement of Article XIV, Section 3.” (emphasis in original).

23. By limiting the number of years a legislator may serve in office, the Term Limits Initiative proposes to add an additional qualification (i.e. non-incumbency) for eligibility for the offices of Senator and Representative in the General Assembly. The eligibility criteria for office are neither structural nor procedural subjects of Article IV. As a result, this Term Limits Initiative fails to meet the “structural and procedural” requirement of article XIV, section 3.

24. The Term Limits Initiative also violates Section 3 of Article XIV of the Illinois Constitution because it is not “limited to” structural and procedural subjects of Article IV of the Illinois Constitution. The proposed amendments contained in the Term Limits Initiative go far beyond the structure of the Illinois General Assembly and the processes legislators follow in enacting laws. Today, in order to be eligible to serve as a member in the General Assembly, a person must meet the three eligibility qualifications set forth in Article IV, Section 2(c) of the Constitution: (a) citizenship; (b) 21 years of age; and (c) residency in the appropriate district for

two years preceding election. Ill.Const.1970, art. IV, § 2(c). The eligibility criteria imposed on members of the General Assembly is neither a structural nor procedural subject of Article IV.

25. By proposing to limit the number of years a legislator may serve in office, the Term Limits Initiative proposes to add an additional qualification (i.e. non-incumbency) for eligibility for the offices of Senator and Representative in the General Assembly to those provided in Article IV, Section 2(c). As a result, the Term Limits Initiative contains a subject that is neither structural nor procedural, and is also not "limited to" the structural and procedural subjects of Article IV, in violation of Section 3 of Article XIV. *See Chicago Bar Association v. State Board of Elections*, 137 Ill.2d 394, 561 N.E.2d 50 (1990)("The most significant language of section 3 of article XIV, so far as this case is "amendments *shall be limited* to structural and procedural *subjects contained in Article IV.*"(emphasis in original).

26. As a second and independent basis for invalidation, the Term Limits Initiative fails to comply with the requirements of Article XIV, Section 3 because it does not amend any procedural subjects of Article IV. Neither the term limits provision, nor the change in the number of districts is even arguably procedural. The Initiative provision increasing the vote threshold necessary to override the Governor also does nothing to change the *process* by which the General Assembly adopts a law. Instead, the veto threshold provision simply constitutes a transfer of power from the legislature to the Governor. Such a transfer of power, however, is in no way "procedural."

27. Nor could the veto-override provision be deemed a "structural" change to Article IV. Diminishing the power of the legislative branch by increasing the vote threshold necessary to override a Governor's veto from 3/5 of those elected to 2/3 of those elected does not impact the legislature's structure. *See Lousin v. State Board of Elections*, 108 Ill.App.3d 496, 438

N.E.2d 1241, 1246 (1st 1982)(“Legislative power is a concept rather than an institution which has a structure such as the General Assembly”).

28. Additionally, the Term Limits Initiative also violates Section 3 of Article III of the Illinois Constitution, which requires "all elections to be free and equal," because it contains four separate and unrelated questions: (i) whether to change the qualifications for serving in the General Assembly as to prohibit the voters from electing a person to the General Assembly if that person has served eight years; (ii) whether to increase the size of the House of Representatives and decrease the size of the Senate; (iii) whether to lengthen Senate terms; and (iv) whether to increase the vote requirement to override a gubernatorial veto. Each of these four questions is separate and unrelated. However, as proposed, the Term Limits Initiative would nonetheless deprive voters of the opportunity to answer each of these questions separately and independently.

29. The Term Limits Initiative further violates Section 3 of Article XIV because it is not limited to subjects contained in Article IV of the Constitution. The Constitution requires not only that proposed amendments to Article IV be limited to structural and procedural changes, but that it be limited to such changes “contained in Article IV.” Ill.Const.1970, art. XIV, §3. The Term Limits Initiative, however, amends numerous subjects in other articles of the Illinois Constitution, including matters such as a voter's right to vote under Section 3 of Article III and the Due Process and Equal Protection Clauses of Section 2 of Article I; a voter's right to assembly under Section 5 of Article I; and a candidate's right to run for office under the Due Process and Equal Protection Clauses.

30. Finally, the Term Limits Initiative fails to meet the requirements of Section 3 of Article XIV because it fails to contain the full text of the proposed amendment.

**Count 2: The Redistricting Initiative Fails to Comply
With the Requirements of Article XIV, Section 3**

31. The Redistricting Initiative is invalid for several reasons. First, like the Term Limits Initiative, the Redistricting Initiative fails to address both the structural and procedural subjects of Article IV. Second, the Redistricting Initiative includes an additional eligibility qualification for service in the General Assembly. Third, the Redistricting Initiative also includes subjects far beyond the structural and procedural subjects of Article IV, including the eligibility for executive and judicial offices, contained in Articles V and VI of the Constitution. Fourth, the Redistricting Initiative also diminishes the constitutional powers of both the Governor and the Attorney General. Finally, the Redistricting Initiative would implicate several other subject that are neither structural or procedural subjects of Article IV, including the right to vote, the free and equal elections provision and the due process and equal protection clauses.

32. The Redistricting Initiative proposes to amend the Illinois Constitution regarding the reallocation of population amongst Legislative and Representative districts following each decennial census. The Redistricting Initiative would remove the authority of the democratically elected General Assembly to pass redistricting legislation and replace it with an appointive system involving the Auditor General, the Secretary of State, the Supreme Court and at least two new government bodies: an Applicant Review Panel and an Independent Redistricting Commission. The Redistricting Initiative violates Section 3 of Article XIV of the Illinois Constitution because it does not address both the "structural and procedural" subjects of the Legislative Article, and it most certainly is not "limited to" those subjects. In fact, the Redistricting Initiative does not even purport to amend any structural aspect of the General

Assembly or amend any of its procedures. The full text of the Redistricting Initiative is attached hereto as Exhibit B.

33. Like the Term Limits Initiative, the Redistricting Initiative proposes to add a qualification to the eligibility criteria to serve in the General Assembly. The Redistricting Initiative proposes that any person who serves on the newly created Independent Redistricting Commission is ineligible to become a member of the General Assembly for ten years following service on the Commission. As a result, in exactly the same way as the Term Limits Initiative does, the Redistricting Initiative proposes to add an additional qualification (*i.e.* non-service on the Redistricting Commission) for eligibility for the offices of Senator and Representative in the General Assembly to those provided in Article IV, Section 2(c). The eligibility criteria for service on the General Assembly are neither structural nor procedural subjects of Article IV. As a result, the Redistricting Initiative does not address both the "structural and procedural" subjects of the Legislative Article, and is not "limited to" those subjects.

34. Moreover, the Redistricting Initiative further violates Section 3 of Article XIV by imposing additional eligibility criteria for both executive and judicial offices. The Redistricting Initiative proposes to make any person who serves on the Independent Redistricting Commission ineligible for any of these office for ten years following service on the Commission.

35. The eligibility criteria for the office of Governor, Lieutenant Governor, Attorney General, Secretary of State, Treasurer, and Comptroller are set forth in Article V, Section 3: (a) citizenship; (b) 25 years of age; and (c) Illinois residency for three years preceding election. Ill.Const.1970, art. V, § 3. The Redistricting Initiative would add additional eligibility criteria (non-service on the Redistricting Commission for the preceding ten years) for all of these offices.

By changing the eligibility criteria for offices created by Article V of the Constitution, the Redistricting Initiative is not “limited to” the structural and procedural subjects of Article IV.

36. The Redistricting Initiative also alters the eligibility criteria for judicial offices. In order to be eligible to be a judge, a person must be: (a) a citizen; (b) an Illinois licensed attorney; and (c) a resident of the unit that selects him. Ill.Const.1970, art. VI, § 11. The Redistricting Initiative would add additional eligibility criteria (non-service on the Redistricting Commission for the preceding ten years) for all judicial offices. By changing the eligibility criteria for offices created by Article VI of the Constitution, the Redistricting Initiative is not “limited to” the structural and procedural subjects of Article IV.

37. Because the constitutional eligibility criteria for executive and judicial offices contained in Article V (executive offices) and Article VI (judicial offices) are not “structural and procedural” subjects of Article IV, the Redistricting Initiative violates the requirements of Article XIV, Section 3.

38. The Redistricting Initiative proposes to unconstitutionally change and diminish the power of the legislative branch by depriving the General Assembly of the power to enact laws, which it derives from Article IV, Section 1. The power to enact laws is neither a structural nor a procedural subject of Article IV. The Redistricting Initiative proposes to divest the General Assembly of its legislative authority to enact laws redrawing the State’s legislative and representative districts. Because the amendment process set forth in Article IV, Section 3 cannot be used to diminish the power of the legislative branch, the Redistricting Initiative is unconstitutional.

39. The Redistricting Initiative also proposes to change the power of the executive branch in two ways: (1) diminish the power of the Attorney General by removing the duty to

initiate or redistricting actions in the name of the people in the Illinois Supreme Court, and by removing the Attorney General's duty, as the State's legal officer, to defend the State's redistricting plans; and (2) to diminish the power of the Governor by removing his authority to approve or veto redistricting legislation. The powers of the Attorney General and the Governor are neither structural nor procedural subjects of Article IV. Because the Article IV, Section 3 amendment process cannot be used to diminish the power of the executive branch, the Redistricting Initiative is unconstitutional.

40. Additionally, the Redistricting Initiative also violates Section 3 of Article III of the Constitution, which requires "all elections to be free and equal," because it contains separate and unrelated questions: (i) whether the power of the General Assembly to enact laws establishing legislative and representative districts should be eliminated and a new governmental entity, known as the Independent Redistricting Commission, shall be created and given the power to adopt redistricting laws; (ii) whether the Governor's role in approving or vetoing redistricting legislation should be eliminated; (iii) whether the eligibility requirements for state legislators should be altered to disqualify any person who had been a member of the Independent Redistricting Commission during the previous ten years; (iv) whether the eligibility requirements for executive officers should be altered to disqualify any person who had been a member of the Independent Redistricting Commission during the previous ten years; (v) whether the eligibility requirements for judges should be altered to disqualify any person who had been a member of the Independent Redistricting Commission during the previous ten years; and (vi) whether the Attorney General should be precluded from initiating actions in the name of the people in the Illinois Supreme Court or precluded from defending redistricting laws, and whether the Independent Redistricting Commission should be permitted to hire their own counsel to defend

state laws. Each of these questions is separate and unrelated, but the Redistricting Initiative would nonetheless deprive voters of the opportunity to answer each of these questions separately and independently.

41. The Redistricting Initiative also fails to meet the requirements of Section 3 of Article XIV because it fails to contain the full text of the proposed amendment.

42. Section 3 of Article XIV was not intended by the framers of the 1970 Constitution or the voters who approved it be used to expand or diminish the power of any co-equal branch of government. Rather, that ability is given to the people in Section 1(b) of Article XIV. Section 1(b) of Article XIV of the Constitution provides an assurance that citizens will have an opportunity every twenty years to call a constitutional convention through which the types of constitutional revisions proposed by these to initiatives to Illinois' system of government may be proposed and adopted by the people. The calling of a constitutional convention is the sole method of direct citizen action to change the eligibility criteria for offices created by the Constitution, to diminish the power of the General Assembly by limiting its power to pass laws, and by enhancing the power of the Governor by increasing the number of votes necessary to override a veto. Interestingly, the question whether to convene a constitutional convention was overwhelming rejected by the voters in 2008.

43. Plaintiffs are informed and believe that the ILLINOIS STATE BOARD OF ELECTIONS has already expended tens of thousands of dollars in public funds to prepare for the process it will engage in to determine the validity and sufficiency of the electors' petitions and of the signatures contained on each Initiative petition, and will continue to expend tens of thousands of additional taxpayer dollars in the coming months, in order to certify the form of ballot not less

than seventy-four (74) days before the General Election to be held on November 4, 2014, as required by Section 10 ILC 5/28-5.

44. In light of the allegations set forth in paragraphs 1 through 43 above, the expenditures described above will constitute a waste of the taxpayers' monies and a wrongful disbursement of public monies. If the defendants are allowed to take these actions, Plaintiffs will suffer irreparable injury in that public monies will have been unlawfully disbursed. Plaintiffs are without an adequate remedy at law, and pending disposition of the issues presented herein, a preliminary injunction is required, without bond, restraining Defendants from taking any action in relation to the electors' petition containing the Initiatives above described, until further order of Court so as to maintain the *status quo* pending determination of these issues.

CONCLUSION

WHEREFORE, Plaintiffs pray as follows:

- A. That this Court enters a declaratory judgment that the Term Limits Initiative is invalid.
- B. That this Court enters a declaratory judgment that the Redistricting Initiative is invalid.
- C. That this Court enters a permanent injunction enjoining the ILLINOIS STATE BOARD OF ELECTIONS and any of its officers or members from proceeding to determine the validity and sufficiency of the two petitions containing the Initiatives and enjoining the ILLINOIS STATE BOARD OF ELECTIONS and any of its officers or members from preparing and certifying ballots for the submission of either of the Initiatives to the voters of the State of Illinois, and from otherwise wrongfully expending any public funds in connection therewith.

D. That this Court, enters a permanent injunction enjoining JUDY BAAR TOPINKA, the State Comptroller, from approving any vouchers submitted for such purposes and DAN RUTHERFORD, the State Treasurer, from processing vouchers and from paying any public funds for such purposes.

E. That this Court enters a permanent injunction enjoining DAVID D. ORR, the County Clerk of Cook County, and the BOARD OF ELECTION COMMISSIONERS FOR THE CITY OF CHICAGO from printing ballots containing the Initiatives, from furnishing such ballots to judges of election, from causing ballot boxes needed solely for the receipt of such ballots to be located within each precinct within their election jurisdictions, from hiring personnel to aid in conducting a referendum on the Initiatives or in any other way acting to place a ballot containing the Initiatives before the voters at the General Election be to held on November 4, 2014 or at any other time, and from otherwise wrongfully expending any public funds in connection therewith.

F. That this Court enters a permanent injunction enjoining JESSE WHITE, Secretary of State, from taking any action to publish notice of the proposed amendment or any action to prepare or send to the voters any material relating to the proposed amendment, and from otherwise wrongfully expending any public funds in connection with the Initiative.

G. That this Court enters such other and further orders in the premises as justice may require.

Respectfully submitted,

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