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CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

IN THE CIRCUIT COURT OF THE 20TH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

American Federation of State, County)
and Municipal Employees, Council 31;)
Illinois Troopers Lodge No. 41, Fraternal)
Order of Police; Illinois Nurses Association;)
Illinois Federation of Public Employees,)
Local 4408 IFT-AFT; Illinois Federation of)
Teachers, Local 919; International)
Brotherhood of Electrical Workers; Illinois)
Fraternal Order of Police Labor Council;)
Laborers International Union of North)
America – ISEA Local 2002; Service)
Employees International Union, Local 73;)
SEIU Health Care Illinois & Indiana;)
SEIU Local 1; Teamsters Local Union)
No. 705, Affiliated with the International)
Brotherhood of Teamsters; Conservation)
Police Lodge of the Police Benevolent)
and Protective Association,)

Plaintiffs,)

v.)

State of Illinois and Leslie Geissler Munger)
in Her Official Capacity as Comptroller for)
the State of Illinois,)

Defendants.)

Case No. 15CA475

FILED
ST. CLAIR COUNTY
JUL 10 2015
18
CIRCUIT CLERK

TEMPORARY RESTRAINING ORDER WITH NOTICE

Cause coming before the court on Plaintiffs' Motion for Temporary Restraining Order, the responses of the Attorney General for the State of Illinois and the Comptroller in her Official Capacity (State) and on Motion of the Comptroller (Comptroller) to Disqualify the Attorney General as Counsel for the Comptroller. The court has reviewed the pleadings and heard the argument of counsel and finds as follows:

- 1) Notice of Plaintiffs' Motion for TRO has been given to the Defendants, the Attorney General of the State of Illinois appears for the State of Illinois and for the Comptroller in her Official Capacity and attorneys of Brown, Hay and Stephens, LLP, appear for Leslie Geissler Munger, Comptroller of the State of Illinois;
- 2) The Comptroller's Motion to Disqualify is taken under advisement;

- 3) The State's Motion to Dismiss, in which the Comptroller does not join, on the grounds of sovereign immunity is denied as to Comptroller and allowed as to the State of Illinois. Plaintiffs' Motion seeks to have the Comptroller perform her job — that she stands ready and willing to do. The Comptroller is not a nominal party sued as a cutout for a claim that correctly belongs in the Court of Claims. The court properly takes subject matter jurisdiction to hear Plaintiffs request for an order of court to direct the Comptroller to exercise her clearly defined official authority and to insure that State employees are paid in such a manner as not to impair Plaintiffs' members rights under their respective Collective Bargaining Agreements as guaranteed by the Statutes and the Constitution of the State of the Illinois.
- 4) The AG also contends that Plaintiffs' Complaint does not state a cause of action against the Comptroller. However, the Comptroller, by separate counsel, agrees that Plaintiffs' have stated a case. Further, the Comptroller moves that this court authorize the Comptroller to process pay checks and direct deposits in order to meet the July 15, 2015, payday for the members of the Plaintiff labor organizations *and* all other employees of the State who are paid twice a month.

The AG's Motion to Dismiss for failure to state a cause of action is denied. To go into some detail, Section 2(a) of Article VIII of the Illinois Constitution (Ill. Const., art. VIII, § 2(a)) requires the Governor to submit a budget in accordance with State law and Section 8 of Article IV (Ill. Const., art. IV, § 8) requires the Speaker of the House and the President of the Senate to "certify that the procedural requirements for passage have been met" for each bill that passes both houses.

In this case, the executive and legislative branches of state government have failed to reach an agreement on the budget and appropriations are frozen beginning July 1, 2015. Payment for work performed and to be performed will be withheld. This inaction threatens the financial survival of the employees of the State of Illinois. The Illinois Supreme Court recognizes judicial authority to assure that the action or inaction of the executive and legislative branches do not deprive workers of wages earned and owing under the statutes and by the Constitution. *Dixon Ass'n v. Thompson*, 91 Ill.2d 518, 440 N.E.2d 117 (1982). The Supreme Court has also held that a court order based upon the State Constitution could provide the Comptroller "expenditure authority other than appropriation" to draw warrants for the expenditure of funds from the State Treasury. *Jorgensen v. Blagojevich*, 211 Ill. Ed 286, 315 (2004). The court finds that Plaintiffs' have stated a proper cause of action for impairment of contract.

- 5) Plaintiffs' Motion for a TRO with notice is granted. Plaintiffs' members have a clear right under their respective collective bargaining agreements. Rights guaranteed by the Public Labor Relations Act that mandates the Comptroller to maintain the status quo, as to the personnel code pay plan. Plaintiffs' members also have a constitutional right that bars impairment of their employment contracts pursuant to Article I, Section 16 of the Illinois Constitution

- 6) In addition, Plaintiffs' members, among others, have no adequate remedy at law. The process to collect economic damages from the State in the Illinois Court of Claims dooms to financial ruin the ever expanding number of employees living paycheck to paycheck. Furthermore, the burden and hardship of missed paychecks imposed on the workers and their families are separate noneconomic losses, for which there is no recovery.
- 7) The AG's motions aside, none of the parties assert that people who work for the State should not be paid. Nor has the AG suggested that it is error based on the record as established on the afternoon of July 9, 2015 for the court to decide the issue in this TRO of whether the failure of the executive and legislative branches of government to provide an appropriation to pay wages to Plaintiffs' members constitutes an impairment of contract under Article I, Section 16 of the Illinois Constitution. The court concludes that the failure to provide the appropriation to pay workers who are required to go to work constitutes an impairment of contract. The court concludes that the Plaintiffs have demonstrated a likelihood of success on the merits.
- 8) The balance of equities clearly favors the members of the Plaintiff labor organizations. Families should not suffer while the legislature and the executive vie for a result favorable to their political agenda. Additionally, the denial of the relief requested could expose the State to great liability because of remedies available to employees under the Fair Labor Standards Act that include economic loss, interest, liquidated damages and attorney fees.

Based upon the factors that justify preliminary relief, the court hereby orders that the Comptroller draw and issue warrants accomplishing payment of wages to the Plaintiffs' members at their normal rates of pay. Further, at the request of the Comptroller, the court finds that this order authorizing payment is applicable to all other state employees at their normal rates of pay until further order of court. The AG's Motion for Stay of this order is denied.

July 10, 2015



Robert P. LeChien, Circuit Judge

c.c All attorneys