STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC. **SUPERIOR COURT**

[FILED: July 22, 2014]

RHODE ISLAND COUNCIL 94, AFSCME, AFL-CIO LOCALS: BOYS & GIRLS TRAINING SCHOOL, LOCAL 314, AFSCME, COUNCIL 94, AFL-CIO; UNIVERSITY OF RI, LOCAL 528, AFSCME, COUNCIL 94, AFL-CIO; VETERANS HOME, LOCAL 904, AFSCME, COUNCIL 94, AFL-CIO; NBC/BLACKSTONE VALLEY FACILITY, LOCAL 1010, AFSCME, COUNCIL 94, AFL-CIO; DEPARTMENT OF TRANSPORTATION, LOCAL 1245, AFSCME, COUNCIL 94, AFL-CIO; RI CLASS, LOCAL 1293, AFSCME, COUNCIL 94, AFL-CIO; MEDICAL CENTER, LOCAL 1350, AFSCME, COUNCIL 94, AFL-CIO; RI FAMILY COURT, LOCAL 2203, AFSCME, COUNCIL 94, AFL-CIO; MED. CTR. PHSYICAL PLANT & MGMT. SERVICES, LOCAL 2392, AFSCME, COUNCIL 94, AFL-CIO; DEPUTY SHERIFFS, LOCAL 2409, AFSCME, COUNCIL 94, AFL-CIO; DEPARTMENT OF ADMINISTRATION, LOCAL 2448, AFSCME, COUNCIL 94, AFL-CIO; DEPARTMENT OF LABOR & TRAINING, LOCAL 2869, AFSCME, COUNCIL 94, AFL-CIO; DEPARTMENT OF HEALTH, LOCAL 2870, AFSCME, COUNCIL 94, AFL-CIO; DEPARTMENT OF EDUCATION, LOCAL 2872, AFSCME, COUNCIL 94, AFL-CIO; RHODE ISLAND AIRPORT CORPORATION, LOCAL 2873, AFSCME, COUNCIL 94, AFL-CIO; REGISTRY OF MOTOR VEHICLES, LOCAL 2874, AFSCME, COUNCIL 94, AFL-CIO; DEPT. OF CHILDREN, YOUTH & FAMILIES, LOCAL 2876, AFSCME, COUNCIL 94, AFL-CIO; URI PROFESSIONAL/TECHNICAL ADMINISTRATIVE, LOCAL 2877, AFSCME, COUNCIL 94, AFL-CIO; RHODE ISLAND COLLEGE SECURITY & FACILITIES,

LOCAL 2878, AFSCME, COUNCIL 94, AFL-CIO; RHODE ISLAND COLLEGE CLERICAL, LOCAL 2879, AFSCME, COUNCIL 94, AFL-CIO; DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, LOCAL 2881, AFSCME, COUNCIL 94, AFL-CIO; DEPARTMENT OF HUMAN SERVICES, LOCAL 2882, AFSCME, COUNCIL 94, AFL-CIO; MHRH (SUPERVISORY), LOCAL 2883, AFSCME, COUNCIL 94, AFL-CIO; AMALGAMATED, LOCAL 2884, AFSCME, COUNCIL 94, AFL-CIO; EXECUTIVE/MILITARY STAFF, LOCAL 2886, AFSCME, COUNCIL 94, AFL-CIO; NATIONAL EDUCATION ASSOCIATION RHODE ISLAND LOCALS: NEA BARRINGTON, LOCAL 801, NEARI; BRISTOL/WARREN EA, LOCAL 802, NEARI; BURRILLVILLE EA, LOCAL 803, NEARI; NEA CHARIHO, LOCAL 898, NEARI; CUMBERLAND TEACHERS, LOCAL 808, NEARI; DAVIES FACULTY, LOCAL 875, NEARI; EAST GREENWICH ED. ASSOC., LOCAL 809, NEARI; EAST PROVIDENCE ED. ASSOC., LOCAL 810, NEARI; EXETER/ WEST GREENWICH TCH. ASSOC., LOCAL 897, NEARI; FOSTER TEACHERS ASSOC., LOCAL 812, NEARI; GLOCESTER TEACHER ASSOC., LOCAL 813, NEARI; JAMESTOWN TEACHERS ASSOC., LOCAL 815, NEARI; LITTLE COMPTON TEACHERS ASSOC., LOCAL 818, NEARI; NEA MIDDLETOWN, LOCAL 819, NEARI; NEA NARRAGANSETT, LOCAL 820, NEARI; TEACHERS ASSN. OF NEWPORT, LOCAL 821, NEARI, NEW SHOREHAM TEACHER ASSOC., LOCAL 822, NEARI; NEA NORTH KINGSTOWN, LOCAL 823, NEARI; NORTH SMITHFIELD TEACHER ASSOC., LOCAL 825, NEARI; NEA PONAGANSETT, LOCAL 899, NEARI; NEA PORTSMOUTH, LOCAL 827, NEARI; RI SCHOOL FOR THE DEAF TEACHER ASSOC., LOCAL 841, NEARI; SCITUATE TEACHERS ASSOC., LOCAL 830, NEARI; NEA SMITHFIELD, LOCAL 831, NEARI; NEA SOUTH KINGSTOWN, LOCAL

832, NEARI; NEA TIVERTON, LOCAL 833, NEARI, WESTERLY TEACHERS ASSOC., LOCAL 836, NEARI; CCRI/NEARI ESPA, LOCAL 852, NEARI; CCRI FACULTY ASSN., LOCAL 872, NEARI; CCRI/PSA, LOCAL 893, NEARI; RI DEPT OF HEALTH PSA, LOCAL 859, NEARI; URI/ACT, LOCAL 879, NEARI; URI PHYSICIANS, LOCAL 877, NEARI; URI/PSA, LOCAL 888, NEARI; RI SCHOOL FOR THE DEAF TEACHER ASST., LOCAL 884, NEARI; DAVIES TEACHER ASST., LOCAL 867, NEARI; RHODE ISLAND FEDERATION OF TEACHERS AND HEALTH PROFESSIONALS LOCALS: WARWICK TEACHERS UNION, LOCAL 915, RIFTHP; NORTH PROVIDENCE FEDERATION OF TEACHERS, LOCAL 920, RIFTHP; PAWTUCKET TEACHERS ALLIANCE, LOCAL 930, RIFTHP; WOONSOCKET TEACHERS GUILD, LOCAL 951, RIFTHP; PROVIDENCE TEACHERS UNION, LOCAL 958, RIFTHP; WEST WARWICK TEACHERS ALLIANCE, LOCAL 1017, RIFTHP; COVENTRY TEACHERS ALLIANCE, LOCAL 1075, RIFTHP; LINCOLN TEACHERS ASSOCIATION, LOCAL 1461, RIFTHP; CENTRAL FALLS TEACHERS UNION, LOCAL 1567, RIFTHP; JOHNSTON FEDERATION OF TEACHERS, LOCAL 1702, RIFTHP; CRANSTON TEACHERS ALLIANCE, LOCAL 1704, RIFTHP; NORTHERN RHODE ISLAND COLLABORATIVE EDUCATIONAL UNION, LOCAL 4940, RIFTHP; HOWARD UNION OF TEACHERS, LOCAL 1171, RIFTHP; RI COURT REPORTERS ALLIANCE, LOCAL 4829, RIFTHP; RI DEPT OF EDUCATION, LOCAL 2012, RIFTHP; RHODE ISLAND BROTHERHOOD OF CORRECTIONAL OFFICERS; INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS LOCAL 400; NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES/ INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS LOCAL 79; RHODE

ISLAND EMPLOYMENT SECURITY ALLIANCE, LOCAL 401; and RHODE ISLAND ALLIANCE OF SOCIAL SERVICE EMPLOYEES, LOCAL 580	:	
VS.	:	**C.A. No. PC 12-3168**
LINCOLN CHAFEE, IN HIS CAPACITY AS GOVERNOR OF THE STATE OF RHODE ISLAND; GINA RAIMONDO, IN HER CAPACITY AS GENERAL TREASURER OF THE STATE OF RHODE ISLAND; AND THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE ISLAND, BY AND THROUGH THE RHODE ISLAND RETIREMENT BOARD, BY AND THROUGH GINA RAIMONDO, IN HER CAPCITY AS CHAIRMAN OF THE RETIREMENT BOARD; AND FRANK J. KARPINSKI, IN HIS CAPACITY AS SECRETARY OF THE RETIREMENT BOARD	:	

DECISION

TAFT-CARTER, J. Before this Court is Defendants' Motion to Join Municipal Entities as Indispensable Parties and/or Parties Whose Rights May be Affected by the Declarations Sought. Plaintiffs consist of a number of local affiliates of Rhode Island Council 94, AFSCME, AFL-CIO, representing Rhode Island state employees, local affiliates of the National Education Association Rhode Island, representing Rhode Island public school teachers and/or employees, local affiliates of Rhode Island Federation of Teachers and Health Professionals, the Rhode Island Brotherhood of Correctional Officers, and a number of other local associations representing state and municipal employees (collectively, Plaintiffs). Plaintiffs filed the underlying action in 2012 against the Governor and General Treasurer of the State of Rhode Island, the Employees' Retirement System of Rhode Island (ERSRI), by and through the Retirement Board, and the Chairman and Secretary of the Retirement Board (collectively,

Defendants), challenging the constitutionality of the Rhode Island Retirement Security Act (RIRSA) of 2011. Jurisdiction is pursuant to Super. R. Civ. P. 19 (Rule 19) and G.L. 1956 § 9-30-11.

I

Facts and Travel

ERSRI, established in 1936, is a retirement system for state employees, school teachers, and employees of cities and towns that choose to participate. See G.L. 1956 §§ 36-8-1, et seq. The purpose of the retirement system is to provide retirement allowances to employees of the State of Rhode Island. ERSRI is administered by the Retirement Board (Board), which oversees the Employees' Retirement System (ERS) and the Municipal Employees' Retirement System (MERS). Sec. 36-10-1; G.L. 1956 §§ 45-21-1 et seq. ERS, which applies to state employees and public school teachers, is a mandatory, contributory defined benefit plan under which participants contribute a statutorily set percentage of their annual salary in exchange for a fixed retirement allowance. Employees participating in ERS become "vested" upon making ten years of payments into ERSRI. See § 36-10-9 (state employees); G.L. 1956 § 16-16-12 (public school teachers). The retirement allowance becomes payable to participants in equal monthly installments after retirement. In addition to the retirement allowance, participants' pension benefits are compounded by a Cost of Living Adjustment (COLA). The intent of COLA is to maintain the real value of a retiree's pension in light of changes to the cost of living occurring over the life of retirement.

As a consequence of the underfunding of Rhode Island's public pension system, the General Assembly enacted RIRSA in November 2011. RIRSA altered the standards for retirement for employees in the retirement system, changing the structure of the program from a

traditional defined benefit plan to a "hybrid plan" with smaller defined benefits and a supplemental defined contribution plan. RIRSA also permanently reduced all COLAs to apply only to the first $25,000 of a person's retirement allowance and suspended all COLAs until the ERS is funded to eighty percent, which is estimated to take at least sixteen years.

On June 22, 2012, Plaintiffs filed suit on behalf of state employees and public school teachers who had served for at least ten years as of the enactment of RIRSA. Plaintiffs are all participants in ERS, and do not receive their retirement benefits through a collective bargaining agreement (CBA) with a municipal entity. Their action challenges RIRSA on a number of grounds, including violations of the Contracts Clause, Takings Clause, and Due Process Clause of the Rhode Island Constitution, and asks this Court to declare RIRSA unconstitutional.

On May 29, 2014, Defendants filed the instant Motion seeking to join all municipal entities in Rhode Island in the instant case, on the grounds that they are indispensable parties to this action. Plaintiffs have objected to this motion. This Court heard oral arguments on July 1, 2014, and now issues its Decision.

II

Standard of Review

A

Rule 19

Joinder of parties is governed by Rule 19, which "advocates joining a party if in his or her absence complete relief cannot be accorded to those already made parties or if disposition of the matter would impair or impede the party's ability to protect his or her interest in the subject matter of the suit." Abbatematteo v. State, 694 A.2d 738, 740 (R.I. 1997). Rule 19(a), "Persons to be Joined if Feasible," provides:

> "A person who is subject to service of process shall be joined as a party in the action if (1) in the person's absence complete relief cannot be accorded among those already parties, or (2) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's absence may (i) as a practical matter impair or impede the person's ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the person's claimed interest."

"Rule 19 [thus] recognizes the difference between persons whose joinder in an action is absolutely essential if the action is to proceed at all and those who ought to be joined but in whose absence the action can, nevertheless, continue." Doreck v. Roderiques, 120 R.I. 175, 179, 385 A.2d 1062, 1064 (1978). "The first class of such persons is referred to as 'indispensable' and the latter group as 'necessary.'" Id. An action may not proceed in the absence of an indispensable party. See Robert B. Kent, et al., Rhode Island Civil and Appellate Procedure § 19:2 (2006). Moreover, "[t]he burden is on the party raising the defense to show that the person who was not joined is needed for a just adjudication." 7 C. Wright et al., Federal Practice and Procedure § 1609 at 142 (3d ed. 2001).

B

Uniform Declaratory Judgment Act

The Uniform Declaratory Judgment Act (UDJA) vests this Court with the "power to declare rights, status, and other legal relations whether or not further relief is or could be claimed." Sec. 9-30-1. Section 9-30-11 of the UDJA provides in pertinent part that "all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding."[1] "This

[1] Although our Supreme Court has referred to parties required to be joined under Rule 19 and § 9-30-11 interchangeably as "indispensable parties," this Court notes that the wording in each

requirement furthers the purpose of the [UDJA] . . . which is 'to facilitate the termination of controversies.'" Burns v. Moorland Farm Condo. Ass'n, 86 A.3d 354, 358 (R.I. 2014) (quoting Abbatematteo, 694 A.2d at 740).

"[W]hen a [declaratory] judgment is not binding on all persons who have a direct interest in the dispute, the Superior Court should not assert jurisdiction." Abbatematteo, 694 A.2d at 740. The Rhode Island Supreme Court has "held that the above-cited provision in § 9-30-11 is mandatory." Burns, 86 A.3d at 358 (citing Thompson v. Town Council of Westerly, 487 A.2d 498, 499 (R.I. 1985)); see also In re City of Warwick, 97 R.I. 294, 296, 197 A.2d 287, 288 (1964). Thus, "failure to join all persons who have an interest that would be affected by the declaration is fatal." Burns, 86 A.3d at 358 (citation omitted).

When deciding whether a party should be joined in a case under § 9-30-11, our Supreme Court has consistently looked to the purpose of the UDJA—"to facilitate the termination of controversies"—for guidance. See id. Thus, this Court must consider whether the binding effect of the declaration sought would truly "facilitate the termination of the controversy." See § 9-30-11; In re City of Warwick, 97 R.I. at 296, 197 A.2d at 288; Thompson, 487 A.2d at 500; Sullivan v. Chafee, 703 A.2d 748, 750 (R.I. 1997); Abbatematteo, 694 A.2d at 740; City of Newport v. Local 1080 Intern. Ass'n of Firefighters, AFL-CIO, 54 A.3d 976, 979 (R.I. 2012); Burns, 86 A.3d at 359. Our Supreme Court has also acknowledged that other jurisdictions have recognized "a compromise which a court may in its judicial discretion adopt as between the desire for

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statute differs slightly. In Rule 19, "indispensable parties" are defined by determining whether, "in the person's absence[,] complete relief cannot be accorded among those already parties." See Retirement Bd. of Emps. Retirement Sys. of State v. DiPrete, 845 A.2d 270, 285 (R.I. 2004) (labeling such parties as indispensable). However, the Rhode Island Supreme Court has also given the "indispensable" label to required parties under § 9-30-11, who are defined as anyone "who [has] or claim[s] any interest which would be affected by the declaration." See Burns, 86 A.3d at 357-60.

conclusiveness as to all interested parties and convenience in joining them," which the Court assumed, without deciding, that it would adopt in "appropriate circumstances." See In re Warwick, 97 R.I. at 297, 197 A.2d at 289; Thompson, 487 A.2d at 500.

III

Analysis

The Defendants maintain that all municipal entities in Rhode Island must be joined as indispensable parties in this case. In this sweeping appeal, the Defendants argue that the implied contract rights found by this Court in denying the Motion to Dismiss require that all municipal entities be joined. Defendants further contend that disposition of this case will impact all municipal entities in Rhode Island, in that they may be rendered bankrupt as a result of a declaration that RIRSA is unconstitutional, and thus, those entities are indispensable parties to this declaratory action without whom this Court lacks subject matter jurisdiction in this case.

Plaintiffs filed a consolidated objection arguing that the municipal entities which do not have CBAs with Plaintiffs do not have an interest in this action. Plaintiffs argue that its members are individuals who have a legally protected interest under the ERS. Plaintiffs further contend that joinder would be unduly burdensome because of the large number of potential new parties and would undermine Plaintiffs' access to the UDJA.

The Rhode Island Association of School Committees (Association) also filed an amicus curiae brief in connection with Defendants' Motion.[2] The Association opposes the Motion,

[2] Although not specifically provided for in the Rhode Island Superior Court Rules of Civil Procedure, "[c]ourts have inherent authority to appoint an amicus even in the absence of a rule or statute." 4 Am. Jur. 2d Amicus Curiae § 3. "[T]he fact extent and manner of an amicus curiae's participation is entirely within the court's discretion . . . ." Id.; accord State ex rel. Comm'r of Transp. v. Medicine Bird Black Bear White Eagle, 63 S.W.3d 734, 758 (Tenn. Ct. App. 2001); Martinez v. Capital Cities/ABC-WPVI, 909 F. Supp. 283, 286 (E.D. Pa. 1995); James Square Nursing Home, Inc. v. Wing, 897 F. Supp. 682, 683 n.2 (N.D.N.Y. 1995).

contending that the potential impact of the case on school committees is only indirect and thus, such parties are not indispensable. In the alternative, the Association asks this Court to order Defendants to reimburse school committees for the legal costs involved in their participation in this case should this Court order joinder.

A

Rule 19

Under Rule 19, the participation of all indispensable parties is essential, and no action may proceed without all such parties. See DiPrete, 845 A.2d at 285; Kent et al., supra. Parties which are merely necessary under Rule 19 should only be joined if "feasible." This Court is instructed to adopt a "pragmatic approach" to determine a party's indispensability. Doreck, 120 R.I. at 179, 385 A.2d at 1064. Rather than a "fixed formula" for determining whether a party is indispensable, the Court looks to the individual facts in each case and the effect of the requested judgment on the absent parties. See id. at 179-80, 385 A.2d at 1064-65. Specifically, our Supreme Court has stated:

> "'[T]rue indispensable parties are only those whose interests could not be excluded from the terms or consequences of the judgment and leave anything, or appreciably anything, for the judgment effectively to operate upon, as whether the interests of the absent party are inextricably tied in to the cause * * * or where the relief really is sought against the absent party alone.'" DiPrete, 845 A.2d at 285 (quoting Doreck, 120 R.I. at 180, 385 A.2d at 1065).

On the other hand, parties are necessary "if there may be a viable judgment having separable affirmative consequences." Doreck, 120 R.I. at 180, 385 A.2d at 1065. "[T]he inquiry is concerned solely with the inequities, in the light of the total circumstances, resulting from the inability to affect absent interested parties." Id. A court must therefore look to the relief sought in the Complaint, and whether complete relief can be afforded without joining the parties or

whether any of the current litigants will face multiple or inconsistent results for claims that should be resolved together. Desjarlais v. USAA Ins. Co., 824 A.2d 1272, 1274 (R.I. 2003).

Plaintiffs seek a declaration that the RIRSA is unconstitutional. Plaintiffs also ask for injunctive relief preventing the State from relying on RIRSA, and further request an order restoring their previous retirement benefits. The determination of whether the municipal entities are indispensable parties rests on whether their interests could be "excluded from the terms or consequences" of such a declaration, or whether "relief really is sought against the absent party alone." DiPrete, 845 A.2d at 285. As a general proposition, constitutional challenges resulting in a declaration can be said to affect every municipal entity within the State of Rhode Island. See Norton v. Shelby County, 118 U.S. 425, 442, 6 S. Ct. 1121, 1125 (1886) ("An unconstitutional act is not a law; it confers no rights; it imposes no duties . . . it is, in legal contemplation, as inoperative as though it had never been passed."); Yekhtikian v. Blessing, 90 R.I. 287, 290, 157 A.2d 669, 670 (1960) (noting that "an unconstitutional act is a nullity," and usually considered void from its inception). In this regard, the broad remedies sought can be fully afforded without joinder of municipal entities because the "terms or consequences" of the judgment sought will bind municipal entities regardless of their participation in this suit, and thus such municipal entities will not suffer any "separable affirmative consequences." See DiPrete, 845 A.2d at 285. The Defendants, however, argue that the implied contractual rights give rise to an interest that cannot be excluded from the judgment, and that the municipal entities' interests are inextricably tied to the case. See Rhode Island Council 94 AFSCME, AFL-CIO Locals v. Chafee, 2014 WL 1743149 at *4-6 (R.I. Super. Apr. 25, 2014) (finding an implied contract from the circumstances surrounding the relationship between the State and Plaintiffs). This Court does not agree.

Municipal entities have no direct interest in this action. Plaintiffs' retirement benefits stem directly from ERS, and not through CBAs with municipal entities.[3] The implied contractual interest was found to be due to the circumstances between the State and the Plaintiffs. The State was acting as an employer when it enacted the pension statute. This forms the basis of the implied contract.

Furthermore, the absence of municipal entities from this action does not hinder the ability of this Court to accord relief in this case, given that Plaintiffs seek a declaration that a statute is unconstitutional. See Rule 19(a)(1) (providing one definition of indispensable parties as those without whom "complete relief cannot be accorded" among existing parties); accord Anderson v. Anderson, 109 R.I. 204, 211, 283 A.2d 265, 269 (1971) (noting that even a finding of indispensability under Rule 19 "does not deprive the court of its power to act with respect to those before it") (quotation omitted). Without, at the minimum, a clearly defined relationship to the instant proceedings through an actual or an implied contract, Defendants have not met their burden of proving that any municipal entities are indispensable parties in this case. DiPrete, 845 A.2d at 285; C. Wright et al., supra. Moreover, the relief sought by Plaintiffs, invalidation of a statute, does not require the participation of any other party. See Norton, 118 U.S. at 442, 6 S. Ct. at 1125; Yekhtikian, 90 R.I. at 290, 157 A.2d at 670. Therefore, this Court finds that municipal entities are not indispensable parties to this action under Rule 19.

[3] Plaintiffs are state employees and public school teachers who receive retirement benefits under ERS. See § 36-10-9 (state employees); Sec. 16-16-12 (public school teachers). Thus, Plaintiffs participate in ERSRI directly, not through CBAs with local municipal entities. Cf. Bristol/Warren Regional School Employees v. Chafee, 2014 WL 1743142 at *6 (R.I. Super. Apr. 25, 2014) (limiting an implied contract analysis in a related pension case to the relationship between Plaintiffs and the State, and excluding those Plaintiffs with CBAs with municipal entities including retirement benefits, as Defendants did not challenge the existence of a contract with such Plaintiffs).

B

UDJA

A stricter standard of review in determining whether a party is indispensable is applied under § 9-30-11 of the UDJA. Compare Anderson, 109 R.I. at 211, 283 A.2d at 269 (noting that even a finding of indispensability under Rule 19 "does not deprive the court of its power to act with respect to those before it," but requires the Court to consider new "constitutional overtones" of due process considerations) (quotation omitted) with Rosano v. Mortg. Elec. Registration Sys., Inc., 91 A.3d 336, 339 (R.I. 2014) (construing § 9-30-11 as "mandatory," and holding that failure to join necessary parties under the statute is "fatal" to a claim) (quotation omitted). The UDJA § 9-30-11 provides that "[w]hen declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding." Thompson, 487 A.2d at 499 (citing § 9-30-11). This provision has been held to be mandatory, and "failure to join all persons who have an interest that would be affected by the declaration ordinarily is fatal to an action." Id. For example, in Burns, the Rhode Island Supreme Court found that members of a condominium association who would be liable for additional payments in the event that the plaintiffs in that case obtained a successful declaration were "indispensable" parties. Burns, 86 A.3d at 357-60. Moreover, in In re City of Warwick, the Court determined that a declaration of whether Warwick's municipal charter governed the elections to three local boards directly affected absent board members, who each had "an actual and essential interest." In re City of Warwick, 97 R.I. at 296, 197 A.2d at 288.

The purpose of facilitating the termination of controversies necessarily requires strict joinder. It is self-evident, therefore, that a court lacks subject matter jurisdiction where the

judgment would "not be binding on all persons who have an interest in the dispute." Thompson, 487 A.2d at 499. To do otherwise would contravene the intent of the UDJA. The question posed here is whether the rule requiring mandatory joinder of all whose interests may be affected by the litigation is without limitation.

While it is true that the Superior Court would lack subject matter jurisdiction in the case of a failure to join indispensable parties, as applied to the facts of this case, the analysis requires a further examination of the limitations, if any, to that mandate. This Court is mindful that the precedent requires that a party must be joined if a party's claim is so conjoined that a decree cannot enter without crippling his or her rights. Whether the application of § 9-30-11 is subject to limiting principles in the context of constitutional challenges is a question of first impression in this jurisdiction.[4]

Non-binding guidance can be found in other jurisdictions. Specifically, in City of Philadelphia v. Commonwealth, 838 A.2d 566 (Pa. 2003), the Supreme Court of Pennsylvania considered the question of indispensability in the context of a challenge to the validity of a

[4] Although the Rhode Island Supreme Court has addressed the issue of joinder in the context of a challenge to pension benefits, the facts in that case were distinguishable from the instant cases. In Abbatematteo, 694 A.2d at 738, participants in ERSRI filed an action seeking declaratory and injunctive relief against the alleged unconstitutional implementation and operation of the retirement system. Plaintiffs argued that defendants, the State of Rhode Island and the ERSRI, paid certain participants "retirement benefits 'significantly more generous, in relation to the actuarial value of their contributions,' than the benefits that plaintiffs and other members of the retirement system receive or expect to receive." Id. at 739. The Court found that plaintiffs' complaint was "fatally flawed for noncompliance with" § 9-30-11 because they did not join those retirees receiving the allegedly more generous benefits. Id. at 740. The Court noted that because "[d]isposition of the action in plaintiffs' favor . . . would reduce or eliminate pension benefits for these 'favored' members of the retirement system[,] . . . these members were indispensable parties that should have been joined in the action." Id. In the instant case, the Plaintiffs have challenged amendments to pension laws in Rhode Island that affects all retirees equally, and do not allege disparate treatment among easily identifiable pension recipients. Any resolution of the instant case will have the same uniform effect on Plaintiffs and non-party retirees.

statute, applying a substantially identical provision to § 9-30-11. Defendants contended that "anyone whose interests may be affected by any aspect of the challenged legislation must be formally joined for jurisdiction to lie." Id. at 566-67. The Court acknowledged that the "joinder provision is mandatory," yet noted "it is subject to limiting principles." Id. at 582. In particular, the Court construed the UDJA as

> "subject to reasonable limitations: if that provision were applied in an overly literal manner in the context of constitutional challenges to legislative enactments containing a wide range of topics that potentially affect many classes of citizens, institutions, organizations, and corporations, such lawsuits could sweep in hundreds of parties and render the litigation unmanageable. It is true that all such parties would be affected, at least incidentally, by a declaration that the statute in question is unconstitutional. . . . However, requiring the joinder of all such parties would undermine the litigation process." Id. at 582-83.

The Court concluded that "requiring the participation of all parties having any interests which could potentially be affected by the invalidation of a statute would be impractical." Id. at 583. Further, "such an interpretation would result in an unwieldy judicial resolution process [and thus] . . . run contrary to the Legislature's direction . . . to settle, and afford relief from, uncertainty relative to rights, status, and other legal relations." Id. at 583. In conclusion, the Court found that:

> "while it is true that the Act purports to alter the rights and obligations of numerous persons, due to the nature of the constitutional issues raised in the Complaint, achieving justice is not dependent upon the participation of all of those persons."

The Wisconsin Supreme Court has also imposed "reasonable limitations" on joinder in constitutional challenges to statutes. In Town of Blooming Grove v. City of Madison, 275 Wis. 328, 81 N.W.2d 713 (1957), the Court noted that it did not literally interpret its joinder statute—also identical to § 9-30-11—as "requiring that where a declaratory judgment as to the validity of

a statute or ordinance is sought, every person whose interests are affected by the statute or ordinance must be made a party to the action." Id. at 334, 81 N.W.2d at 717. "If it were so construed, the valuable remedy of declaratory judgment would be rendered impractical and indeed often worthless for determining the validity of legislative enactments, either state or local, since such enactments commonly affect the interests of large numbers of people." Id. The Court held that the UDJA "should not be nullified by an inconsistent and unduly literal interpretation of" the joinder of parties. Id.

Moreover, in White House Milk Co. v. Thomson, 275 Wis. 243, 81 N.W.2d 725 (1957), the Wisconsin Supreme Court further noted that the UDJA did not require joinder "of any persons other than the public officers charged with the enforcement of the challenged statute or ordinance." Id. at 249, 81 N.W.2d at 729. "Such defendant public officers act in a representative capacity in behalf of all persons having an interest in upholding the validity of the statute or ordinance under attack." Id.

The present case warrants the application of reasonable limits upon the application of joinder provisions of § 9-30-11. As in the Philadelphia case, the potential parties who may have an interest are numerous. In addition, the municipal entities have no express contractual nexus relating to the pension system with the Plaintiffs. Sec. 9-30-11. Defendants claim that such municipal entities have an attenuated connection to the instant cases because a declaration that RIRSA is unconstitutional may impact all municipal entities in Rhode Island, and such impact may be so significant that those municipal entities might file for bankruptcy. This potential "effect" relies on speculation and conjecture. Furthermore, it is unrelated to the declaration of unconstitutionality as sought by Plaintiffs. See Abbatematteo, 694 A.2d at 740 (requiring joinder of retirees whose benefits were directly threatened by the action); Thompson, 487 A.2d at 499-

500 (requiring joinder of a property owner, because the declaration sought by plaintiff would not be binding on said property owner without his involvement in the suit).

The extremely broad scope of Defendants' motion and request would have an absurd result and an overreaching application of § 9-30-11. See Generation Realty, LLC v. Catanzaro, 21 A.3d 253, 258 (R.I. 2011) (noting that "under no circumstances will this Court construe a statute to reach an absurd result") (quotation omitted); accord City of Philadelphia, 838 A.2d at 568-69; Town of Blooming Grove, 275 Wis. at 334, 81 N.W.2d at 717. In addition, to apply the joinder standard as set forth in § 9-11-30 in an inflexible way would contravene the intent of the UDJA and render it "worthless for determining the validity of legislative enactments." Town of Blooming Grove, 275 Wis. at 334, 81 N.W.2d at 717. Joinder of municipal entities whose financial conditions may be impacted by a declaration would impose an unreasonable burden on the parties, and the Court. See Burns, 86 A.3d at 358; Abbatematteo, 694 A.2d at 740. To construe § 9-30-11 of the UDJA in this way would "reach an absurd result" of hindering the purpose of the statute as a whole. Generation Realty, LLC, 21 A.3d at 259.

In addition, it is axiomatic that a party does not have to be joined to a case to be bound by a declaration of a statute's unconstitutionality. See Norton, 118 U.S. at 442, 6 S. Ct. at 1125 ("An unconstitutional act is not a law; it confers no rights; it imposes no duties . . . it is, in legal contemplation, as inoperative as though it had never been passed."); Yekhtikian, 90 R.I. at 290, 157 A.2d at 670 (noting that "an unconstitutional act is a nullity," and usually considered void from its inception). A declaration by this Court that RIRSA is unconstitutional renders the statute "inoperative" for parties and non-parties alike. Norton, 118 U.S. at 442, 6 S. Ct. at 1125. Construction of § 9-30-11 in light of the UDJA's goal of facilitating the termination of

controversies leads this Court to conclude that municipal entities are not indispensable parties to the determination of the constitutionality of RIRSA in this case.

C

Association Arguments

As this Court finds that municipal entities, including school committees, are not indispensable parties in this matter, it need not address the Association's amicus curiae brief's arguments against joinder. Nevertheless, this Court notes that the Association's argument that school committees are only indirectly related to the instant litigation, because they do not control their employee's contributions and benefits from ERSRI, further bolsters this Court's conclusions.

IV

Conclusion

For the foregoing reasons, as it relates to the instant case, Defendants' Motion to Join Municipal Entities as Indispensable Parties and/or Parties Whose Rights May be Affected by the Declarations Sought is denied. Counsel shall submit the appropriate judgment for entry.

RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE:	Rhode Island Council 94, AFSCME, AFL-CIO Locals, et al. v. Lincoln Chafee, et al.
CASE NO:	PC 12-3168
COURT:	Providence County Superior Court
DATE DECISION FILED:	July 22, 2014
JUSTICE/MAGISTRATE:	Taft-Carter, J.
ATTORNEYS:	
For Plaintiff:	*See attached list
For Defendant:	*See attached list

In Re PENSION CASES
C.A. Nos.: PC 12-3166; PC 12-3167; PC 12-3168; PC 12-3169; PC 12-3579; PC 10-2859; KC 14-0345

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