No. 125535

IN THE

SUPREME COURT OF ILLINOIS

CHERYL BARRALL, *et al.*, Plaintiffs-Appellees, –vs– THE BOARD OF TRUSTEES OF JOHN A. LOGAN COMMUNITY COLLEGE, Defendant-Appellant.	Appeal From the Illinois Appellate Court, Fifth Judicial District No. 5-18-0284 There Heard On Appeal From the Illinois Circuit Court First Judicial Circuit Williamson County, Illinois No. 2017-MR-275 Honorable Brad K. Bleyer, Judge Presiding

BRIEF AND ARGUMENT OF DEFENDANT-APPELLANT BOARD OF TRUSTEES

EDWARD J. KIONKA
Attorney at Law # 1469290
Lesar Law Building, MS 6804
1150 Douglas Drive
Carbondale IL 62901
618.521.5555
ted@kionkalaw.com

RHETT T. BARKE, # 6277080
DON E. PROSSER, # 2258722
Gilbert, Huffman, Prosser, Hewson & Barke, Ltd.
102 S. Orchard Dr.
P.O. Box 1060
Carbondale IL 62093-1060
618.457.3547
rbarke@southernillinoislaw.com
dprosser@southernillinoislaw.com

Attorneys for Defendant Board of Trustees

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POINTS AND AUTHORITIES

NATURE OF THE CASE

Plaintiffs are seven tenured faculty members of John A. Logan Community College (JALC) who were laid off from teaching positions at the end of the 2015-16 academic year. C75. Plaintiffs allege that JALC, during the 2016-17 academic year, employed "term faculty" (adjuncts) and "non-teaching staff members" to teach certain courses that plaintiffs were competent to teach or had taught in the past. C 75-76.

This action seeks (1) to reinstate one plaintiff, Dr. Beyler[1] to a full-time faculty member position; (2) lost salary and other benefits for all plaintiffs; and (3) an injunction prohibiting JALC from employing, during the statutory two-year recall period, "term faculty members or non-teaching staff" to render services that laid-off tenured faculty members are competent to render. C79. The trial court dismissed the complaint for failure to state a claim and entered judgment for defendant. C5-7.

On appeal, in a split decision, the Fifth District Appellate Court reversed. A.3. This Court granted leave to appeal.

There is a question raised on the pleadings, namely, whether the complaint states a cause of action.

ISSUE PRESENTED FOR REVIEW

The sole issue is an issue of law—the interpretation of § 3B-5 of the Public Community College Act (110 ILCS 805/3B-5 (West 2016)). Specifically, does § 3B-5 prohibit a community college from employing adjuncts or other similar "term" personnel to teach certain courses, without first offering to reappoint or reinstate laid-off tenured faculty

[1] Six of the seven plaintiffs were recalled during the 2017-18 school year as full-time faculty members, but Dr. Beyler was not. C77.

who are competent to teach those courses — and who are within § 3B-5's two-year recall period — to a full-time faculty member position?

JURISDICTION

On January 29, 2020, this Court allowed leave to appeal pursuant to Illinois Supreme Court Rule 315.

STATUTE INVOLVED

Public Community College Act, 110 ILCS 805/3B-1 (West 2016):

> "Faculty Member" means a full time employee of the District regularly engaged in teaching or academic support services, * * *

Public Community College Act, 110 ILCS 805/3B-5 (West 2016) (emphasis added):

> Sec. 3B-5. Reduction in Number of Faculty Members. If a dismissal of a faculty member for the ensuing school year results from the decision by the Board to decrease the number of faculty members employed by the Board or to discontinue some particular type of teaching service or program, notice shall be given the affected faculty member not later than 60 days before the end of the preceding school year, together with a statement of honorable dismissal and the reason therefor; provided that the employment of no tenured faculty member may be terminated under the provisions of this Section while any probationary faculty member, or any other employee with less seniority, is retained to render a service which the tenured employee is competent to render. In the event a tenured faculty member is not given notice within the time herein provided, he shall be deemed reemployed for the ensuing school year. Each board, unless otherwise provided in a collective bargaining agreement, shall each year establish a list, categorized by positions, showing the seniority of each faculty member for each position entailing services such faculty member is competent to render. Copies of the list shall be distributed to the exclusive employee representative on or before February 1 of each year. <u>For the period of 24 months from the beginning of the school year for which the faculty member was dismissed, any faculty member shall have the preferred right to reappointment to a position entailing services he is competent to render prior to the appointment of any new faculty member; provided that no non-tenure faculty member or other employee with less seniority shall be employed to render a service which a tenured faculty member is competent to render</u>.

STATEMENT OF FACTS

As noted above, plaintiffs are seven tenured faculty members of the John A. Logan Community College (JALC) who were laid off from their teaching positions at the end of the 2015-16 academic year. C75.

Plaintiffs allege that during the 2016-17 academic year, JALC employed "term faculty" (*i.e.*, adjunct instructors) and "non-teaching staff members" to teach certain courses previously taught by these and other laid-off faculty members. C75. Specifically, the agreed statement of facts narrows their challenge to JALC's decision "to lay Petitioners off during the 2016-17 school year and employ part-time adjunct faculty to teach courses the Plaintiffs were competent to teach." SUP C4.

Plaintiffs claim that the retrenchment provision of the Public Community College Act (110 ILCS 805/3B-5 (West 2016)) required that they be "recalled." C76-77.

Plaintiffs acknowledge that by employing adjunct instructors instead of tenured faculty to teach these courses, JALC achieved substantial cost savings. C75, C38.

Six of the seven plaintiffs were recalled to teach during the 2017-18 school year, but one plaintiff, Dr. Jane Beyler, had not been recalled when the plaintiffs filed their complaint. C77. The plaintiffs allege that during the 2016-17 school year, there was enough work available to employ all seven plaintiffs full-time had the defendant not employed adjunct instructors to teach their classes. C76.

The relief sought includes a writ of *mandamus* directing JALC to reinstate Dr. Beyler to a "full-time faculty member position," and

damages to make each plaintiff whole. C79. The plaintiffs also seek a permanent injunction barring JALC from laying off tenured faculty and (during § 3B-5's two-year recall period) employing adjunct instructors to "render services" that the laid-off tenured faculty members are competent to render. C79.

JALC filed a § 2-619 motion to dismiss the complaint on two grounds. C89. The first ground is not pertinent to this appeal. C89. The second ground was that the plaintiffs' claim was barred as a matter of law because § 3B-5, as interpreted in *Biggiam v. Board of Trustees of Community College District No. 516*, 154 Ill. App. 3d 627 (2d Dist. 1987), *leave to appeal denied*, 116 Ill. 2d 548 (1987), allows a community college board, in its discretion, to employ part-time instructors to teach classes a laid-off tenured faculty member was competent to teach without violating statutory rights of retrenchment and recall afforded laid-off tenured faculty members under the Act. C93.

The circuit court granted JALC's motion to dismiss (C172, A.21) and entered judgment in favor of JALC (C176, A.23). The court found the *Biggiam* case controlling. A.21. Plaintiffs appealed. C177.

In a split opinion, the appellate court reversed. A3. The majority disagreed with the *Biggiam* decision's interpretation of § 3B-5 and performed its own analysis. A.4. It also relied on its interpretation of the statute's legislative history. A.7. It rejected the *Biggiam* decision, and also sought to distinguish it. A.7-14.

Justice Welch, dissenting, disagreed. A.17. He would hold that the trial court properly and accurately applied the language of the statute.

A.18. He would affirm the judgment. A.18.

Defendant's petition for rehearing was denied. This Court allowed defendant's petition for leave to appeal.

STANDARD OF REVIEW

A § 2-619 dismissal of a cause of action is reviewed *de novo*. *Smith v. Vanguard Group, Inc.*, 2019 IL 123264, ¶ 9. This case turns on the interpretation of § 3B-5 of the Public Community College Act. Statutory interpretation presents a question of law, subject to *de novo* review. *People v. Clark*, 2019 IL 122891, ¶ 17.

ARGUMENT

I. Section 3B-5 of the Public Community College Act, correctly interpreted, does not apply to part-time adjunct instructors, and does not require the recall of a retrenched faculty member to teach a course that an adjunct has been hired to teach.

Illinois' Public Community College Act became law in 1965. Laws 1965, p. 1529 (110 ILCS 805/1-1 to 805/8-2) (West 2016) (the "Act"). Prior to 1980, the Act contained no faculty tenure provisions. Tenure protections, if any, were determined by each college individually. See *Steinmetz v. Board of Trustees of Community College District No. 529*, 68 Ill. App. 3d 83, 86 (5th Dist. 1978). The Act, then and still today, gives each college board the power "to establish tenure policies for the employment of teachers and administrative personnel, and the cause for removal." 110 ILCS 805/3-1, 3-32 (West 2016).

Public Act 81-1100, passed in 1979, added Article IIIB, Tenure, to the Act. Pub. Act 81-1100 (effective Jan. 1, 1980). This amendment comprises six sections, §§ 3B-1 to 3B-6.

Under Article IIIB, “faculty members" (statutorily defined as full-time employees regularly engaged in teaching or academic support (§ 3B-1)) who achieve tenure are granted a vested contract right in continued employment unless the faculty member is dismissed for just cause or there is a reduction in the number of faculty members employed by the college (§ 3B-2). The latter is often referred to as “retrenchment.”

The Act provides that tenured faculty will not be terminated in retrenchment unless probationary faculty and tenured faculty with less seniority are first released (§ 3B-5) and, significantly for the dispute before this Court, for the 24 months following a retrenchment, an honorably dismissed tenured faculty member has a preferred right to appointment over new faculty to fill positions entailing services he or she is competent to render, with the proviso that “no non-tenured faculty member or other employee with less seniority” shall be employed to render a service the tenured faculty is competent to render. *Id.*

The question before this Court is whether the phrase “non-tenured faculty member or other employee with less seniority” should be interpreted to permit an honorably dismissed tenured faculty member, during the statutory 24-month period, to bar the college from employing an adjunct instructor to teach a particular course or courses on an *ad hoc* basis, if the dismissed tenured faculty member is “competent” to teach that course. In other words, does § 3B-5 mean that the college’s only option is to reappoint or recall a retrenched tenured faculty member to a “position” (which would have to be a full-time position with all its

benefits) if it wishes to add a course to the curriculum that the retrenched faculty member is qualified to teach?

In determining the plain meaning of a statute, the court considers the statute it its entirety, the subject it addresses, and the apparent intent of the legislature in enacting it. *Hayashi v. Illinois Department of Financial & Professional Regulation*, 2014 IL 116023, ¶ 16. If a statute is capable of being understood by reasonably well-informed persons in two or more different ways, the statute will be deemed ambiguous. *Landis v. Marc Realty, L.L.C.*, 235 Ill. 2d 1, 11 (2009). If the statute is ambiguous, the court may consider extrinsic aids of construction in order to discern the legislative intent. *Solon v. Midwest Medical Records Ass'n,* 236 Ill. 2d 433, 440 (2010).

The first question is whether § 3B-5 is ambiguous with respect to this issue. It is. The statute contains no definition of the phrase "other employee with less seniority." § 3B-1. Two different panels of the appellate court — the *Biggiam* court and the majority below — the dissenting justice below, and the trial courts in both cases reached differing conclusions. The statutory language is patently "capable of being understood by reasonably well-informed persons" in two or more different ways. *Landis, supra.*

Adjunct instructors are not hired into "positions." The Act provides no basis for determining whether there is "seniority" for part-time or adjunct instructors. Apparently, this is left to each college to determine. See, e.g., McHenry County College (www.mchenry.edu/foia/adjunctfacultycontract

.pdf) (last visited 3/1/2020) (McHenry County College Adjunct Faculty Agreement); Governors State University (https://employment.govst.edu/postings/4550) (last visited 3/1/2020) ("[A]djunct faculty are hired as temporary faculty with teaching responsibilities for a specific course in a semester or summer session. Adjuncts are not a part of the faculty bargaining unit and are not included in membership of the Faculty Senate."); College of DuPage (www.cod.edu/about/humanresources/pdf/information_guide_for_part_time_faculty.pdf) (last visited 3/1/2020) ("All adjunct assignments are temporary and may be cancelled or discontinued at any time by the administration with no further obligation or liability."); Morton College (www.morton.edu/wpcontent/uploads/2019/04/All-Board-Policies-as-Updated-09.25.18.pdf, p. 59) (last visited 3/1/2020) (adjunct instructors are appointed on a temporary basis, with no presumption of subsequent employment).

For an extensive discussion of the many differences between full-time faculty positions and part-time instructors at one representative community college, see *Elgin Community College Dist. 509*, 92-RS-0003, 8 Pub. Employee Report for Illinois ¶ 1092, 1992 WL 12647355.

The John A. Logan Faculty and Staff Handbook (www.jalc.edu/files/uploads/global/consumer_information/pdfs/faculty_staff_handbook_2018_2019.pdf, p. 26) (last visited 3/1/2020) states, as to part-time faculty:

> Appointments are for one semester or less only and any hours taught under the category of part-time faculty will not apply toward any permanent status with the College. Instructional assignments of part-time faculty depend on sufficient enrollment which will not be verified until registration is completed.

Reading the phrase ""non-tenure faculty member or other employee with less seniority" in the context of the section as a whole, the term "other employee with less seniority" must mean an "employee" (whatever that employee's title may be) who is capable of acquiring seniority. Otherwise, the legislature would have used different language, because the term "less seniority" implies that the employee is in a position where seniority accrues. This phrase, therefore, must refer to an employee who holds a "position," and the preceding phrase of the same sentence uses the term "position" to refer to a faculty member who has an appointment. The "other employee" may or may not be tenure-track faculty (or a full-time teacher by some other name), but the language clearly implies that the "other employee" holds a "position." Adjuncts are term or *ad hoc* employees; they do not hold a "position."

In addition, the first sentence of § 3B-5 contains a parallel clause. It states, in part:

> [P]rovided that the employment of no tenured faculty member may be terminated under the provisions of this Section while any probationary faculty member, or any other employee with less seniority, is retained to render a service which the tenured employee is competent to render.

Since these two clauses are functionally identical, they must be deemed to have the same meaning. Where the same, or substantially the same, words or phrases appear in different parts of the same statute, they will be given a consistent meaning unless a contrary legislative intent is clearly expressed. *Maksym v. Board of Election Commissioners*, 242 Ill. 2d 303, 322 (2011). Under the first sentence of § 3B-5, a tenured faculty member cannot be terminated in a retrenchment if "any probationary

faculty member, or other employee with less seniority" is retained to "render a service" that the tenured faculty member could render. The interpretation urged by the plaintiffs and adopted by the appellate court below would mean that before a tenured faculty member can be laid off in a retrenchment, adjunct instructors who teach courses the tenured faculty member is qualified to teach would have to be terminated. As a result, either those courses would have to be dropped from the current curriculum, or the retrenchment would have to be scrapped.

It is most unlikely that the legislature intended so great an interference in the curriculum planning and course offerings of community colleges. Plainly, the purpose of Article IIIB was to protect tenured faculty from being replaced in the same full-time "position" by junior, non-tenured (or less senior, tenured) teachers. Nothing in the statute suggests that it was intended to regulate the employment of adjunct or other part-time, *ad hoc* instructors.

II. The appellate court misconstrued § 3B-5, and misapprehended the relationship between the two clauses of the last sentence of that section.

The appellate court below, in interpreting § 3B-5, rejected the analysis of that section in *Biggiam v. Board of Trustees of Community College District No. 516*, 154 Ill. App. 3d 627 (2d Dist. 1987), *leave to appeal denied*, 116 Ill. 2d 548 (1987).

Section 3B-5 states, in relevant part:

> For the period of 24 months from the beginning of the school year for which the faculty member was dismissed, any faculty member shall have the preferred right to reappointment to a position entailing services he is competent to render prior to the appointment of any new faculty member; provided that no non-tenure faculty member or

> other employee with less seniority shall be employed to render a service which a tenured faculty member is competent to render.

110 ILCS 805/3B-5 (West 2016). The *Biggiam* court found that the purpose of the Act was to give tenured teachers priority over tenured teachers with less seniority and over non-tenured teachers. 154 Ill. App. 3d at 643. The term "other employee with less seniority" does not include part-time or adjunct teachers, who cannot accrue seniority. *Id.* In addition, part-time instructors are hired on a course-by-course basis to teach given courses as needed, whereas full-time teachers occupy a "position" in the curriculum. Part-time instructors are not hired for "positions." 154 Ill. App. 3d at 645. The *Biggiam* court's analysis was correct.

The majority below sought to distinguish *Biggiam* on its facts. Op. ¶¶ 18, 19, 25. But those facts — which may have been relevant to other issues in *Biggiam* — are irrelevant to the issue of statutory construction here, which is the sole issue in this case. In *Biggiam*, just as here, no one claimed that the college acted in bad faith in eliminating faculty positions and hiring adjunct instructors to teach some of the courses that could have been taught by full-time faculty. Therefore, the dispositive issue in *Biggiam* and here is exactly the same — does § 3B-5 give a properly dismissed faculty member the right to bar the college from hiring adjunct instructors to teach a course or courses that the former faculty member is "competent" to teach? This is purely an issue of law, as the majority acknowledged. Op. ¶ 9. All we need to know is whether the faculty members were properly dismissed and whether adjunct instructors were hired to teach certain courses that the faculty members allegedly could

have taught. Those facts are the same in both cases, and therefore *Biggiam* is indistinguishable.

In addition, the appellate court below misapprehended the relationship between the first and second clauses of the last sentence of § 3B-5. In *Piatak v. Black Hawk College District No. 503*, 269 Ill. App. 3d 1032, 1035 (3d Dist. 1995), the court analyzed this sentence:

> The first clause of the sentence is a main clause, which means that it can stand alone as a complete sentence. The second clause, which follows the semicolon, is a dependent clause. The relation between a main clause and a dependent clause is determined from the particular subordinate conjunction which joins them. (See Edward A. Dornan & Charles W. Dawe, The Brief English Handbook 22–3 (4th ed. 1994).) In this case the subordinate conjunction is "provided that," which indicates that the dependent clause is placing a condition upon the operation of the main clause. See Margaret Shertzer, The Elements of Grammar 46 (1986).
>
> The main clause in the sentence in question provides that any dismissed faculty member, regardless of tenure, has a preferred right to reappointment before any new faculty members are appointed. This preferred right unquestionably relates to open *positions* because a community college would not have occasion to appoint a new faculty member unless a *position* has become available. Therefore, it is clear that the main clause confers upon dismissed faculty members the right to reappointment to open *positions* which become available following their dismissal.

Id. at 1035-36 (emphasis added). "A proviso is intended to qualify what is affirmed in the body of the act, section or paragraph preceding it." *Illinois Chiropractic Society v. Giello*, 18 Ill. 2d 306, 312 (1960).

In its opinion in the instant case, the appellate court majority treats the two clauses as if they were completely independent. The opinion says that an adjunct instructor is an "employee" of the college, in a general sense, and therefore is within the term "employee" in the second clause. Op. ¶ 12 (A.7). But this overlooks the relationship between the clauses.

The first clause gives a dismissed faculty member a preferred right to reappointment to a *position* prior to appointment of any new faculty member. The second clause merely adds an additional proviso — that a faculty member or other employee with less seniority cannot be reassigned to the dismissed faculty member's position. The first clause applies to a "position entailing services"; the word "service" in the second clause must be construed in tandem with the first and must be given the same contextual meaning.

This is well-established law. Where a word has been used more than once in a statute, "it is presumed to have been used with the same meaning throughout, unless a contrary legislative intent is clearly expressed." *Hickey v. Illinois Racing Board*, 287 Ill. App. 3d 100, 106 (1st Dist. 1997). *Accord: People v. Ashley*, 2020 IL 123989, ¶ 36; *In re Detention of Stanbridge*, 2012 IL 112337, ¶ 60; *People v. Lutz*, 73 Ill. 2d 204, 212 (1978). See 5 ILCS 70/1.01 Notes of Decisions ¶ 405. In this case, the same word — "service" — appears not only in the same section; it is in the same sentence. The court below took the second clause out of context and thereby ascribed to it a meaning foreign to the section as a whole. The *Piatak* decision's analysis should control here.

III. In rejecting the *Biggiam* decision, the appellate court misapprehended, and erred in failing to apply, the well-settled judicial construction doctrine.

On September 1, 1989 — over two years after *Biggiam* was decided — the General Assembly amended § 3B-5 (Public Act 86-501), adding certain language not pertinent in this case. The amendment made no change to the part of § 3B-5 involved in the *Biggiam* case.

The majority opinion acknowledged the well-established doctrine that when the legislature amends a statute — in this case, the very section — that was judicially interpreted a certain way and leaves unchanged the portion of the statute judicially construed, it will presume that the legislature adopted the court's prior construction. The opinion states that although this is "an important rule of statutory construction" (Op. ¶ 33, A.17), the rule does not apply "when a contrary legislative intent is clear." *Id.* For this proposition, it cites a 1935 Illinois Supreme Court case, *People ex rel. Nelson v. Wiersema State Bank*, 361 Ill. 75, 78-79 (1935). Respectfully, *Nelson* does not quite say that.

In *Nelson*, this Court stated the judicial construction doctrine in strong terms.

> The general rule is, that where terms used in the statute have acquired a settled meaning through judicial construction and are retained in subsequent amendments or re-enactments of the statute, they are to be understood and interpreted in the same sense theretofore attributed to them by the court unless a contrary intention of the Legislature is made clear. The judicial construction *becomes a part of the law*, and it is presumed that the Legislature in passing the law knew such construction of the words in the prior enactment.

Id. (emphasis added). But *Nelson* did *not* say that the rule does not apply when a contrary legislative intent "is clear." Rather, it said that the judicial construction is not controlling where a contrary legislative intent "is *made* clear" or "where the two acts are *essentially dissimilar*." *Id.* at 79 (emphasis added). That is not the case here. Nothing in the 1989 amendment to § 3B-5 "made clear" any intent contrary to the holding in *Biggiam*. The amendment made no change in the language in question in this case; it did not address or reference that language.

Therefore, the exception cited in in the majority's opinion below, and the exception mentioned in the *Nelson* case, does not apply to § 3B-5.

Nelson was a 1935 case. The judicial construction principle has been repeatedly and consistently applied ever since, and it applies as well when the interpreting decision was a decision of the appellate court.

In *In re Marriage of O'Neill*, 138 Ill. 2d 487 (1990), this Court applied this doctrine to a statute that had been interpreted by the appellate court:

> It is a well-established principle of statutory construction that "where terms used in [a] statute have acquired a settled meaning through judicial construction and are retained in subsequent amendments or re-enactments of the statute, they are to be understood and interpreted in the same sense theretofore attributed to them by the court unless a contrary intention of the legislature is made clear." [citations] This rule is based upon the view that "the judicial construction [of a statute] becomes a part of the law, and it is presumed that the legislature in passing the law knew [of] such construction of the words in the prior enactment." *Wiersema State Bank*, 361 Ill. at 79, 197 N.E. 537.
>
> A related principle of statutory construction is that "[w]here the legislature chooses not to amend a statute after a judicial construction, it will be presumed that it has acquiesced in the court's statement of the legislative intent."

O'Neill, 138 Ill. 2d at 495–96.

In *People v. Way*, 2017 IL 120023, ¶ 27, this Court stated:

> We assume not only that the General Assembly acts with full knowledge of previous judicial decisions but also that its silence on an issue in the face of those decisions indicates its acquiescence to them. *In re Marriage of Mathis*, 2012 IL 113496, ¶ 25 (citing *People v. Villa*, 2011 IL 110777, ¶ 36) ("the judicial construction of the statute becomes a part of the law, and the legislature is presumed to act with full knowledge of the prevailing case law and the judicial construction of the words in the prior enactment").

In *Pielet v. Pielet*, 2012 IL 112064, ¶ 48, this Court stated:

> Where terms used in a statute have acquired a settled meaning through judicial construction and are retained in subsequent amendments, we assume that the legislature intended for the amendment to have the same interpretation previously given. Moreover, where, as here, the legislature has acquiesced in a judicial construction of the law over a substantial period of time, the court's construction actually becomes part of the fabric of the law, and a departure from that construction by the court would be tantamount to an amendment of the statute itself. *Berlin v. Sarah Bush Lincoln Health Center*, 179 Ill.2d 1, 20–21 (1997).

We note this Court's strong language: "a departure from that construction by the court would be tantamount to an amendment of the statute itself." *Pielet* at ¶ 48. It is beyond the power of the appellate court to amend the statute.

Many more cases could be cited. *E.g., People v. Villa*, 2011 IL 110777, ¶ 36 ("the judicial construction of the statute becomes a part of the law"); *Hubble v. Bi-State Development Agency*, 238 Ill. 2d 262, 273 (2010) ("A court presumes that the legislature amends a statute with knowledge of judicial decisions interpreting the statute"); *Bruso v. Alexian Bros. Hospital*, 178 Ill. 2d 445, 458 (1997) ("in amending a statute, the legislature is presumed to have been aware of judicial decisions interpreting the statute and to have acted with this knowledge") (appellate court decision); *Morris v. William L. Dawson Nursing Center*, 187 Ill. 2d 494, 499 (1999) ("in amending a statute, the legislature is presumed to have been aware of judicial decisions interpreting the statute and to have acted with this knowledge"); *People v. Agnew*, 105 Ill. 2d 275, 280 (1985) ("when the legislature amends a statute, but leaves unchanged portions which have been judicially construed, the unchanged portions will retain the construction given prior to the amendment"); *Illinois Power Co. v. City of Jacksonville*, 18 Ill. 2d 618, 622 (1960); *People v. Phagan*, 2019 IL App

(1st) 153031, ¶ 104.

The well-settled judicial construction doctrine applies to this case. It should have been, and now should be, decisive.

IV. The appellate court misapprehended the legislative history on which it relied.

The appellate court misapprehended the relevant — or rather, not relevant — legislative history.

The amendment adding Article IIIB to the Public Community College Act came before the 81st General Assembly as Senate Bill 147. See 81st Ill. Gen. Assem., Senate Proceedings, May 24, 1979 at 230; 81st Ill. Gen. Assem., House Proceedings, June 18, 1979 at 92 (reproduced in the Appendix at A.24 and A.40). Senate Bill 147 passed both houses, and became Public Act 81-1100.[2]

In its opinion, the appellate court states, "the legislative history of the statute shows that the interpretation urged by the defendant is at odds with the intent of the legislature." Op. ¶ 15. For this conclusion, it cites only a statement by Representative Getty that "the basic question here is a question of fundamental fairness." *Id.* That statement, however, was not made in any discussion of the specific issue in this case.

The bill's overall purpose was to create a state-wide tenure system for public community college faculty. See 81st Ill. Gen. Assem., House Proceedings, June 18, 1979, pp. 92-107; 81st Ill. Gen. Assem., Senate Proceedings, May 24, 1979, pp. 230-33 (included in the Appendix at A.24 and A.40).

[2] The General Assembly overrode the Governor's veto. A.44.

Representative Getty's comment about "fundamental fairness" was in the context of arguing why the tenure system as provided in the bill was necessary. See the entire statement, A.31-32. The appellate court next quotes another part of Rep. Getty's statement: "This is needed protection so that a man or woman, who's dedicated many years of teaching honorably, doesn't all of a sudden find himself with a $22,000 a year job being cut so that the community college can hire two for [$]11,250." Op. ¶ 15. This was in response to other legislators who had questioned the need for a statutory tenure system. See, *e.g.*, 81st Ill. Gen. Assem., House Proceedings, June 18, 1979, pp. 96-97 (A.28-29) (Rep. Skinner); pp. 95-96 (A.27-28) (Rep. Hoffman). Moreover, Rep. Getty's statement clearly refers to a faculty member who holds a regular full-time teaching position on an annual contract — "$22,000 *a year* job" (emphasis added) — who, without tenure, could be fired and replaced by two beginning or low-seniority faculty members who would hypothetically be paid $11,000 *per year*. A.32. Adjunct instructors are not hired for full-time or permanent teaching *positions*; they are hired only to teach individual *courses* on an *ad hoc* basis. See, *e.g.*, *Biggiam*, 154 Ill. App. 3d at 635. The issue presented in the instant case was not considered or discussed in the House of Representatives when this bill was considered. A.24-34.

In the Senate, the debate was similar, discussing pro and con whether the state should mandate a tenure system for community colleges or whether that should be left to each college to decide. A.40-43.

It may be questioned whether the statement of any one legislator — even the bill's sponsor — is conclusive as to the intent of all the

legislators (including state senators) who voted for the bill — in this case, 89 representatives and 40 senators. A.39, A.43. *See People v. Burdunice*, 211 Ill. 2d 264, 270 (2004). But apart from that, the comments of Representative Getty (and other representatives and senators, for that matter) had nothing to do with the issue here. The legislative history of Article IIIB is simply not pertinent here.

V. The appellate court misapprehended vital policy concerns.

The appellate court misapprehended the mischief that its decision will create. In its opinion, the court states: "The result urged by the defendant in this case would give tenured faculty members priority over less senior tenured faculty members and faculty members who do not yet have tenure, while allowing colleges to replace them with employees with the least seniority—adjunct instructors. This would be an absurd result." Op. ¶ 35. It states, "we must presume that the legislature did not intend an absurd or unjust result." *Id.*

Respectfully, it is the appellate court's decision that will create an absurd and unjust result.

It is undisputed that community colleges can eliminate full-time faculty positions, including those filled by tenured professors, when financial exigencies so require, as determined by the college's board of trustees. As we discussed in our petition, colleges and universities throughout Illinois are under severe financial stress.

Under the majority's decision in this case, the college's board of trustees and administration are put in an untenable position. Suppose, for example, the college wants to offer a course, "The History of Illinois 1600-1865" as a part of its history program. The full-time tenure-track

history faculty are already assigned to core courses, and none of them has room in his or her schedule for this course. There is a well-qualified person with a Ph.D. in history available and willing to teach the course as an adjunct. The college cannot afford to hire a full-time professor simply to add that course. Under the majority's decision, however, before an adjunct can be hired, this course must be offered to one of the faculty who was laid off within the past two years who is qualified to teach that course. That faculty member must be offered a "position," which means full-time with benefits. Other courses must be found to fill out his or her teaching schedule. This defeats the purpose of the layoff, is financially infeasible (or there would be no need for a layoff), and therefore the course cannot be offered. This is not a reasonable result.

Decisions as to when to employ full-time faculty and when to employ adjunct or term instructors should be left to the professional judgment of the college's board of trustees and administration, as they have been during the 33 years since *Biggiam* was decided. In the context of statutory construction, *stare decisis* considerations are at their apex. *People v. Espinoza*, 2015 IL 118218, ¶ 29.

CONCLUSION

The appellate court's decision in this case is inconsistent with both law and policy. For the foregoing reasons, the Board of Trustees of John A. Logan Community College prays that the judgment of the appellate court be REVERSED and the judgment of the circuit court AFFIRMED.

Respectfully submitted,

/s/ Edward J. Kionka

EDWARD J. KIONKA
Attorney at Law # 1469290
Lesar Law Building, MS 6804
1150 Douglas Drive
Carbondale IL 62901
618.521.5555
ted@kionkalaw.com

RHETT T. BARKE, # 6277080
DON E. PROSSER, # 2258722
Gilbert, Huffman, Prosser, Hewson & Barke, Ltd.
102 S. Orchard Dr.
P.O. Box 1060
Carbondale IL 62093-1060
618.457.3547
rbarke@southernillinoislaw.com
dprosser@southernillinoislaw.com

Attorneys for Defendant Board of Trustees

Rule 341(c) Certification

I certify that this brief conforms to the requirements of Rules 341(a) and (b) and 315. The length of this brief, excluding the pages or words containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 21 pages.

Certificate of Service

The undersigned, a licensed attorney, certifies that on March 2, 2020, he filed and served the foregoing document by electronic means.

He further certifies that on March 2, 2020, at approximately 11:30 a.m., he served this document on the attorneys of record for Plaintiffs-Respondents Cheryl Barrall, et al., by attaching a true copy to an email message sent to the following email address of record:

Loretta K. Haggard lkh@schuchatcw.com

Under penalties as provided by law pursuant to § 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

APPENDIX

TABLE OF CONTENTS OF RECORD ON APPEAL

COMMON LAW RECORD

SUPPLEMENTAL RECORD

2019 IL App (5th) 180284

NO. 5-18-0284

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

CHERYL BARRALL, JANE BEYLER, NIKKI BORRENPOHL, DAVID COCHRAN, DAVID EVANS, MOLLY GROOM ALTER, and JENNIFER WATKINS, Plaintiffs-Appellants, v. THE BOARD OF TRUSTEES OF JOHN A. LOGAN COMMUNITY COLLEGE, Defendant-Appellee.	)	Appeal from the Circuit Court of Williamson County. No. 17-MR-275 Honorable Brad K. Bleyer, Judge, presiding.

JUSTICE CHAPMAN delivered the judgment of the court, with opinion.
Presiding Justice Overstreet concurred in the judgment and opinion.
Justice Welch dissented, with opinion.

OPINION

¶ 1 The plaintiffs are tenured faculty members who were laid off from their teaching positions by the defendant, the Board of Trustees of John A. Logan Community College. Under section 3B-5 of the Public Community College Act (Act), tenured faculty members such as the plaintiffs have a "preferred right to reappointment" for a period of 24 months after the beginning of the school year in which they are laid off. 110 ILCS 805/3B-5 (West 2016). Under the same provision, "no non-tenure faculty member or other employee with less seniority" may be hired during that period to provide a service that a tenured faculty member with this right is "competent to render." *Id.* The rights conferred by this statute are commonly referred to as "bumping rights." The primary issue in this appeal is the meaning of the phrase "other employees with less seniority." We also consider

whether, under the circumstances of this case, bumping rights apply only to teaching positions or to individual courses as well.

¶ 2 I. BACKGROUND

¶ 3 The plaintiffs filed a petition for a writ of *mandamus*, alleging that the defendant violated the statute by hiring adjunct instructors to teach many of the courses previously taught by the plaintiffs. The defendant filed a motion to dismiss, arguing that under the Second District's holding in *Biggiam v. Board of Trustees of Community College District No. 516*, 154 Ill. App. 3d 627, 634 (1987), adjuncts are not "employee[s] with less seniority" within the meaning of the statute. The trial court granted the motion. The plaintiffs appeal, arguing that (1) *Biggiam* was wrongly decided, (2) under the plain language of the statute, adjunct instructors are "employees with less seniority" than the plaintiffs, thus giving the plaintiffs a right to be recalled before adjuncts are hired to teach their courses, and (3) bumping rights apply to individual courses, which are "services" the plaintiffs are "competent to render." We reverse.

¶ 4 The plaintiffs filed their complaint in September 2017. They alleged that the defendant voted in March 2016 to reduce the number of full-time faculty members employed by John A. Logan College beginning in August 2016. As a result of this vote, 27 tenured faculty members were laid off, including the plaintiffs. During the 2016-17 school year, the defendant hired adjunct instructors to teach "many of the courses" previously taught by the 27 laid-off tenured faculty members. Six of the seven plaintiffs were recalled to teach during the 2017-18 school year, but one plaintiff, Dr. Jane Beyler, had not been recalled when the plaintiffs filed their complaint. The plaintiffs alleged that during the 2016-17 school year, there was enough work available to employ all seven plaintiffs full-time had the defendant not employed adjunct instructors to teach their

classes instead. They further alleged that there was sufficient work available to employ Dr. Beyler full-time during the 2017-18 school year.

¶ 5 The plaintiffs requested that the court enter a writ of *mandamus* directing the defendant to reinstate Dr. Beyler to a full-time teaching position. They also asked the court to award them damages and to order the defendant to make each plaintiff whole with respect to employment benefits and credited service in their retirement system. Finally, the plaintiffs sought a permanent injunction enjoining the defendant from laying off tenured faculty and employing adjunct instructors to teach their classes during the two-year recall period.

¶ 6 The defendant filed a motion to dismiss pursuant to section 2-619 of the Code of Civil Procedure (735 ILCS 5/2-619 (West 2016)). The defendant asserted two grounds for dismissal. First, it argued that the plaintiffs' claims were released pursuant to a "Memorandum of Understanding and Settlement Agreement" entered into by the defendant and the faculty association representing the plaintiffs. Second, the defendant argued that under the *Biggiam* court's interpretation, the relevant statutory provision did not prohibit it from laying off tenured faculty members like the plaintiffs and hiring adjunct instructors to teach their courses.

¶ 7 The trial court found that the plaintiffs' claims were not barred by the parties' "Memorandum of Understanding and Settlement Agreement." However, the court concluded that it was "bound to follow *Biggiam v. Board of Trustees*." As stated previously, that case held that adjunct instructors are not "other employee[s] with less seniority" and that they may therefore be hired to teach the courses of tenured faculty members during the statutory recall period. *Biggiam*, 154 Ill. App. 3d at 643. The *Biggiam* court also held that bumping rights apply only to teaching positions, not to individual courses. See *id.* at 647. Because the trial court found that it was obliged

to follow these holdings, it granted the motion to dismiss and entered judgment in favor of the defendant. This appeal followed.

¶ 8 II. ANALYSIS

¶ 9 This appeal comes to us after a ruling on a section 2-619 motion to dismiss. Thus, we assume that all of the well-pled allegations in the complaint are true. *Ray v. Beussink & Hickam, P.C.*, 2018 IL App (5th) 170274, ¶ 12. We conduct a *de novo* review of the court's ruling. *Glasgow v. Associated Banc-Corp.*, 2012 IL App (2d) 111303, ¶ 11. Resolution of the parties' arguments requires us to construe section 3B-5 of the Act (110 ILCS 805/3B-5 (West 2016)). Statutory construction is a question of law, which is likewise subject to *de novo* review. *Solon v. Midwest Medical Records Ass'n*, 236 Ill. 2d 433, 439 (2010).

¶ 10 Our primary goal in statutory construction is to determine and effectuate the intent of the legislature. *Nowak v. City of Country Club Hills*, 2011 IL 111838, ¶ 11. The best indication of this intent is the express language of the statute itself. *Id.* Where a statute is clear and unambiguous, we must apply it as written without resorting to extrinsic aids of statutory construction. *Id.* Only if a statute is ambiguous may we look beyond its express language and rely on extrinsic aids such as legislative history or rules of statutory construction. *Id.* ¶ 13. In construing a statute, we must consider the purposes of the statute and the problems it was intended to remedy. *People v. Davis*, 296 Ill. App. 3d 923, 926 (1998). We may also find guidance from judicial interpretations of statutes that serve similar purposes, such as the tenure provisions in the School Code. See *Board of Trustees of Community College District No. 508 v. Taylor*, 114 Ill. App. 3d 318, 323 (1983).

¶ 11 The relevant statute governs layoffs resulting from a community college board's decision to reduce the number of faculty members it employs. The statute also governs the recall of laid-off faculty members. The recall provision is at issue in this case. It provides:

> "For the period of 24 months from the beginning of the school year for which the faculty member was dismissed, any faculty member shall have the preferred right to reappointment to a position entailing services he is competent to render prior to the appointment of any new faculty member; provided that no non-tenure faculty member or other employee with less seniority shall be employed to render a service which a tenured faculty member is competent to render." 110 ILCS 805/3B-5 (West 2016).

The questions in this case are whether the adjunct instructors hired to teach the plaintiffs' courses are "other employee[s] with less seniority" and, if so, whether the plaintiffs have bumping rights with respect to individual courses.

¶ 12 We first consider whether adjunct instructors are "other employee[s] with less seniority." The Act defines "faculty member" as "a full time employee" of a community college or community college district who is "regularly engaged in teaching or academic support services, but excluding supervisors, administrators and clerical employees." *Id.* § 3B-1. However, there are no statutory definitions for the terms "employee" and "seniority." See *id.* Terms that are not defined by statute must be given their plain and ordinary meaning. *Alvarez v. Pappas*, 229 Ill. 2d 217, 228 (2008). The plain and ordinary meaning of the word "employee" is a person who is "employed by another usually for wages or salary and in a position below the executive level." Webster's Ninth New Collegiate Dictionary 408 (1983). Adjunct instructors clearly fall within this definition. The plain and ordinary meaning of the term "seniority" is "a privileged status attained by length of continuous service." *Id.* at 1071. There is no dispute that adjunct instructors, who are hired on a year-to-year basis, do not attain any seniority. The plaintiffs clearly have more seniority than employees with *no* seniority. We therefore find that, giving this statutory language its plain and ordinary meaning, the adjunct instructors are "employee[s] with less seniority" than the plaintiffs.

¶ 13 The defendant argues, however, that the phrase "employee with less seniority" is ambiguous due to the structure of the sentence containing the recall provisions. The defendant's argument relies on the differences between the two clauses of the sentence. As noted previously, the first clause provides that a tenured faculty member has "the preferred right to reappointment to a position entailing services he is competent to render *prior to the appointment of any new faculty member*." (Emphasis added.) 110 ILCS 805/3B-5 (West 2016). The second clause states, "*provided that* no non-tenure faculty member or other employee with less seniority" may be hired to provide services the tenured faculty member is "competent to render." (Emphasis added.) *Id.* The defendant notes that a proviso is generally intended to qualify the language that comes before it. *Cardwell v. Rockford Memorial Hospital*, 136 Ill. 2d 271, 278 (1990). The defendant therefore argues that because the first clause unquestionably gives tenured faculty members a preferential right to recall only over faculty members, this same limitation must be read into the second clause due to its "proviso" language. We disagree.

¶ 14 We do not find the defendant's proffered interpretation to be a reasonable reading of the statute for two reasons. First, we believe the fact that the legislature deliberately chose to use broader language throughout the second clause demonstrates that it intended that clause to have broader application than the first clause. The reason for the difference in the language of two clauses is illustrated by the facts of this case. The defendant hires adjunct instructors, also known as "term faculty," on a year-to-year basis to teach individual classes as needed. By contrast, faculty members such as the plaintiffs are hired to fill teaching positions. This is not an uncommon practice. See, *e.g.*, *Biggiam*, 154 Ill. App. 3d at 645 (describing a similar hiring practice). While the first clause of the recall provision deals with the right to be recalled to a teaching position, the second clause applies more broadly to any service a tenured faculty member is competent to render,

such as teaching a specific course. Because adjuncts are only hired to teach individual courses as needed, there was no need for the legislature to include them in the clause governing reappointment to *positions*. If the legislature did not intend the second clause to apply to any and all employees with less seniority, it could have expressly limited its application to faculty members. It did not do so. Instead, it used the broad catch-all phrase "other employee[s] with less seniority."

¶ 15 Second, and more importantly, the legislative history of the statute shows that the interpretation urged by the defendant is at odds with the intent of the legislature. During the floor debates on the bill that added the tenure provisions to the Act, Representative Getty urged other legislators to support his bill because "the basic question here is a question of fundamental fairness." 81st Ill. Gen. Assem., House Proceedings, June 18, 1979, at 99 (statements of Representative Getty). He argued that the tenure provisions were necessary to protect community college teachers "from the arbitrary and sometimes capricious actions of some[,] and only some[,] community colleges." *Id.* at 100. He explained, "This is needed protection so that a man or woman, who's dedicated many years of teaching honorably, doesn't all of a sudden find himself with a $22,000 a year job being cut so that the community college can hire two for [$]11,250." *Id.* That is the essence of what the plaintiffs alleged occurred in this case.

¶ 16 We acknowledge that, as the defendant emphasizes, the Second District reached the opposite conclusion in its 1987 decision in *Biggiam*. We note that while this case involves a ruling on a motion to dismiss, *Biggiam* involved cross-appeals from a trial court's judgment after a hearing. In light of this procedural posture, the factual record in that case was more developed than the factual record in this case. As the plaintiffs point out, aspects of the case were factually distinguishable from the case before us. The *Biggiam* court addressed both of the questions we address today. The factual distinctions between *Biggiam* and this case are crucial with respect to

the court's determination that the plaintiffs there did not have bumping rights with respect to individual courses. However, those distinctions are immaterial with respect to the court's interpretation of the phrase "employee[s] with less seniority." With this in mind, we turn our attention to the Second District's decision.

¶ 17 In *Biggiam*, the defendant community college district reduced the number of full-time faculty members it employed. Its decision was based on low enrollment in specific programs, low enrollment overall, and the financial condition of the college at which the plaintiffs taught. *Biggiam*, 154 Ill. App. 3d at 630.

¶ 18 One of the plaintiffs in that case was Newlon, a theater teacher. *Id.* at 631. Although he primarily taught theater classes, he also occasionally taught an introductory speech class on an overload basis. *Id.* at 632. After Newlon was laid off due to the reduction in faculty, the college continued to offer numerous sections of the introductory speech class he previously taught, but only one theater class. *Id.* Plaintiffs Biggiam and Moreland taught full course-loads of welding classes prior to the layoffs. After the layoffs, only one welding class was offered. *Id.* at 633. Plaintiff Vargas was hired as a counselor, not a teacher. However, she occasionally taught psychology classes on an overload basis. *Id.* She had a doctor of education degree in counselor education but did not have advanced degrees in psychology or educational psychology. *Id.* at 634. After Vargas was laid off from her position as a counselor, the college offered several sections of the psychology courses she had previously taught. Some of those sections were taught by part-time instructors or tenured faculty members with less seniority than Vargas. *Id.* at 633-34.[1]

[1]We note that there were two additional plaintiffs involved. One of the plaintiffs did not have tenure. *Biggiam*, 154 Ill. App. 3d at 629. His claims related to rights he had under the parties' collective bargaining agreement. *Id.* at 636. The sixth plaintiff voluntarily dismissed her complaint prior to the trial court's hearing in the matter and was not involved in the appeal. *Id.* at 628.

¶ 19 The trial court ruled in favor of Newlon, Biggiam, and Moreland. *Id.* at 628. It found that under section 3B-5, Newlon had the right to bump any part-time, nontenured, or less senior tenured teachers from teaching the introductory speech class he previously taught. The trial court similarly found that Biggiam and Moreland had the right to bump part-time, nontenured, or less senior tenured teachers from teaching welding classes. *Id.* The court ruled against Vargas, however. *Id.* It concluded that she would have bumping rights if any counseling positions opened during the 24-month recall period mandated by section 3B-5, but she did not have bumping rights with respect to psychology classes because she was not qualified to teach psychology under the applicable provisions of the parties' collective bargaining agreement. *Id.* at 629. As noted previously, both the defendant and the plaintiffs appealed different aspects of the trial court's ruling. *Id.* at 628.

¶ 20 The Second District began its analysis by considering whether section 3B-5 gives tenured faculty members bumping rights "only with respect to other faculty members or whether such rights may be asserted over part-time instructors as well." *Id.* at 638. The court also considered whether the parties' collective bargaining agreement gave faculty members bumping rights over part-time instructors. *Id.* The plaintiff teachers argued that the phrase "employee with less seniority" must be read to include part-time instructors in light of the purpose behind the tenure provisions. They argued that tenure provisions are meant to "provide priority job protection to tenured teachers 'as against employees of lower priority status.' " *Id.* at 642.

¶ 21 In rejecting the teachers' argument about the purpose of tenure, the Second District noted that "it is proper to compare the statute in question with statutes concerning related subjects." *Id.* It therefore considered language from an Illinois Supreme Court case that discussed the purposes of the Teacher Tenure Law under the School Code. *Id.* (citing *Birk v. Board of Education of Flora Community Unit School District No. 35*, 104 Ill. 2d 252 (1984)). In relevant part, the Illinois

Supreme Court explained in *Birk* that "[t]he primary purpose of the tenure provisions of the School Code is to give tenured teachers priority over non-tenured teachers [citation], and, as between tenured teachers, to give priority to those with the longer length of continuing service." *Birk*, 104 Ill. 2d at 257. What the *Birk* court did *not* say appears to have been more significant to the *Biggiam* court than what it *did* say. Specifically, the *Birk* court did not explicitly state that tenure also serves the purpose of giving tenured teachers priority over substitute teachers or any other category of teachers who are not entitled to attain tenure or accrue any form of seniority. See *id.* As such, the *Biggiam* court found that the plaintiff teachers' argument in that case "ascribe[d] a far broader purpose" to the Act's similar tenure provisions than the legislature intended. *Biggiam*, 154 Ill. App. 3d at 642.

¶ 22 The *Biggiam* court also rejected the teachers' contention that the phrase "other employee[s] with less seniority" included part-time instructors. The court reasoned that because part-time instructors do not accumulate "seniority," as defined under the parties' collective bargaining agreement, they "cannot be considered to be 'any other employee with less seniority.' " *Id.* at 643. The court acknowledged that a word in a statute, such as "employee," should ordinarily be given its "plain, ordinary, and commonly accepted meaning." *Id.* However, the court found that it was nevertheless appropriate to interpret the phrase "other employee with less seniority" to mean " 'any other *tenured* employee with less seniority.' " (Emphasis in original.) *Id.* The court therefore held that the trial court erred in construing that phrase to include the part-time instructors. *Id.*

¶ 23 The court went on to consider whether section 3B-5 gives tenured faculty members bumping rights with respect to individual courses as well as to full-time teaching positions. In answering that question, the court noted that when a reduction in faculty takes place, the "positions" held by laid-off faculty members cease to exist. The court further observed that "part-

time instructors are hired on a course-by-course basis to teach given courses as needed." *Id.* at 645. The court explained that, as such, part-time instructors, unlike full-time faculty members, do not fill "positions." *Id.*

¶ 24 The court also looked at a line of cases arising under the Teacher Tenure Law in the School Code. Under those cases, courts consistently held that school boards are not required to " 'gerrymander' " courses taught by less senior teachers and combine them into a single position for a laid-off teacher to fill. *Id.* at 644 (citing *Peters v. Board of Education of Rantoul Township High School District No. 193*, 97 Ill. 2d 166 (1983), *Hancon v. Board of Education of Barrington Community Unit School District No. 220*, 130 Ill. App. 3d 224 (1985), *Catron v. Board of Education of Kansas Community Unit School District No. 3*, 126 Ill. App. 3d 693 (1984), and *Higgins v. Board of Education of Community Unit School District No. 303*, 101 Ill. App. 3d 1003 (1981)). We note that those cases are not precisely analogous to the situation at issue in *Biggiam*. They involved laid-off teachers who were qualified to teach some, but not all, of the courses taught by less senior teachers whose positions had not been eliminated. In those cases, the courts held that a more senior teacher has the right to bump a less senior teacher from a position only if the more senior teacher is qualified to teach all of the courses included in the position; the district is not required to cobble together a new teaching position by allowing the teacher to bump less senior teachers from individual courses. *Peters*, 97 Ill. 2d at 169, 172; *Hancon*, 130 Ill. App. 3d at 231; *Catron*, 126 Ill. App. 3d at 695-96; *Higgins*, 101 Ill. App. 3d at 1008. Nevertheless, the *Biggiam* court found these holdings applicable to the circumstances before it and held that section 3B-5 does not give tenured faculty members the right to bump less senior employees "from certain *courses* as opposed to the *positions* in the college curriculum which are held by them." (Emphases in original.) *Biggiam*, 154 Ill. App. 3d at 647.

¶ 25 We express no opinion as to the whether the *Biggiam* court correctly held that bumping rights do not apply to individual courses under the facts and circumstances of that case. We need not do so because the instant case is factually distinguishable from *Biggiam* in relevant respects. There, as we have discussed, not only were the plaintiffs' *positions* eliminated, nearly all of the *courses* they regularly taught were also eliminated. Two of the plaintiffs wanted bumping rights over part-time instructors teaching courses that they had previously taught on an occasional basis even though those courses were outside their areas of expertise and were not part of their positions. Here, by contrast, the plaintiffs have alleged that the defendant hired adjunct instructors to teach the very same courses they taught before their positions were eliminated.

¶ 26 In that regard, we find the circumstances of this case far more analogous to a different line of cases involving the tenure provisions of the School Code. Those cases hold that school districts may not rearrange teaching assignments in a manner that defeats the rights of tenured teachers even if they do so in good faith. See, *e.g.*, *Pennell v. Board of Education of Equality Community Unit School District No. 4*, 137 Ill. App. 3d 139, 143 (1985); *Hayes v. Board of Education of Auburn Community Unit School District*, 103 Ill. App. 3d 498, 502 (1981); *Hagopian v. Board of Education of Tampico Community Unit School District No. 4*, 56 Ill. App. 3d 940, 944 (1978). That might happen, for example, if the district assigns most of the teacher's classes to other teachers. See, *e.g.*, *Pennell*, 137 Ill. App. 3d at 144; *Hayes*, 103 Ill. App. 3d at 502. Here, similarly, the plaintiffs have alleged that the defendant effectively eliminated teaching positions to which they could have been reappointed by assigning their courses to adjunct instructors, over whom they should have preference under section 3B-5. We conclude that the plaintiffs have bumping rights with respect to individual courses.

¶ 27 We note that, although *Biggiam* is distinguishable from this case with respect to its determination that the plaintiffs' bumping rights did not apply to individual courses, the court's interpretation of the phrase "other employee with less seniority" would be applicable here should we choose to follow its holding on that issue. We emphasize, however, that we are not obliged to follow the decisions of other districts of the Illinois Appellate Court. *People v. York*, 2016 IL App (5th) 130579, ¶ 25.

¶ 28 The plaintiffs argue that we should not follow *Biggiam* for two reasons. First, they assert that the court's interpretation of the phrase "other employee[s] with less seniority" was *dicta*. This is so, they argue, because the court could have disposed of the matter before it without addressing that question. In particular, the plaintiffs emphasize that the *Biggiam* plaintiffs wanted bumping rights to courses they were not qualified to teach. Second, the plaintiffs argue that *Biggiam* was wrongly decided. We cannot agree with the plaintiffs' contention that the *Biggiam* court's interpretation of the phrase "other employee[s] with less seniority" was *dicta*. The court explicitly stated that it believed this issue to be "foremost in this appeal." *Biggiam*, 154 Ill. App. 3d at 638. However, we do agree with the plaintiffs that *Biggiam* was wrongly decided.

¶ 29 We reach this conclusion for two reasons. First, as we already discussed, we believe that an employee with *no* seniority is necessarily an employee with less seniority than a faculty member who has any seniority at all. Thus, by its express terms, the statute gives tenured faculty members preference over adjunct instructors who have no seniority. We disagree with the *Biggiam* court's conclusion to the contrary.

¶ 30 Second, we believe that the *Biggiam* court read the language it quoted from *Birk* out of context. The plaintiff in *Birk* was a tenured high school guidance counselor. *Birk*, 104 Ill. 2d at 254. The school where he worked employed two guidance counselors. The other counselor had

eight years less seniority than the plaintiff. *Id.* at 255. Both guidance counselors worked 10 months of the year. *Id.* The board of education notified the plaintiff that it would be reducing his contractual service to nine months in the following school year. However, the other guidance counselor was retained in a 10-month position even though she had less seniority than the plaintiff. *Id.* The plaintiff asked the board of education to reinstate him in the 10-month position in place of the less senior counselor, but the board refused to do so. *Id.* The plaintiff sued the board. The trial court dismissed his petition, and the plaintiff appealed. The appellate court reversed the trial court's ruling, and the board appealed to the supreme court. *Id.* at 254.

¶ 31 The Illinois Supreme Court noted that the only question before it was whether the bumping rights in the Teacher Tenure Law applied to the school district's decision to reduce the plaintiff's service from 10 months to 9 months. *Id.* at 255. In answering that question in the affirmative, the court explained that a tenured faculty member is "entitled to a reading of [the relevant statute] which is consistent with its prime purpose of protecting those who have qualified for its protections." *Id.* at 257. Significantly for our purposes, this holding gave the plaintiff the right to bump a tenured guidance counselor with less seniority from the extra month of service. Thus, the *Birk* court was not called upon to decide the rights of a tenured teacher over an employee who, like the adjunct instructors in this case, did not have the right to accrue seniority. The *Birk* court's silence on a question that was not before it does not support the *Biggiam* court's conclusion that tenure provisions are intended to serve the limited purpose of giving tenured teachers priority over other tenured teachers with less seniority and full-time teachers who have not yet attained tenure. Because we do not find the *Biggiam* court's reasoning persuasive, we choose not to follow its holding.

¶ 32 The defendant points out, however, that the legislature amended section 3B-5 subsequent to the Second District's decision in *Biggiam* without changing the relevant language. See Pub. Act 86-501, § 1 (eff. Jan. 1, 1990) (amending 110 ILCS 805/3B-5). The defendant argues that we must presume that the legislature was aware of the Second District's interpretation of the relevant statutory language when it did so. See *Perry v. Department of Financial & Professional Regulation*, 2018 IL 122349, ¶ 67. The defendant further argues that because the legislature did not change the relevant language, we must also presume that the court intended that language to have the meaning ascribed to it by the *Biggiam* court. See *Illinois Power Co. v. City of Jacksonville*, 18 Ill. 2d 618, 622 (1960); *People ex rel. Nelson v. Wiersema State Bank*, 361 Ill. 75, 78-79 (1935).

¶ 33 The defendant's argument correctly states one important rule of statutory construction, but we do not find the argument persuasive. It is worth emphasizing that the presumption relied upon by the defendant is a "*general rule*" of statutory construction, and it does not apply where a contrary legislative intent is clear. (Emphasis added.) *Nelson*, 361 Ill. at 78-79. In light of both the statutory language itself and our consideration of other rules of statutory construction, we find that a contrary legislative intent is abundantly clear.

¶ 34 Another basic principle of statutory construction is that courts should consider the purpose of the law and the problems it was intended to remedy. *Davis*, 296 Ill. App. 3d at 926. Both the Illinois Supreme Court and this court have had occasion to discuss the purpose behind the tenure provisions in the School Code. In *Birk*, the Illinois Supreme Court explained that "[t]he legislature's goal in creating teacher tenure was to assure continuous service on the part of teachers of ability and experience by providing those teachers with some degree of job security." *Birk*, 104 Ill. 2d at 257. This court observed that by providing teachers with job security, the tenure system provides "continuity and stability for students" and it enables school districts to "attract teachers

of high quality[ ] and retain experienced teachers." *Pennell*, 137 Ill. App. 3d at 147. The tenure provisions in the Act were enacted to serve these same purposes. *Piatak v. Black Hawk College District No. 503*, 269 Ill. App. 3d 1032, 1036 (1995). The interpretation urged by the defendant would undermine the job security that tenure is meant to provide by allowing community colleges to replace faculty members with lower-paid, less experienced adjuncts even when their courses are still being offered. As we discussed previously, the legislative history of the statute indicates that the legislature specifically intended to avoid this result. See 81st Ill. Gen. Assem., House Proceedings, June 18, 1979, at 100 (statements of Representative Getty). The defendant's interpretation is also at odds with the broader purposes of tenure—that is, enabling community colleges to attract and retain the most qualified, experienced teachers available.

¶ 35 Similarly, we should consider the consequences that might result from our interpretation of the statute. In doing so, we must presume that the legislature did not intend an absurd or unjust result. *Solon*, 236 Ill. 2d at 441. The result urged by the defendant in this case would give tenured faculty members priority over less senior tenured faculty members and faculty members who do not yet have tenure, while allowing colleges to replace them with employees with the least seniority—adjunct instructors. This would be an absurd result. We therefore reject both the defendant's interpretation of the statute and its contention that the legislature implicitly ratified the *Biggiam* court's holding by subsequently amending the statute without changing the relevant language.

¶ 36 We hold that the phrase "employee[s] with less seniority" is not limited to tenured employees or employees eligible to attain tenure; rather, the phrase includes *all* employees with less seniority, including those with *no* seniority. Thus, it includes the adjunct instructors hired to teach the classes formerly taught by the plaintiffs in this case. We also hold that the plaintiffs have

bumping rights with respect to individual courses under the circumstances alleged here. We will therefore reverse the order of the trial court dismissing the plaintiffs' complaint.

¶ 37 The plaintiffs urge us to remand this matter with directions for the trial court to enter a writ of *mandamus* and to hold a hearing on the issue of damages only. We do not believe it would be appropriate to do so. Although we assume that all well-pled facts in the plaintiffs' complaint are true for purposes of a ruling on a motion to dismiss, it would be inappropriate for the trial court to enter a final judgment in the plaintiffs' favor without requiring the plaintiffs to prove those allegations. There may also be additional factual and legal questions for the court to resolve that were not raised in the defendant's motion to dismiss. We will therefore remand the matter for further proceedings on all issues.

¶ 38 III. CONCLUSION

¶ 39 For the foregoing reasons, we reverse the order of the trial court dismissing the plaintiffs' complaint. We remand for further proceedings consistent with this opinion.

¶ 40 Reversed and remanded.

¶ 41 JUSTICE WELCH, dissenting:

¶ 42 I respectfully disagree with my colleagues' interpretation of section 3B-5 of the Act (110 ILCS 805/3B-5 (West 2016)). Here, the plain language of the statute states that

> "any faculty member shall have the preferred right to reappointment to a position entailing services he is competent to render prior to the appointment of any new faculty member; provided that no non-tenure faculty member or other employee with less seniority shall be employed to render a service which a tenured faculty member is competent to render." *Id.*

¶ 43 The majority finds that this language in the statute includes adjunct instructors. The majority's reasoning is based on the notion that the phrase "less seniority" includes faculty

members with no seniority because a person with no seniority by definition has less seniority than tenured faculty members. However, this reasoning ignores the fact that adjunct instructors do not accrue seniority and will therefore never have any more or less seniority, as they are hired on a year-by-year basis. It is clear from the plain language of the statute that it was meant to apply to those faculty members who are able to accrue any seniority and does not apply to the adjunct instructors.

¶ 44 The majority distinguishes the Second District's decision in *Biggiam v. Board of Trustees of Community College District No. 516*, 154 Ill. App. 3d 627 (1987), and reverses the trial court. Though I agree with the majority that we are not bound by another appellate court district's ruling (see *People v. York*, 2016 IL App (5th) 130579, ¶ 25), we are bound by the plain language of the statute, which must be "afforded its *plain, ordinary, and popularly understood meaning*" (emphasis added) (*Alvarez v. Pappas*, 229 Ill. 2d 217, 228 (2008) (citing *People ex rel. Sherman v. Cryns*, 203 Ill. 2d 264, 279 (2003))). The trial court properly and accurately applied the plain language of the statute. Moreover, I disagree with the plaintiffs that this application of the statute would evade the purposes of tenure, as the defendant is merely trying to continue to provide education in light of the budget crisis. I would therefore affirm the trial court's granting of the defendant's motion to dismiss.

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
WILLIAMSON COUNTY, ILLINOIS

CHERYL BARRALL, JANE BEYLER
NIKKI BORRENPOHL, DAVID COCHRAN,
DAVID EVANS, MOLLY GROOM ALTER,
and JENNIFER WATKINS,

Plaintiffs,

vs.

THE BOARD OF TRUSTEES OF
JOHN A LOGAN COMMUNITY COLLEGE

Respondent.

No. 17-MR-275

ORDER

The court has now fully considered Respondent's Motion to Involuntarily Dismiss Petitioners' Claim And Complaint Pursuant to 735 ILCS 5/2-619. The court has reviewed and considered oral arguments of counsel, written briefs filed, the applicable statute, and applicable case law.

The Motion to Dismiss is granted. The court initially determines that Petitioners' Claim is not barred by the language of the Memorandum of Understanding and Settlement Agreement. However, it is the court's opinion that it is bound to follow *Biggiam v. Board of Trustees*. Petitioners urge this court to limit the holding and "dicta" of Biggiam to the unique facts of that case. Rather, petitioners urge this case is controlled by, and this court is obligated to follow, the Fifth District case of *Pennell v. Board of Education* and the Supreme Court case of *Birk v. Board of Education*. The court disagrees. In the court's opinion, the petitioner's claimed "dicta" in *Biggiam* was, in fact, an integral part of the court's holding. The holdings in *Pennell and Birk*,

both construing protections afforded tenured teachers under section 24-12 of the School Code, while perhaps instructive or insightful to a court of review, have no precedential authority in the instant case.

Whether *Pennell* and *Birk* provide the more persuasive reasoning, leading to a different outcome here, is a decision for the appellate court.

The Petition for Writ of Mandamus is dismissed with prejudice.

4-23-18
Date:

Judge

IN THE CIRCUIT COURT OF WILLIAMSON COUNTY
STATE OF ILLINOIS

FILED
MAY 08 2018
CLERK OF THE CIRCUIT COURT

CHERYL BARRALL, JANE BEYLER, NIKKI BORRENPOHL, DAVID COCHRAN, DAVID EVANS, MOLLY GROOM ALTER, AND JENNIFER WATKINS,

Petitioners,

v.

THE BOARD OF TRUSTEES OF JOHN A. LOGAN COMMUNITY COLLEGE,

Respondent.

Cause No. 2017-MR-275

JUDGMENT

In accordance with the Court's Order of April 23, 2018, dismissing Plaintiffs' Petition for Writ of Mandamus with prejudice, the Court hereby enters Judgment in favor of Respondent The Board of Trustees of John A. Logan Community College.

The Hon. Brad K. Bleyer
Circuit Judge

5-8-18
Date

Speaker Flinn: "On this question there are 102 voting 'aye', and 44 voting 'no', and this Bill having received the Constitutional Majority is hereby declared passed. Senate Bill 147."

Clerk O'Brien: "Senate Bill 147, a Bill for an Act to amend Sections of the Public Community College Act, Third Reading of the Bill."

Speaker Flinn: "Representative Getty."

Getty: "Mr. Speaker and Members of the House, Senate Bill 147 is a Bill which would establish state wise tenure for public community colleges. It provides for dismissal... dismissal procedures for probational...probationary faculty. At present, there is no statutory provision concerning the establishment of tenure for community colleges. As a result, 29 such community colleges provide for it and 10 do not. The provisions of the Bill would provide for a three year tenure period which may be extended to four and after that would set out a procedure whereby teachers could be terminated. I would ask for your support."

Speaker Flinn: "The Gentleman from Cook, Representative Walsh."

Walsh: "...Mr. Speaker and Ladies and Gentlemen of the House, this is indeed one of the worst Bills in the entire Session. It does for junior college professors what has been done for teachers and has been regretted by many for...for teachers. It provides for tenure. Now in the first place, college professors, junior college professors ought to be treated in the same way that other college professors are. That was certainly the intention of the Legislature. It was the intention of those people who were interested in forming the state-wide community colleges. They intentionally did not at that time in 1965, provide for tenure. They have not since then, and this is simply a ploy by the Teacher Union to do something because they have done

just about everything else. And I suggest to you that it is not right. The administration of junior colleges is entirely different from that of elementary and secondary schools. Junior colleges are not nearly as structured. Therefore, a tenure period of three years with a probation period of one year is simply too little time. In the collective bargaining agreements in universities, traditionally, the tenure probation in the collective bargaining agreements is seven years. For us to lock inthree and possibly four is all wrong, now, this Bill does something more than that. In addition to the tenure provision and for the provision for dismissing teachers, it goes to the question of economics of... dismissals for economic reasons or for reductions in the enrollment. That, too, is an extension that has just been done now in a Bill that Representative Schneider passed the other day, and hopefully will be vetoed, that has just been done for elementary and secondary schools. So to do it now for junior colleges is absolutely wrong. Now I would urge you, Mr. Speaker and Ladies and Gentlemen of the House, do not pass this Bill. It is not well thought out, and I might add, also, that it is not an IEA Bill. I know that many of you if the IEA says jump, you really go! Well, it is not an IEA Bill. You can vote 'no' on this, and I don't think you'll get into a whole lot of trouble with the Illinois Education Association. Don't tell them I told you that, but I don't think you will. So I urge you to vote 'no'."

Speaker Flinn: "We won't tell them. Representative Hoffman."

Hoffman: "Thank-you, Mr. Speaker, will the Sponsor yield to a question?"

Speaker Hoffman: "He indicates he will."

Hoffman: "First, what is the typical tenure policy at state universities such as Illinois State, University of Illinois, places like that where you find teachers

teaching on the freshmen-sophmore level?"

Getty: "I believe it varies. This Bill does not speak to that."

Hoffman: "Basically the tenure policy at state universities usually runs between seven to nine years. It seems to me tha this is a fairly comparable number. Let me ask you this question. Under this Bill, will teachers who have taught four or more years be automatically tenured in?"

Getty: "Yes."

Hoffman: "In other words, that there will be no probationary period provided in this Bill. So if someone has taught, they will be automatically tenured in. Alright..."

Getty: "The purpose of Amendment #1, which was offered in Committee, was to clarify just exactly that position. That if they had been already teaching for four years, they would be tenured in."

Hoffman: "Alright, let me just reflect and point out that when the present tenure law was adopted for elementary and secondary school teachers, that at that time it provided that at least one of the years that was included for tenure was prospective, and therefore there was a year to make an evaluation on that basis. How will this Bill affect community colleges that already have tenure programs?"

Getty: "Well, there are 29 community colleges which have tenure programs. If their tenure was for a period of more than the three or four years as is provided in the Bill, it would shorten their tenure period. If their tenure period was for less, then it would have no effect on the existing tenure provision."

Hoffman: "Alright, how is a...how do we define a full-time employee in this Bill? In other words, if tenure is to apply to full-time employees, what constitutes a full-time employee?"

Getty: "I believe you'd just have to look at the statute and determine whether it was a full-time teaching position or not a full-time teaching position."

Hoffman: "Let me suggest to you, Mr. Sponsor, that there is no definition in the statute of what constitutes a full-time employee, and that that...that fact alone I think leaves a significant hole in the Bill. Let me ask you one other question. How is cause defined?"

Getty: "Would you repeat that?"

Hoffman: "How...you say a person may be dismissed for just cause. What is just cause?"

Getty: "Just cause is something that as with most other usages of that word would be interpreted on a case by case basis. It is best left to that sort of thing, because we can't statutorily set down language that would cover every possible situation."

Hoffman: "I would suggest to the Sponsor that as far as tenure and just cause is concerned for elementary and secondary schools, that it is defined, and there are specific causes for which people can be dismissed. I think for that reason that you open up a lot of people to hazards. One, in terms of what cause can be defined at. Numbertwo who in fact is going to be included under this program? I think because of the responses that I've had to these questions, which I think are sincere and honest answers, but will be extremely difficult for me at least at this time, under this particular program to support this legislation."

Speaker Flinn: "The Gentleman from Adams, Representative McClain."

McClain: "Thank-you very much, Mr. Speaker. Would the Gentleman yield?"

Speaker Flinn: "He indicates he will."

McClain: "Mike, in my community we have what we call consortium. That is a junior college district where they purchase services from a lot of other junior colleges both from Missouri and Illinois. Would a faculty member as defined in this Bill include faculty

members that are on contract with this consortium, but not exactly employed by the college?"

Getty: "No, I would...I would not believe that it would include anyone who was not an employee of the community college."

McClain: "Well, but they are indirectly by being employed on a contract with the institution."

Getty: "I would...it would be my interpretation that they would not unless they were a full-time employee of the institution, and I don't believe if they are on a contract basis that that would qualify."

McClain: "So like in a community like our community in Quincy where it's a consortium, and all we basically have are advisors, supervisors, and counselors, they wouldn't be affected by this Bill at all."

Getty: "Well, I don't know about the individual titles, but it would appear to me that a person who was merely serving on a contract basis, not an employee, would not be covered."

McClain: "So supervisors...administrators are not covered?"

Getty: "Well, when you say supervisors, it clearly excludes supervisors, administrators, or clerical employees."

McClain: "All right. Do you have the same provision in here for seniority dismissal? Dismissal would be on a seniority basis?"

Getty: "That's correct."

McClain: "Okay. Thank you."

Speaker Flinn: "The Gentleman from McHenry, Representative Skinner."

Skinner: "Speak...Mr. Speaker, I'm waiting for someone to make a case for need. I haven't heard anyone indicate why we should impose this mandated local problem on community college boards. The system seems to be working fairly well, and at the present time it seems to me with enrollment projected to decrease as the

baby boom disappears, that there will be numerous lay-offs at junior colleges. I see no reason whatsoever to limit the junior college board's decision of...on who they should keep...on whom they should keep and on whom they should fire. Why shouldn't they be allowed to keep the most competent teachers? There's one other thing that is missing in this Bill it seems to me. I've heard the elementary school teachers and the high school teachers throughout the state suggested that if they got collective bargaining they wouldn't need tenure. Well, a good many junior colleges now have collective bargaining, so they don't need tenure. They have procedural due process in firing. There has to be a good reason for getting rid of community college professors. I'm waiting, and as I hope every...as I hope a majority of my colleagues are waiting for somebody to come out with a convincing argument. It hasn't come yet. There's one other thing that ought to be taken into consideration. There are different strategies on how to choose professors for a junior college. If...one can either opt for a large percentage of full-time professors, or one can opt for a larger percentage of part-time professors and a smaller percentage of full-time professors. The part-time professor route is infinitely cheaper. Well, not infinitely cheaper, but much, much cheaper, because you don't have to pay all the employee benefits that a full-time teacher gets. And, yet because that profe...that...that part-time teacher may want very much to teach and develop a reputation that might lead to further part-time teaching in another local junior college, the quality of teaching by the part-timer may be better than the quality of teaching by the full-timer. It seems to me this is an extremely significant Bill, and I would reiterate the need has not been made for why we should vote in favor of this Bill."

Speaker Flinn: "Representative Schneider."

Schneider: "Thank you, Mr. Speaker and Members. Once again, the question of due process has been raised. A question of competency has been raised. One of the problems with the argument about competency that is offered by Representative Skinner, nobody knows about competency, because the community colleges probably don't take the time to evaluate the teachers. One of the things that tenure has going for it, whether it's in elementary, or secondary, or in the community college level is that there's a requirement that you at least evaluate a teacher before you can declare them incompetent. A teacher ought to know if he's being successful or unsuccessful, but if administrators are not doing that kind of job, and in Higher Ed Committee I recall asking that question. There was no affirmative response that they weren't doing it. What it really means is that they don't evaluate their teachers. So, it comes the time when they want to get rid of the person. They say, well we need to get rid of you for a variety of reasons. Possibly, you're not a good teacher. Possibly, we don't have enough money. Possibly, that kind of class has folded. But, you don't know if that's the authentic and legitimate reason, and a teacher, and a class, and a school has no way of preparing for an adjustment in a program. Secondly, I would argue that the publish or perish concept, which is evident probably more in higher ed, could be another reason why teachers shouldn't teach. What the schools may want is that they research and publish to bring some kind of distinction to that university or community college. I think that's a fallacious way to approach education. Certainly, they're in the building to teach. They're there to instruct. They're there to prepare students and adults for a world beyond the

classroom, and if they tie themselves to publish or perish I think that's a failure. As to the matter of distinctions about just cause, there...the comments deal with incompetency in the school code, and, of course, I've spoken to that. They deal with immorality. They deal with negli...negligence, and brutality, or some form of physical violence. Three of those four do not take...are strong evaluation of my judgment. Incompetency does. I don't think community colleges do it now. Ten years away can make the Community College Board respond. Ten years away to make a teacher sure that if he's doing the right job, he can be certain that in the future years, beyond the tenure years, that he'll have a job, and he'll be doing it properly with the sanctions of the school's trustees and within their boundaries as he and they see it. I solicit an 'aye' vote."

Speaker Lechowicz: "The Gentleman from Kankakee, Mr. Christensen."

Christensen: "Mr. Speaker, I move the previous question."

Speaker Lechowicz: "The Gentleman has moved the previous question. All in favor signify by saying 'aye'. 'Aye'. Opposed...the previous question has been moved. The Gentleman from Cook, Mr. Getty, to close."

Getty: "Mr. Speaker, Members of the House, the basic question here is a question of fundamental fairness. This is a question that is raised in every important piece of legislation we have before us. A community college is given three years in which to evaluate the qualifications of a teacher. They can dismiss that teacher at any time during that three year period. If they're still not quite sure, they can give them a notice and extend that for an additional year. Four years. I think that is more than sufficient to protect the legitimate interests of the community college in

evaluating the teacher. What this will do is protect teachers who work very hard...very hard at being proficient, are working on a typically lesser pay scale than our high-priced colleges and universities, teachers who need this protection from the arbitrary and sometimes capricious actions of some and only some community colleges. This is needed protection so that a man or woman, who's dedicated many years of teaching honorabl doesn't all of a sudden find himself with a $22,000 a year job being cut so that community college can hire two for 11,250. This is fundamental fairness, Ladies and Gentlemen of the Assembly. If you believe in fundamental fairness, if you believe that a teacher can be evaluated after three or four years and be certified and given tenure, vote for this Bill. If you're against teachers being able to maintain an honorable consistency in their teaching, vote against it. I ask wholeheartedly that every one of you support what I think is a very, very important piece of legislation. Please vote 'yes'."

Speaker Lechowicz: "The question is, 'Shall the House pass the Senate Bill 147?' All in favor vote 'aye'. All opposed vote 'nay'. The Gentleman from Cook, Mr. Huff, to explain his vote. Timer's on."

Huff: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. In explaining my 'aye' vote, clearly this Bill is...is a Bill that deals with liberating teachers from a sort of..demogogical servitude. Clearly, no one can believe, no one can believe that the teachers tenure or condition of employment depends on the capricious and sometimes transitory excuses of the chancellor, can believe that true education is taking place. This may explain why the reading scores in the junior college system is no better than those in elementary. It is a good Bill. It is time to give these people a kind of security they need, and I...solicit your 'aye' vote."

Speaker Lechowicz: "Thank-you. The Gentleman from Cook, Mr. Conti, to explain his vote. Timer's on."

Conti: "Mr. Speaker and Ladies and Gentlemen of the House, again this is another Bill that we passed this morning. We...every governmental agency, every taxing body on the State of Illinois is a creature of the General Assembly. We ask for people to vote these people into office, and then all of a sudden we take their powers away from them. They're not knowing...if they're doing the wrong thing, if they're arbitrarily andcapriciously firing school teachers, they have to answer and be responsive to the people in their respective districts when they run for re-election. Why don't we just go home next November and get elected to the Illinois General Assembly and then delegate all of our powers to a commission to either approve or disapprove Bills in hhis House, and we can stay home and let the Commission do our work for us. This is exactly what you are asking us to do. We're a creature of the General Assembly. We elect these officials, and then we take these powers away from them so that they can run the school the way they want to run it."

Speaker Lechowicz: "The Gentleman from Coles (sic), Mr. Stuffle to explain his vote. Timer's on."

Stuffle: "Yes, Mr. Speaker and Members, this has been well debated. I think Representative Getty hit upon some excellent points in his argument. I think it is a fair Bill that speaks to a means and a mechanism of dealing with these dismissals in a way that will take away the aribitrary and capricious nature of some of the activities in the community college districts that do go on, and have gone on, and will continue to without this element being in the statute. I think the Bill deserves a green light. It deserves our attention, it is a very important Bill for the reason Representative Getty cited. If someone is spending

much of their time of their life devoting their time to teaching and working with students and then being arbitrarily cut out. It is a fair Bill that deserves our support."

Speaker Lechowicz: "Have all voted who wish? Have all voted who wish? The Gentleman from Sangamon, Mr. Kane to explain his vote. Timer's on."

Kane: "Mr. Speaker, Ladies and Gentlemen of the House, I think that if we're going to put a tenure system into a junior college system, we ought to put in a tenure system that is much similar to the university system rather than to elementary and secondary. What this Bill would do is say simply by the passage of time that a teacher in a junior college system will receive tenure. In the university system, that time usually takes six to seven years and the person in order to get tenure, has to be recommended by a Committee of their peers, and then that goes to the administration, and then up to the board of trustees. And I think that that protects the liability and the competence of the college, and I think that that is the kind of system that we ought to go to if we are going to go to a tenure system at junior college level. And I would urge that we not vote for Senate Bill 147 at this time."

Speaker Lechowicz: "Have all voted who wish? Have all voted who wish? The Clerk will take the record. On this question there are 92 'ayes', 56 'nays'. The Gentleman from Cook, Mr. Conti."

Conti: "Would you verify this Roll Call?"

Speaker Lechowicz: "Mr. Getty asked for a Poll of the Absentees. Poll the absentees, please."

Clerk O'Brien: "E.M. Barnes. Bianco. Bowman. Capuzi. Ralph Dunn. Ebbesen. Ewell. Dwight Friedrich. Gaines."

Speaker Lechowicz: "Gaines 'aye', please."

Clerk O'Brien: "Goodwin. Katz. Kozubowski. McBroom. Meyer Peters. Satterthwaite. Schlickman. Schoeberlein. Swanstrom. Totten."

Speaker Lechowicz: "Totten, 'no'."

Clerk O'Brien: "And Williams...and Mr. Speaker."

Speaker Lechowicz: "The Gentleman from Winnebago, Mr. Swanstrom, for what purpose do you seek recognition? Kindly record Swanstrom as 'no'. McAuliffe. Change McAuliffe from 'aye' to 'no'. What's the count, Mr. Clerk, 92? We're starting off with 92. Kindly proceed and verify the affirmative vote."

Clerk O'Brien: "Alexander. Balanoff. Jane Barnes. Beatty. Bell. Birchler. Boucek. Bradley. Braun. Breslin. Bullock. Capparelli. Catania. Chapman. Christensen. Cullerton. Currie. Daniels. Darrow. Dawson. DiPrima. Domico. Donovan. Doyle. John Dunn. Farley. Flinn. Gaines. Garmisa. Getty. Giorgi. Greiman. Hanahan. Harris. Henry. Huff. Jaffe. Johnson. Emil Jones. Keane. Kelly. Kempiners. Kornowicz. Kosinski. Kucharski. Kulas. Laurino. Lechowicz. Leon. Leverenz. Madigan. Mahar. Margalus. Marovitz. Matijevich. Mautino. McClain. McGrew. McPike. Mugalian. Mulcahey. Murphy. Oblinger. O'Brien. Patrick. Pechous. Piel. Pierce. Polk. Pouncey. Preston. Rea. Richmond. Ronan. Sandquist. Schneider. Sharp. Slape. Stearney. Steczo. Stuffle. Taylor. Telcser. Terzich. Van Duyne. Vitek. Von Boeckman. White. J. J. Wolf. Sam Wolf. Younge and Yourell."

Speaker Lechowicz: "Mr. Conti, do you have any questions of

the affirmative vote?"

Conti: "Jane Barnes."

Speaker Lechowicz: "Jane Barnes is in the chamber."

Conti: "What chamber?"

Speaker Lechowicz: "The Lady is in the chamber, in the back. Don't worry, Elmer, I'll never give you a short count."

Conti: "Beatty."

Speaker Lechowicz: "Who? Beatty? How is the Gentleman recorded?"

Clerk O'Brien: "The Gentleman is recorded as voting 'aye',"

Speaker Lechowicz: "Take him off the Roll Call."

Conti: "Chapman."

Speaker Lechowicz: "Mrs. Chapman is in the chamber."

Conti: "Daniels."

Speaker Lechowicz: "Daniels. Is the Gentleman in the chamber? Mr. Daniels? Remove him off the Roll Call."

Conti: "Domico?"

Speaker Lechowicz: "Domico is in the chamber."

Conti: "Donovan."

Speaker Lechowicz: "Donovan is here."

Conti: "Doyle's always in the back. Farley."

Speaker Lechowicz: "Farley is in the chamber."

Conti: "Flinn."

Speaker Lechowicz: "Monroe Flinn. Monroe Flinn. He just went in his office. Take...Mr. Flinn... How is the Gentleman recorded?"

Clerk O'Brien: "The Gentleman is recorded as voting 'aye'."

Speaker Lechowicz: "Take him off the record."

Conti: "Zeke Giorgi."

Speaker Lechowicz: "Put Monroe Flinn back on."

Conti: "Giorgi."

Speaker Lechowicz: "Mr. Giorgi. He's in the chamber. He's right here, Elmer."

Conti: "Johnson."

Speaker Lechowicz: "Johnson, Tim Johnson?"

Conti: "Johnson...Tim Johnson."

Speaker Lechowicz: "Is Mr. Johnson in the chamber? How is the Gentleman recorded?"

Clerk O'Brien: "The Gentleman is recorded as voting 'aye'."

Speaker Lechowicz: "Take him off the record."

Conti: "Mr. Kane."

Speaker Lechowicz: "Kane is here."

Conti: "Keane.."

Speaker Lechowicz: "Oh, Keane, I'm sorry, he's here too. He's right there in the chair."

Conti: "Kosinski."

Speaker Lechowicz: "Kosinski is in his chair."

Conti: "Kucharski."

Speaker Lechowicz: "Kucharski. How is the Gentleman recorded?"

Clerk O'Brien: "The Gentleman is recorded as voting 'aye'."

Speaker Lechowicz: "Take him off the record."

Conti: "Marovitz."

Speaker Lechowicz: "Mr. Marovitz. He's here."

Conti: "Matijevich."

Speaker Lechowicz: "He's here."

Conti: "McGrew."

Speaker Lechowicz: "McGrew. Mr. Dunn. Just move over. How is the Gentleman recorded?"

Clerk O'Brien: "The Gentleman is recorded as voting 'aye'."

Speaker Lechowicz: "Take him off the record."

Conti: "McPike."

Speaker Lechowicz: "Put Daniels back on the record."

Conti: "McPike."

Speaker Lechowicz: "McPike is in the chamber."

Conti: "Murphy."

Speaker Lechowicz: "Who?"

Conti: "Murphy."

Speaker Lechowicz: "Laz? He's always here."

Conti: "Patrick."

Speaker Lechowicz: "Patrick. He's in his chair."

Conti: "Pierce."

Speaker Lechowicz: "Pierce? How is the Gentleman recorded? Mr. Pierce."

Clerk O'Brien: "The Gentleman is recorded as voting 'aye'."

Speaker Lechowicz: "Is Mr. Pierce in the chamber? Remove him."

Conti: "Polk."

Speaker Lechowicz: "Polk?"

Conti: "Ken Polk."

Speaker Lechowicz: "Ben Polk."

Conti: "Ben Polk, rather."

Speaker Lechowicz: "How is the Gentleman recorded?"

Clerk O'Brien: "The Gentleman is recorded as voting 'aye'."

Speaker Lechowicz: "The Gentleman is recorded as voting 'aye'."

Conti: "Preston."

Speaker Lechowicz: "Is Mr. Preston in the chamber? How is the Gentleman recorded?"

Clerk O'Brien: "The Gentleman is recorded as voting 'aye'."

Speaker Lechowicz: "Remove him."

Conti: "Rea."

Speaker Lechowicz: "Jimmy Rea's here. He's right in front in the back."

Conti: "Stearney."

Speaker Lechowicz: "Mr. Johnson,..put back on? Put Johnson back on the Roll Call. Tim Johnson."

Conti: "Stearney."

Speaker Lechowicz: "Stearney. How is the Gentleman recorded?"

Clerk O'Brien: "The Gentleman is recorded as voting 'aye'."

Speaker Lechowicz: "Take him off the record. Put Ben Polk back on."

Conti: "Taylor. Did you take Stearney off? Taylor."

Speaker Lechowicz: "Mr. Taylor is in the chamber."

Conti: "All right. Von Boeckman."

Speaker Lechowicz: "Von Boeckman is in the chamber."

Conti: "Sam Wolf."

Speaker Lechowicz: "Sam Wolf. He's in the back of the chamber."

Conti: "That's all, Mr. Speaker. Thank you."

Speaker Lechowicz: "Mr. Hannig, for what purpose do you seek recognition? Hannig, please."

Hannig: "Mr. Speaker, how am I recorded?"

Speaker Lechowicz: "How is the Gentleman recorded?"

Clerk O'Brien: "The Gentleman is recorded as voting 'no'."

Hannig: "Could you please change my vote to 'yes'."

Speaker Lechowicz: "Kindly record Mr. Hannig as 'aye'. The Gentleman from Cook, Mr. Epton."

Epton: "Mr. Speaker, how am I recorded?"

Speaker Lechowicz: "How is the Gentleman recorded?"

Clerk O'Brien: "The Gentlmean is recorded as voting 'no'."

Epton: "Mr. Speaker, Ladies and Gentlemen, although I had some misgivings about the number of years I'm changing my vote to green."

Speaker Lechowicz: "Kindly record him as 'aye'. The Gentleman from Cook, Mr. Grossi, for what purpose do you seek recognition?"

Grossi: "Mr. Speaker, I wish to be recorded as 'aye'."

Speaker Lechowicz: "Kindly record Mr. Grossi as 'aye'. Is John Dunn taken off the Roll Call or is he on? Okay. On this question there are 89 'aye', 56 'nay'. This Bill, having received the Constitutional Majority, is hereby declared passed. Senate Bill 278. Elmer, never...never argue with the Clerk. 89. Senate Bill 278."

Clerk O'Brien: "Senate Bill 278. A Bill for an Act to amend Sections of the Illinois Horse Racing Act. Third

SB 147
3rd reading
5-24-79

PRESIDENT:

Is there any discussion? If not the question is shall Senate Bill 140 pass. Those in favor will vote Aye. Those opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Take the record. On that question the Ayes are 54, the Nays are none, none Voting Present. Senate Bill 140, having received the constitutional majority is declared passed. 147, Senator Berman. On the Order of Senate Bills 3rd reading, Senate Bill 147. Read the bill, Mr. Secretary.

SECRETARY:

Senate Bill 147.

(Secretary reads title of bill)

3rd reading of the bill.

PRESIDENT:

Senator Berman.

SENATOR BERMAN:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Senate Bill 147 is a bill that will allow tenure to be provided to community college faculty. As amended, and there has been amendments put on in response to objections that were voiced in committee and by some of the junior college board members. As amended the bill will provide that teacher, after three years of service would be entitled to notice of the reasons for dismissal and entitled to a hearing on that dismissal. The board can extend that probationary period to four years if it so desires. All that this bill does, I believe, is to provide some fairness, due process and equity to persons who dedicate their lives to the teaching of young people in our community colleges. There are ten, the reason for the bill, I would point this out, there are still ten community college districts in the State of Illinois that have no tenure policies whatsoever. Theoretically, under that kind

of a...program, a teacher could teach for five, ten, twenty years, be dismissed overnite without any reasons or without any due process provided to that teacher. I think that's unconscionable. This bill is a reasonable approach to provide some safeguards to the teachers in our community colleges. I'll be glad to respond to any questions and solicit an Aye vote.

PRESIDENT:

Is there any discussion? Senator Maitland.

SENATOR MAITLAND:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. I rise in opposition to Senate Bill 147. I believe once again it's an erosion of local control. As you all know, the trustees of the community college districts are local...are elected locally and I think this is a decision that they should make. Yes, there are ten that do not have tenure now. But I think this is a local issue and once again erosion of local control. I urge a No vote.

PRESIDENT:

Further discussion? Senator Buzbee.

SENATOR BUZBEE:

Thank you, Mr. President. Very briefly, I opposed this bill in committee for the reason that community colleges are a point of a higher education community. And all of the senior institutions across the state, not by law, but by agreement between the administration and the faculty, there's a seven year waiting period before one is granted tenure. I believe that community colleges should...should have tenure regulations. I believe the teachers there are entitled to that. I think they also should be treated as all our other members of the higher education community and if they wanted to wait for a seven year tenure period then I would favor it, but in the present stance, present form, I cannot favor this legislation.

PRESIDENT:

Further discussion? Senator Nimrod.

SENATOR NIMROD:

Thank you, Mr. President. As Minority Spokesman on Higher Education this bill was heard was heard and I think that Senator Bruce certainly hit on a very important point. I think we're starting a precedent here, we're taking a secondary education, Senator Buzbee, I'm sorry, we're taking a secondary education...provision bill and we're moving it into the community colleges and I think it's inconsistent with the present university practices.

PRESIDENT:

Further discussion? Senator Washington.

SENATOR WASHINGTON:

Mr. President, very briefly. This bill was heard throughly on at least three different occasions in the Higher Education Committee. There were numerous witnessess, pro and con. Mr. Berman made himself amenable and available to everyone who had imput. The committee voted it out. It was our considered opinion that the time had come that...these institutions simply had to deal fairly with...with these teachers. I think it's a good bill and I support it.

PRESIDENT:

Further discussion? Senator DeAngelis.

SENATOR DeANGELIS:

Mr. President, I...I want to reiterate what Senator Washington, but add one thing, and that is that I'm not asking anybody to vote whatever way they want to, but I want to say that Senator Berman was amenable to every amendment that we requested to be put on this bill.

PRESIDENT:

Senator Graham, for what purpose do you arise?

SENATOR GRAHAM:

On a point of personal privilege. My unfavorite Lobbyist from IEA are still pestering out in the...near the door.

PRESIDENT:

They have taken the hint. Further discussion? If not, Senator Berman may close the debate.

SENATOR BERMAN:

Thank you. Mr. President and Ladies and Gentlemen of the Senate. I think there is a substantial difference between the community college faculties and our Higher Education Facilities in the senior universities. The faculty in our senior universities are judged not only on teaching, but also on research, on writing ability. I think it is a completely...different atmosphere. In fact, I think that the analogy is a much closer one between our elementary and secondary education schools and the community colleges. This is a reasonable approach. Three years with a one year extension available to the board before granting tenure. And all that the tenure means is that there has to be reasons and a hearing upon dismissal. I don't think it's imposing any great burden. This bill has been introduced before, I would point out, and yet there are still community colleges throughout our state that are unwilling to give any, any type of consideration to faculty members who dedicate themselves to the betterment of our young people in these community colleges. I urge an Aye vote in favor of Senate Bill 147.

PRESIDENT:

The question is shall Senate Bill 147 pass. Those in favor will vote Aye. Those opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Take the record. On that question the Ayes are 40, the Nays are 16, none Voting Present. Senate Bill 147 having received a constitutional majority is declared passed.

End of Reel #7

PUBLIC ACTS—Continued

Public Act	Bill No.	Date	Public Act	Bill No.	Date
PA (81-0961)A	SB-1325	9-22-79	PA (81-1009)A	HB-2390	9-22-79
PA (81-0962)A	SB-1331	9-22-79	PA (81-1010)A	HB-2422	9-22-79
PA (81-0963)A	SB-1395	9-22-79	PA (81-1011)A	HB-2472	9-22-79
PA (81-0964)A	SB-1412	9-22-79	PA (81-1012)A	HB-2485	9-22-79
PA (81-0965)A	SB-1423	9-22-79	PA (81-1013)A	HB-2500	9-22-79
PA (81-0966)A	HB-0014	9-22-79	PA (81-1014)A	HB-2526	9-22-79
PA (81-0967)A	HB-0162	9-22-79	PA (81-1015)A	HB-2548	9-22-79
PA (81-0968)A	HB-0273	9-22-79	PA (81-1016)A	HB-2590	9-22-79
PA (81-0969)A	HB-0580	9-22-79	PA (81-1017)A	HB-2613	9-22-79
PA (81-0970)A	HB-0597	9-22-79	PA (81-1018)A	HB-2659	9-22-79
PA (81-0971)A	HB-0673	9-22-79	PA (81-1019)A	HB-2736	9-22-79
PA (81-0972)A	HB-0705	9-22-79	PA (81-1020)A	HB-2740	9-22-79
PA (81-0973)A	HB-0727	9-22-79	PA (81-1021)A	SB-0289	9-24-79
PA (81-0974)A	HB-0730	9-22-79	PA (81-1022)A	SB-0918	9-24-79
PA (81-0975)A	HB-0731	9-22-79	PA (81-1023)A	HB-0226	9-24-79
PA (81-0976)A	HB-0732	9-22-79	PA (81-1024)A	HB-0336	9-24-79
PA (81-0977)A	HB-0733	9-22-79	PA (81-1025)A	HB-0387	9-24-79
PA (81-0978)A	HB-0734	9-22-79	PA (81-1026)A	HB-0413	9-24-79
PA (81-0979)A	HB-0737	9-22-79	PA (81-1027)A	HB-0444	9-24-79
PA (81-0980)A	HB-0751	9-22-79	PA (81-1028)A	HB-0523	9-24-79
PA (81-0981)A	HB-0824	9-22-79	PA (81-1029)A	HB-0591	9-24-79
PA (81-0982)A	HB-0838	9-22-79	PA (81-1030)A	HB-0593	9-24-79
PA (81-0983)A	HB-0859	9-22-79	PA (81-1031)A	HB-0611	9-24-79
PA (81-0984)A	HB-0921	9-22-79	PA (81-1032)A	HB-0724	9-24-79
PA (81-0985)A	HB-0934	9-22-79	PA (81-1033)A	HB-0933	9-24-79
PA (81-0986)A	HB-0998	9-22-79	PA (81-1034)A	HB-1158	9-24-79
PA (81-0987)A	HB-1000	9-22-79	PA (81-1035)A	HB-1196	9-24-79
PA (81-0988)A	HB-1019	9-22-79	PA (81-1036)A	HB-1260	9-24-79
PA (81-0989)A	HB-1226	9-22-79	PA (81-1037)A	HB-1363	9-24-79
PA (81-0990)A	HB-1564	9-22-79	PA (81-1038)A	HB-1535	9-24-79
PA (81-0991)A	HB-1596	9-22-79	PA (81-1039)A	HB-1686	9-24-79
PA (81-0992)A	HB-1604	9-22-79	PA (81-1040)A	HB-1936	9-24-79
PA (81-0993)A	HB-1726	9-22-79	PA (81-1041)A	HB-1966	9-24-79
PA (81-0994)A	HB-1759	9-22-79	PA (81-1042)A	HB-1990	9-24-79
PA (81-0995)A	HB-1763	9-22-79	PA (81-1043)A	HB-2148	9-24-79
PA (81-0996)A	HB-1770	9-22-79	PA (81-1044)A	HB-2226	9-24-79
PA (81-0997)A	HB-1934	9-22-79	PA (81-1045)A	HB-2310	9-24-79
PA (81-0998)A	HB-1935	9-22-79	PA (81-1046)A	HB-2431	9-24-79
PA (81-0999)A	HB-1944	9-22-79	PA (81-1047)A	HB-2547	9-24-79
PA (81-1000)A	HB-1956	9-22-79	PA (81-1048)A	HB-2567	9-24-79
PA (81-1001)A	HB-2006	9-22-79	PA (81-1049)A	HB-2678	9-24-79
PA (81-1002)A	HB-2134	9-22-79	PA (81-1050)A	HB-2779	9-24-79
PA (81-1003)A	HB-2233	9-22-79	PA (81-1051)A	HB-0015	9-24-79
PA (81-1004)A	HB-2321	9-22-79	PA (81-1052)A	HB-0320	9-24-79
PA (81-1005)A	HB-2323	9-22-79	PA (81-1053)A	HB-1463	9-24-79
PA (81-1006)A	HB-2324	9-22-79	PA (81-1054)A	HB-2168	9-24-79
PA (81-1007)A	HB-2327	9-22-79	PA (81-1055)A	HB-2194	9-24-79
PA (81-1008)A	HB-2385	9-22-79	PA (81-1056)A	HB-2658	9-24-79

A–APPROVED, AR–APPROPRIATION REDUCED, AVO–AMENDATORY VETO OVERRIDDEN, C–CERTIFIED AS REVISED, F–FILED WITHOUT SIGNATURE, RR–REDUCTION RESTORED, VO–VETO OVERRIDDEN, VP–VETOED-IN-PART, *–APPROPRIATION BILL

PUBLIC ACTS—Continued

Public Act	Bill No.	Date	Public Act	Bill No.	Date
PA (81-1057)A	SB-0088	9-26-79	PA (81-1105)VO	SB-0798	11-01-79
PA (81-1058)A	SB-0418	9-26-79	PA (81-1106)VO	SB-0883	11-01-79
PA (81-1059)A	SB-0528	9-26-79	PA (81-1107)VO	SB-0884*	11-01-79
PA (81-1060)A	SB-0930	9-26-79	PA (81-1108)VO	SB-1137	11-01-79
PA (81-1061)A	SB-0932	9-26-79	PA (81-1109)VO	SB-1223	11-01-79
PA (81-1062)A	SB-0955	9-26-79	PA (81-1110)VO	SB-1229	11-01-79
PA (81-1063)A	SB-1350	9-26-79	PA (81-1111)VO	SB-1328	11-01-79
PA (81-1064)A	SB-1386	9-26-79	PA (81-1112)VO	SB-1334	11-01-79
PA (81-1065)A	HB-0004	9-26-79	PA (81-1113)A	SB-1436*	11-09-79
PA (81-1066)A	HB-0265	9-26-79	PA (81-1114)C	SB-0696	11-15-79
PA (81-1067)A	HB-0956	9-26-79	PA (81-1115)C	HB-0662	11-15-79
PA (81-1068)A	HB-1088	9-26-79	PA (81-1116)C	SB-0093	11-21-79
PA (81-1069)A	HB-1461	9-26-79	PA (81-1117)C	HB-1914	11-26-79
PA (81-1070)A	HB-1541	9-26-79	PA (81-1118)C	SB-0032	11-26-79
PA (81-1071)A	HB-1768	9-26-79	PA (81-1119)C	SB-0048	11-26-79
PA (81-1072)A	HB-1911	9-26-79	PA (81-1120)C	SB-0050	11-26-79
PA (81-1073)A	HB-2210	9-26-79	PA (81-1121)C	SB-0058	11-26-79
PA (81-1074)A	HB-2376	9-26-79	PA (81-1122)C	SB-0065	11-26-79
PA (81-1075)A	HB-2766	9-26-79	PA (81-1123)C	SB-0176	11-26-79
PA (81-1076)A	HB-2767	9-26-79	PA (81-1124)C	SB-0228	11-26-79
PA (81-1077)A	SB-0973	9-27-79	PA (81-1125)C	SB-0293	11-26-79
PA (81-1078)VO	SB-0047	10-30-79	PA (81-1126)C	SB-0294	11-26-79
PA (81-1079)C	HB-2111	10-31-79	PA (81-1127)C	SB-0359	11-26-79
PA (81-1080)VO	HB-0108	10-31-79	PA (81-1128)C	SB-0362	11-26-79
PA (81-1081)AVO	HB-0128	10-31-79	PA (81-1129)C	SB-0419	11-26-79
PA (81-1082)VO	HB-0150	10-30-79	PA (81-1130)C	SB-0438	11-26-79
PA (81-1083)AVO	HB-0211	10-31-79	PA (81-1131)C	SB-0495	11-26-79
PA (81-1084)VO	HB-0326	10-31-79	PA (81-1132)C	SB-0511	11-26-79
PA (81-1085)VO	HB-0450	10-30-79	PA (81-1133)C	SB-0514	11-26-79
PA (81-1086)VO	HB-0460	10-31-79	PA (81-1134)C	SB-0642	11-26-79
PA (81-1087)AVO	HB-0793	10-31-79	PA (81-1135)C	SB-0666	11-26-79
PA (81-1088)VO	HB-0922	10-31-79	PA (81-1136)C	SB-0674	11-26-79
PA (81-1089)VO	HB-0944	10-31-79	PA (81-1137)C	SB-0732	11-26-79
PA (81-1090)VO	HB-1784	10-30-79	PA (81-1138)C	SB-0800	11-26-79
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PA (81-1093)VO	HB-2204	10-31-79	PA (81-1141)C	SB-0828	11-26-79
PA (81-1094)VO	HB-2416	10-31-79	PA (81-1142)C	SB-0950	11-26-79
PA (81-1095)VO	HB-2440	10-31-79	PA (81-1143)C	SB-0990	11-26-79
PA (81-1096)C	HB-1733	11-09-79	PA (81-1144)C	SB-1040	11-26-79
PA (81-1097)A	HB-2811	11-09-79	PA (81-1145)C	SB-1061	11-26-79
PA (81-1098)A	HB-2818	11-09-79	PA (81-1146)C	SB-1341	11-26-79
PA (81-1099)VO	SB-0087	10-31-79	PA (81-1147)C	SB-1344	11-26-79
PA (81-1100)VO	SB-0147	11-01-79	PA (81-1148)C	SB-1396*	11-26-79
PA (81-1101)VO	SB-0260*	10-31-79	PA (81-1149)A	SB-0563	11-26-79
PA (81-1102)VO	SB-0310	11-01-79	PA (81-1150)A	SB-1183	11-26-79
PA (81-1103)VO	SB-0459	11-01-79	PA (81-1151)A	SB-1320	11-26-79
PA (81-1104)AVO	SB-0790	10-31-79	PA (81-1152)A	SB-1438*	11-26-79

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