

**IN THE SUPREME COURT OF  
STATE OF FLORIDA**

**CASE NUMBER: SC12-520**

**RICK SCOTT, PAM BONDI, and  
JEFF ATWATER, as the  
FLORIDA STATE BOARD  
OF ADMINISTRATION, et al.,**

**Appellants,**

**vs.**

**L.T. Case Nos.: 2011 CA 1584  
1D12-1269**

**GEORGE WILLIAMS, et al.,**

**Appellees.**

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**UNOPPOSED MOTION BY THE NATIONAL CONFERENCE ON PUBLIC  
EMPLOYEE RETIREMENT SYSTEMS FOR LEAVE TO FILE AMICUS  
BRIEF IN SUPPORT OF APPELLEES**

The National Conference on Public Employee Retirement Systems (“NCPERS”) hereby moves for leave to file an amicus brief in support of Appellees in the above-referenced case, pursuant to Rule 9.370, Fla. R. App. P.

1. *Movant’s interest:* NCPERS is a national trade association focused on the preservation, growth and stability of public retirement systems.<sup>1</sup> NCPERS is the largest non-profit public pension advocacy organization, representing over 550 governmental pension funds throughout the United States and Canada. Founded in 1941, NCPERS has been the principal trade association working to promote and

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<sup>1</sup> General information concerning NCPERS as well as specific data regarding its activities can be found at its website: [www.ncpers.org](http://www.ncpers.org).

protect pensions by focusing on advocacy, research and education regarding public sector retirement systems. NCPERS members collectively manage nearly \$3 trillion in pension assets held in trust for approximately 21 million public employees and retirees.

2. Among other activities, NCPERS speaks on behalf of its member retirement systems with respect to legislative, legal and regulatory actions through research, published studies and position papers, and the filing of *amicus* briefs. NCPERS is interested in preserving the integrity of state and local retirement systems. NCPERS is a non-profit, tax exempt entity under Section 501(c)(6) of the Internal Revenue Code.

3. As a primary advocate for governmental retirement plans and millions of Americans whose financial security depends upon them, NCPERS has a stake in the outcome of this litigation which was certified as a matter of great public interest. NCPERS and its member funds, many of whom are Florida plans, represent significant assets and substantial numbers of Floridians whose pension rights are directly impacted by this litigation concerning pension rights and obligations.

4. The economic impact of public employee retirement systems and the retirement security they provide to retirees and their families is substantial, particularly in a state such as Florida which has long been a destination for retirees

from across the country.<sup>2</sup>

5. *Particular issues to be addressed:* The proposed amicus brief would support affirmance of the lower court order for Appellees by arguing as follows:

**THE LOWER COURT’S DECISION WAS CORRECTLY DECIDED AND IS SUPPORTED BY LONGSTANDING PRECEDENT.**

- A. The Lower Court Properly Determined that a Budgetary Shortfall, By Itself, Does Not Justify Impairing the Obligation of Contract.
- B. Federal and Out-of-State Precedent Support the Lower Court Order.
- C. Defined Benefit Plans, Such as the Florida Retirement System’s “Pension Plan” and its COLA, Are Funded on a Long Term Basis and Involve Back-loaded Benefits.
- D. FRS Is One of the Best Funded State Plans in the Country, Despite the Absence of an Employee Contribution Prior to SB 2100.

6. *Ability to assist the court:* Based on NCPERS’ experience and history as the largest non-profit public pension advocacy organization, NCPERS is able to bring to bear its national expertise and perspective. NCPERS has successfully filed amicus briefs in courts around the country, including the U.S. Supreme Court.

7. *Consent:* Based on conversations and emails with lead counsel for Appellants and Appellees, undersigned counsel understands that all parties consent

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<sup>2</sup> According to the National Institute on Retirement Security, expenditures made by retirees of state and local government provide a steady economic stimulus to Florida communities and the state economy. [http://www.nirsonline.org/index.php?option=com\\_content&task=view&id=684&Itemid=48](http://www.nirsonline.org/index.php?option=com_content&task=view&id=684&Itemid=48).

In 2009, 360,065 Florida residents received \$7.2 billion in pension benefits from state and local pension plans. [http://www.nirsonline.org/storage/nirs/documents/factSheetsPreviews/Factsheet\\_FL.pdf](http://www.nirsonline.org/storage/nirs/documents/factSheetsPreviews/Factsheet_FL.pdf).



## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail this 2nd day of July, 2012, to:

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