

# State Universities Annuitants Association



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## SUAA Mini Briefing

July 8, 2016



### **Jovial Leaders of SUAA!**

**Bruce Appleby, Immediate Past President and Larry Alferink, Newly Elected President**  
(photo courtesy of Gary Davis, Heartland Community College Chapter)

The 2016 SUAA Annual Meeting provided a tremendous amount of information for the audience to take back to their chapters. In an attempt to bring those of you at home much of the same

information, we have put together an overview of the meeting. While the videos are somewhat long, most of the information is new and noteworthy, including the opinions.

Announcement of the Executive Committee:

Larry Alferink, President – Region 2, Illinois State University

Linda Branch, Treasurer – Region 3, Illinois Eastern Community College

Karl Harrison, Regional Director – Region 1, Governor State University (1-year term)

Pat Wenthold, Regional Director – Region 1, William Rainey Harper College (2-year term)

(Note for Region 1 – Because this was a transition year, the person receiving the most votes receives the 2-year term.)

Joan Larner, Regional Director – Region 2, John Wood Community College

David Steinberg, Regional Director – Region 3, Southern Illinois University-Edwardsville

Continuing are:

D Degrado, Secretary – Region 1, Triton College

John Maguire, Regional Director – Region 2, Western Illinois University

Leo Welch, Regional Director – Region 3, Southwestern Illinois College

The Vice President will be determined by the Executive Committee for a one-year term. This decision is in accordance with the Bylaws.



The first day was kicked off by Keynote Speaker Eric Madiar. He is best remembered by his analysis of the public pensions when he was Chief Legal Counsel for Senate President Cullerton. Mr. Madiar's presentation, *Illinois Public Pensions: What's Next?*, will not be available until after July 12<sup>th</sup>. He will also have an OP-ED piece released around this same time which will be of interest to the SUAA audience.

Andrew Matthews, SURS Chief Operating Officer, provided an up-to-date *SURS at a Glance*. The PowerPoint can be accessed by [clicking here](#); the presentation by [clicking here](#).

Other sessions included a description of SUAA's new insurance opportunities through Connected Benefits presented by Bob Gaydos, Founder and CEO. The clip is included within the taping of the Annual Meeting. No insurance product being offered to members is to replace the State or College Insurance Program (CIP) coverages. Family members have a greater range of possibilities. Please take a look as buying insurance, any insurance, is changing. The

PowerPoint can be accessed by [clicking here](#). Connected Benefits PowerPoint is here and Connected Benefits on the SUAA website is [available here](#).

Central Management Services will roll out the TRAIL Open Enrollment/Custom Benefit Solution on September 1. Be sure to watch this session. The PowerPoint is [accessible here](#).



The highlight of the evening was Keynote Speaker Charlie Wheeler III, who is Director of Public Affairs Reporting Program at the University of Illinois – Springfield. Mr. Wheeler offered quite a bit of insight on this spring’s legislative session or The Politics Behind the Budget . . . Find Mr. Wheeler here [on the Illinois Channel](#).

Not recorded were the Proposed Bylaw Changes along with the legislative discussion on taxing pensions and the Federal Windfall Elimination. More information is forthcoming on both issues. The changes to the Bylaws can be accessed on the [SUAA website](#).

Before the Business Meeting on Wednesday, June 22, Senator Sam McCann (R-50) provided a common sense talk about the difficulties and hurdles encountered leading up to the Primary Election and the inability to get things done in Springfield.



Lou Anderson, co-chair of SUAAction, followed by reporting on the success of the Political Action Committee and, of course, asking for continued contributions. This is an election year and with each election comes a higher price tag due to the many super PACs that have been established.

Reports were given by the State Membership co-chairs, Linda Guinn and Jo Gibson. There were three awards for the most net gain of chapter members during Calendar Year 2015: Governor State University – 25; Southern Illinois University – Edwardsville – 12; and Kaskaskia College – 10.

The SUAA Foundation was applauded several times for its willingness to provide the money for an awareness program that ran throughout the State in newspapers and social media outlets along with yard and window signs – **Higher Education Creates Jobs**. But the job is not over even with the Stopgap Budget in place. Keep those signs up! Additional information will be sent out by summer’s end regarding other Foundation activity.

Having attorneys John Carr and Aaron Maduff speak to legislative issues always causes further discussion. The focus quickly turned to health insurance. The place to start to jog the memory:

In July of 2014, the Illinois Supreme Court issued its decision in *Kanerva v. Weems*, **2014 IL 115811**. That decision impacted SUAA members---both retired and employed---by ruling that health insurance is a protected benefit under Ill. Const. 1970, art. XIII, § 5.

We received some great questions about issues affecting retiree healthcare in general, and the *Kanerva* case in particular. I thought I would categorize the five best healthcare/pension questions on this Supreme Court case and on the questions people asked me and our legal team:

**1) How does the *Kanerva* decision affect future legislation in Springfield (in 2016 and beyond)?**

This is a very important question that occupies a lot of what we do at SUAA regarding State legislation. In the short term, one of the things we have been monitoring during the 2016 legislative session is the AFSCME labor negotiations and Governor Rauner's offers to employees regarding the State share of employee health care costs.

During the past year, SUAA learned the State intended to raise employee health care costs in the area of 40-50% (premium hikes) to unionized employees. (No doubt those premium hikes would have also been passed along to retired State employees.) At the outset it is important to note that these negotiations do not take into consideration the differences in our members' situations — for example, some do not pay premiums at all under their pension plans. Still, the Governor appears to treat everyone the same way irrespective of their pension plan or union membership. This may well mean that he will try to make wholesale changes without regard to the clear *Kanerva* violations they might mean in certain circumstances. In other words, just because the Supreme Court has spoken on the issue does not mean that the State will refrain from violating it. In that case, litigation would be our only avenue of redress, though it would be a very strong case.

Even beyond those who have State paid premiums, properly applied, the *Kanerva* opinion may be invoked to protect your health insurance benefits from such drastic rate increases. Hence, while it is hard to figure every permutation and we do not yet know what the State will try to do, we do know that there are a plethora of legal arguments available to us if we have to address the situation in litigation.

No matter which plan you are in, it does appear that the State is looking at health insurance costs. This is a boat in which current employees and retirees both sit, and although there are some additional arguments where other contracts have been made (e.g., the irrevocable election), *Kanerva* gives us some strong standing and we must watch the situation vigilantly to take advantage of that strength.

**2) How does the *Kanerva* decision affect those retirees who accepted an offer of early retirement in exchange for free health care for life?**

First, those individuals retain a strong Contract Clause claim wholly independent of *Kanerva*. And yet, *Kanerva*, in our opinion, really strengthens the legal case.

*Kanerva* dealt specifically with the issue of charging retired employees for their health insurance. The Court held that Pension Protection Clause protected the free health insurance offered to retired State employees. *Kanerva* therefore goes far beyond the

irrevocable election people. It is legal precedent barring the State from future legislative attempts to charge any retired State employees who are currently receiving premium free health insurance, not just those employees who accepted a lower annuity in exchange for free healthcare.

**3) What else were you watching in Springfield this legislative session?**

State appropriations to the College Health Insurance Program is a big one. The *Kanerva* decision makes it very difficult for the State to entirely eliminate funding for employee or retiree health insurance programs. But where the line lies is a more difficult question, and we must analyze each proposal individually.

The bill backlog was another item SUAA was closely monitoring this year, because of the millions of dollars owed to employees and retirees for various health care reimbursement checks. Governor Rauner proposed a \$5 billion dollar bond program to pay off these State debts, but that program went nowhere in the 6-month Fiscal Year 2017 budget that he signed into law last week. *Kanerva* also serves as legal precedent to ensure SUAA members receive reimbursement for these and future health and dental expenses. But once again, if the State chooses not to follow it, legal action may be necessary.

Employee Furloughs. SUAA added an amendment to SB 2156 for those State University employees who had been furloughed because of the budget impasse. SB 2156 would allow those employees to purchase pension credits using after tax dollars to make up for any furloughed time. Here is a link to the bill:

<http://www.ilga.gov/legislation/99/SB/PDF/09900SB2156enr.pdf>

**4) How does *Kanerva* affect future premium increases in the State Medicare Advantage plans?**

Good question. *Kanerva* doesn't offer a lot of guidance in this area. We know that many of you were unhappy with having to accept a Medicare Advantage Plan over the previously offered State health insurance plan and the College Insurance Plan.

*Kanerva* may protect the current State share of health care expenses for retiree healthcare programs. That is, if the State pays \$1 billion dollars per year for retiree health care (For example, 85% of the cost), *Kanerva* may protect that 85% level of State benefit into the future, with the remaining 15% of the health care costs to be borne by the retiree. What if, for example, the State wanted to reduce its share to 84% of the cost? Justice Burke's dissent (and the lack of any disagreement from the majority) demonstrates that there are not any limits to the health insurance benefit. If you are a member of the pension system, you get the benefit irrespective of what it is. Justice Burke complained (without contradiction by the majority) as follows:

Should the city of Springfield enact an ordinance which states that the members of the municipal pension system will receive an honorary plaque upon retirement, that benefit would “flow from” or be “conditioned on” membership in the system. The plaque, under the majority’s reasoning, would be a constitutionally protected contractual right that could not be diminished or impaired. I do not think this is what the drafters of the pension protection clause intended. [But apparently it is what the majority opinion intends.]

5) **Does *Kanerva* protect against huge hikes in the cost of dependent healthcare coverage?**

That is a close question, but we think there is a good legal argument that the Pension Protection Clause would protect against steep premium increases for dependent health care coverage.

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The Annual Meeting is the place to get the most up-to-date information and opinions from those around the Capitol. If you haven’t attended a SUAA Annual Meeting, we hope you make plans to do so in the future.

The SUAA-sponsored trip to Iceland in February of 2017 is currently sold out. It now has a waiting list. Other trips in the future will be Panama in September of 2017. We will hold a webinar on September 26, 2016 for this 9-day tour. The Panama Canal expansion project is finished. During this trip you will be able to take a boat ride through the Canal, walk through the Gamboa Rainforest including an excursion to an Embera indigenous village. You will visit Chitre, Anton Valley, Panama City, Flamenco Marina and Playa Bonita.

For those of you wanting to stay closer to home, July 2018 brings a tour to the Canadian Rockies & Glacier National Park. The Calgary Stampede will be included in this adventure.

Information about these tours can be found by visiting [gocollette.com](http://gocollette.com). Both trips do require passports.

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We are now well into the summer. SB20147 ham005 provided a Stopgap budget to provide funding for our universities through the end of December, but the damage remains as well as with some of the community colleges. There is \$95,452,100 payable from Group Insurance Premium Fund. Another \$3,011,000,000 payable from the Health Insurance Reserve Fund. We are hopeful that these amounts go towards the insurance claims and other related health care costs. There have been statewide articles on the subject of what was funded, each of us looking at our own sacred cow, so to say. This is not a cure-all. There has to be more negotiations as we move forward – bipartisan efforts.

We are still looking for people who have been denied health care services or who are having problems with payments of invoices through third-party billing companies.

Many of you have received notice from dentists requiring payment up front for their services. Who of you are receiving notices from your doctors or clinics? Let us know.

There is a pension bill hanging out there – to be filed by Senate President Cullerton as the pensions are still in the forefront. At this time there seems no effort to bring it forward.

Veto Session will be held on November 15, 16 and 17. Break for Thanksgiving week. Second week will be November 29, 30 and December 1.

SUAA's Fall Meeting will be held on Monday, November 21 in Bloomington. Location will not be at the Alumni Center as in the past.