

know how many of those people there are. We have some experience with that kind of a class of people, and I don't want to raise old wounds in this body, but it looks a lot like Commonwealth. We knew exactly how many people were affected by Commonwealth. The Supreme Court said that was a closed class. The attempts to legislate a...benefits, if you will, for those people was turned down. This case looks a lot like that. I am reluctant to suggest to this body that we should attempt legislation which is constitutionally suspect. It could unhappily raise expectations that the problem had been resolved only to find in subsequent litigation that the problem wasn't resolved at all. The other option that we have as a legislative body at this date is to simply do nothing. The Attorney General has issued an Opinion saying that the people who have already elected in have rights in the system, that the system should continue to accept contributions from the school districts and from the employees themselves, and that they should be entitled to benefits under the system. That is the status quo. The risk in the status quo is that an Attorney General's Opinion is not a final determination of the issue and is subject to court challenge. We think that there could be a challenge brought by a school district, potentially, that wanted their contributions back. We think a challenge could be mounted by any taxpayer who might assert that the contributions by the school district are illegal. Certainly litigation could be instituted by one of the certificated employees that are currently participating in the system. Potentially, litigation could be initiated by those persons who have not yet elected in but might believe that they have some right to elect in based on the past administrative experience. In short, there exists the potential for litigation if we do nothing. The other option that we have available to us is the one that's presented to you in LR 343, and that is to request, pursuant to statutory authority, that the Attorney General litigate the issue and that he cause that action to determine the rights of these affected individuals. We believe that litigation will produce...

SPEAKER WITHEM: One minute.

SENATOR WICKERSHAM: ...a Supreme Court Opinion providing that the affected, potentially affected individuals do, indeed, have rights in the system based on one or more legal theories that can be presented. That has the advantage of bringing finality to the issue. It has the advantage of causing the state to bear