No. 24-50826

In the United States Court of Appeals for the Fifth Circuit

La Unión del Pueblo Entero et al.,
Plaintiffs-Appellees,

v.

Gregory W. Abbott et al.,
Defendants-Appellants.

On Appeal from the United States District Court
for the Western District of Texas, San Antonio Division

STATE DEFENDANTS-APPELLANTS' AND INTERVENOR-DEFENDANTS-APPELLANTS' MOTION TO STAY DISTRICT COURT ORDER AND PERMANENT INJUNCTION PENDING APPEAL

Ken Paxton
Attorney General of Texas

Brent Webster
First Assistant Attorney General

Office of the Attorney General
P.O. Box 12548 (MC 059)
Austin, Texas 78711-2548
Tel.: (512) 936-1700
Fax: (512) 474-2697

Aaron L. Nielson
Solicitor General

Kateland R. Jackson
Assistant Solicitor General
Kateland.Jackson@oag.texas.gov

Counsel for State Defendants-Appellants

John M. Gore
E. Stewart Crosland
Louis J. Capozzi, III
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
Phone: (202) 879-3939
Fax: (202) 626-1700
jmgore@jonesday.com
scrosland@jonesday.com
lcapozzi@jonesday.com

Counsel for Intervenor-Defendants-Appellants

Certificate of Interested Persons

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Under the fourth sentence of Fifth Circuit Rule 28.2.1, State Appellants, as governmental parties, need not furnish a certificate of interested persons.

/s/ Kateland R. Jackson
Kateland R. Jackson
Counsel of Record for
State Defendants-Appellants

INTRODUCTION

As the U.S. Supreme Court has long recognized, if elections "are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes," then, "as a practical matter," state election regulations are not only appropriate but also indispensable to the electoral process. *Storer v. Brown*, 415 U.S. 724, 730 (1974). The district court's injunction, however, sets aside the "State's authority to set its electoral rules and the considerable deference to be given to election procedures," *Vote.Org v. Callanen* (*Vote.Org II*), 89 F.4th 459, 481 (5th Cir. 2023), and instead holds inoperable, as preempted by federal law, six state laws that have been in effect for over three years. And worse, it does so based on a misreading of the plain text of federal statute and in violation of the presumption against preemption. And worse further still, it changes the voting rules for some counties but not for others, creating voter confusion and unequal laws. Simply put, the injunction here is "patently wrong." *See In re Abbott*, 954 F.3d 772, 795 (5th Cir. 2020), *judgment vacated sub nom. Planned Parenthood Ctr. for Choice v. Abbott*, 141 S.Ct. 1261 (2021); *see also In re Abbott*, 809 F. App'x 200 (5th Cir. 2020) (per curiam).

Absent a stay by this Court, the district court's permanent injunction will irreparably injure Texas's sovereignty, undermine its interest in election integrity, and sow confusion for voters and election officials alike in every election conducted during the pendency of this appeal. Therefore, Appellants respectfully request that this Court enter a stay pending appeal, as it has in two other appeals from this same underlying district court case. *See* Order Granting Stay Pending Appeal, *United*

States v. Paxton, No. 23-50885 (Dec. 15, 2023), ECF No. 80-1; *La Union Del Pueblo Entero v. Abbott* (*LUPE II*), No. 24-50783, 2024 WL 4487493, at *3 (5th Cir. Oct. 15, 2024).

BACKGROUND

Texas enacted S.B.1 in 2021. S.B.1 amends Texas election laws in many respects and has prompted significant litigation as Appellees facially challenged dozens of S.B.1's provisions as unconstitutional and, at issue here, preempted by §208 of the Voting Rights Act (VRA). On November 29, 2023, for example, the district court enjoined provisions relating to S.B.1's voting-materiality provision. *See* Memorandum Opinion 52-53, *La Union Del Pueblo Entero v. Abbott* (*LUPE I*), No. 5:21-CV-0844, (W.D. Tex. Nov. 29, 2023), ECF No. 820. On December 15, 2023, this Court granted a stay pending appeal, *see* Order Granting Stay Pending Appeal, *United States v. Paxton*, No. 23-50885 (Dec. 15, 2023), ECF No. 80-1, and that appeal is now fully briefed. On September 28, 2024, the district court enjoined S.B.1's ban on paid vote harvesting based on First Amendment grounds. *See* Findings of Fact and Conclusions of Law 77-78, *LUPE I*, No. 5:21-CV-0844, ECF No. 1157. On October 15, 2024, this Court granted a stay pending appeal; no briefing schedule has yet been set. *See LUPE II*, 2024 WL 4487493, at *3.

On October 11, 2024, the district court enjoined enforcement of the following six provisions because they are allegedly preempted by the VRA:

1. Section 6.03 requires assistors to "complete a form stating: (1) the name and address of the person assisting the voter; (2) the relationship to the voter of the person assisting the voter; and (3) whether the person assisting the voter received or accepted any form of compensation or other benefit from a candidate, campaign, or political committee." Tex. Elec. Code §64.0322(a).

2. Section 6.04 requires assistors to state that (1) the voter represented that he or she was eligible for assistance and (2) they did not "pressure or coerce the voter into choosing [them] to provide assistance." *Id.* §64.034. Section 6.04 also informs assistors that the oath is under penalty of perjury—something which has been true since 1974. *See* Tex. Penal Code §37.02.

3. Section 6.05 requires assistors of individuals voting by mail to disclose their relationship with the voter and whether they received compensation from a political entity. Tex. Elec. Code §86.010(e).

4. Section 6.06 criminalizes compensating voter assistors; offering to compensate voter assistors; and soliciting, receiving, and accepting compensation for assisting voters. *Id.* §86.0105. The provision does not apply if the assistor is an "attendant" or "caregiver" previously known to the voter. *Id.*

5. Section 6.07 requires the carrier envelope for a mail-in ballot to have space for "indicating the relationship of [the voter assistor] to the voter." *Id.* §86.013(b).[1]

6. Section 7.04 bars vote harvesting, defined as "in-person interaction with one or more voters, in the physical presence of an official ballot or a ballot voted by mail, intended to deliver votes for a specific candidate or measure." *Id.* §276.015. This provision was also at issue in *LUPE II*, 2024 WL 4487493, at *1.

On October 15, 2024, Appellants moved for a stay pending appeal. *See* Motion to Stay Case Pending Appeal, *LUPE I*, No. 5:21-CV-0844, ECF No. 1175. After waiting for the district court's decision, Appellants sought emergency relief from this Court, which granted an administrative stay on October 18, 2024. Hours after

[1] The district court concluded that §208 preempts Section 6.07, but—citing *Purcell*—stayed its injunction against the Secretary and the county officials respecting Section 6.07 until after the 2024 General Election. *See* Findings of Fact and Conclusions of Law (App.A.108-10). Therefore, Appellants did not request a temporary administrative stay as to Section 6.07. It should, however, be included in a stay issued by this Court.

this Court entered the administrative stay, the district court stayed its injunction until the conclusion of the 2024 General Election under *Purcell*. *See* Order on Motion for Stay of the Court's Permanent Injunction, *LUPE I*, No. 5:21-CV-0844, (W.D. Tex. Oct. 18, 2024), ECF No. 1181 (citing *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam)). This Court accordingly withdrew its administrative stay.

Statement of Jurisdiction

The Court has jurisdiction under 28 U.S.C. §1292.

Argument

"An appellate court's power to hold an order in abeyance while it assesses the legality of the order has been described as 'inherent.'" *Nken v. Holder*, 556 U.S. 418, 426 (2009) (quoting *In re McKenzie*, 180 U.S. 536, 551 (1901)). Each factor favors granting a stay here: (1) Appellants are likely to succeed on the merits; (2) they will suffer irreparable harm absent a stay; (3) Appellees will not be substantially harmed; and (4) the public interest favors a stay. *See id.* at 434.

I. The State Will Likely Succeed on the Merits.

Appellees lack standing to challenge most of the provisions of S.B.1 at issue, and §208 does not preempt any of the provisions. Moreover, the injunction is materially flawed because "[i]t cannot be that any requirement that may prohibit an individual from voting if the individual fails to comply denies the right of that individual to vote." *Vote.Org v. Callanen* (*Vote.Org I*), 39 F.4th 297, 305 n.6 (5th Cir. 2022). After all, "virtually every rule governing how citizens vote would [be] suspect" under such a requirement. *Id.*

A. Appellees lack standing.

1. At the outset, Appellees' claims run headlong into Article III. They have standing only if they have suffered an injury in fact that is "fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief." *California v. Texas*, 593 U.S. 659, 668-69 (2021). To prove traceability, they must show that the Attorney General's and Secretary's "actual or threatened *enforcement*" of the voter-assistance provisions caused Appellees' alleged injury. *Id.* at 669-71; *accord City of Austin v. Paxton*, 943 F.3d 993, 1002 (5th Cir. 2019) (recognizing "significant overlap" between *Ex parte Young* and Article III).

Here, Appellees cannot make that showing because "[n]either the Secretary of State nor the Attorney General enforces S.B. 1." *LUPE II*, 2024 WL 4487493, at *3. Therefore, "the practical effect of the injunction is to prevent enforcement of S.B.1, but only in certain counties in Texas," *id.*—thus confirming that Appellees' claims will fail on the merits. Appellees continue to wrongly sue the Attorney General and the Secretary, and the district court's failure—again—to address this Court's precedent speaks volumes.

2. Next, all Appellees lack standing to challenge Sections 6.03, 6.05, and 6.07. These provisions merely require would-be assistors to provide a few pieces of information on a form. The obligation to provide such information is not a cognizable injury because it has no "'close relationship' to a harm traditionally recognized as providing a basis for a lawsuit in American courts." *See TransUnion LLC v. Ramirez*, 594 U.S. 413, 417 (2021) (quoting *Spokeo, Inc. v. Robbins*, 578 U.S. 330, 41 (2016)). Although constitutional violations can satisfy traceability, *see id.* at 424-25, an

assistor's obligation to provide information on a form does not violate any right to vote, *see, e.g.*, *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 198 (2008) (explaining that "usual burdens of voting" do not impose constitutional injury).

Furthermore, the district court's conclusion that Appellees suffered organizational injuries because certain individuals were unwilling to assist voters is also incorrect. The district court believed that the disclosure requirements caused would-be assistors to fear prosecutions and be less willing to assist, *see* App.A.71-72, but not a single witness said the disclosures alone would prevent them from assisting voters. Nor could they. Any such claim depends on the premise that assistors will not fill out forms because they fear prosecution and is thus incredible and far too speculative to confer standing. *See, e.g.*, *Tex. State LULAC v. Elfant*, 52 F.4th 248, 256-57 (5th Cir. 2022). After all, Appellees cited *zero* examples of relevant investigations or prosecutions since S.B.1 was passed, and their speculation about future prosecutions is impermissibly dependent "on the actions of third-part[ies]." *See Zimmerman v. City of Austin*, 881 F.3d 378, 390 (5th Cir. 2018). The district court also suggested Appellees have suffered an organizational injury because form requirements delay assisting voters. App.A.71-72. Yet no witness quantified those alleged delays. Moreover, common sense suggests any delays would be *de minimis*. It does not take long to write one's name and relationship to the voter on a paper and check a box about whether one received compensation. That is not a cognizable injury. *See TransUnion*, 594 U.S. at 417.

Similar analysis applies to Section 6.04, as Appellees' alleged fear of prosecution is far too "speculative." *Elfant*, 52 F.4th at 256-57. No Appellee has alleged an intent

to engage in conduct "arguably proscribed" by this provision. *Id.* at 256. And any fear of perjury charges is not *caused* by Section 6.04 because the voter-assistance oath has been subject to penalty of perjury since 1974. *See* Tex. Penal Code §37.02. Appellees thus have not shown a likelihood of success, and certainly not that "the underlying merits are entirely clearcut in [their] favor." *LUPE II*, 2024 WL 4487493, at *3.

B. Section 208 does not preempt S.B.1's voter-assistance provisions.

1. Under §208 of the VRA, "[a]ny voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by *a* person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union." 52 U.S.C. §10508 (emphasis added). The district court construed this provision to permit a voter to choose "*any*" person to assist him. App.A.78, 91. But that construction would mean that §208 effectively preempts all voter-assistance regulations, no matter how reasonable. That is error for at least three reasons.

First, §208's plain text gives a voter the right to assistance from "*a* person of the voter's choice," 52 U.S.C. §10508 (emphasis added)—not *the* or *any* person of the voter's choice. If §208 rendered Texas categorically powerless to regulate the class of persons who may assist voters, or even the basic requirements for that assistance, then Texas could never prohibit any individual from assisting a voter—even if the chosen assistor himself is ineligible to vote and has a history of intimidating voters. Texas thus could not ban even convicted felons from assisting voters because a voter

who needs assistance may well choose such a person. That is not a reasonable interpretation of the statute.

Instead, if that is what Congress wanted, it would have said "*any* person" of the voter's choice, but it did not. *Cf. VanDerStok v. Garland,* 86 F.4th 179, 183-84 & n.5 (5th Cir. 2023). Because §208 "does not say that a voter is entitled to assistance from *the* person of his or her choice or *any* person of his or her choice," the statute thus allows for reasonable "state law limitations on the identity of persons who may assist voters." *Priorities USA v. Nessel*, 487 F.Supp.3d 599, 619 (E.D. Mich. 2020), *rev'd and remanded on other grounds*, 860 F.App'x 419 (6th Cir. 2021); *see Ray v. Texas*, No. 2-06-CV-385, 2008 WL 3457021, at *7 (E.D. Tex. Aug. 7, 2008) (holding that §208 permits "reasonable and non-discriminatory" regulations).

Second, to the extent §208 is unclear or ambiguous, courts should interpret it *not* to preempt state law. After all, courts "start with the assumption that the historic police powers of the States were not to be superseded by [a] Federal Act unless that was the clear and manifest purpose of Congress." *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947); *Young Conservatives of Tex. Found. v. Smatresk*, 73 F.4th 304, 313 (5th Cir. 2023). This presumption "applies with particular force when Congress legislates in a field traditionally occupied by state law." *Teltech Sys., Inc. v. Bryant*, 702 F.3d 232, 236 (5th Cir. 2012). That is the case here, where election regulation is a heartland duty of the state legislature. *See Storer*, 415 U.S. at 730. Thus, the Court must respect the "State's authority to set its electoral rules and the considerable deference to be given to election procedures so long as they do not constitute invidious discrimination." *Vote.Org II*, 89 F.4th at 481.

Third, courts should not create conflict where it does not exist. S.B.1's requirements do not limit the scope of assistance voters may receive; once the assistor satisfies the procedural prerequisites of Sections 6.03 and 6.05, he may assist the voter. And Section 6.07 merely requires the carrier envelope to have space for an assistor to provide the required information. Section 6.04's oath requirement, moreover, does not prevent anyone from assisting—which no doubt is why no one has challenged the pre-existing state law that already prohibited assisting ineligible voters and subjected the oath to penalty of perjury. Section 6.04, moreover, merely prohibits the assistor from accepting compensation unless he knows the voter. And for its part, Section 7.04 does not apply to mere voter assistance at all.

Thus, under S.B.1, a voter who requires assistance "may be given assistance by a person of the voter's choice." *See* 52 U.S.C. §10508. That person must simply disclose his relationship to the voter and whether he received compensation for his assistance. And the idea that S.B.1 may fail "obstacle" preemption—a very "high threshold," *Barrosse v. Huntington Ingalls, Inc.*, 70 F.4th 315, 320 (5th Cir. 2023)—is even less likely. Indeed, rather than impede federal policy, those requirements help enforce it by having assistors articulate their relationship to the voter, which lets county election officials flag election-law violations.

2. The district court did not apply these principles. Instead, it reasoned that, because §208 says "a person of the voter's choice" cannot include "the voter's employer or agent of that employer or officer or agent of the voter's union," 52 U.S.C. §10508, those are the only limitations. App.A.79-80. But that language

limits the §208 right. It is not a floor prohibiting any State regulation at all—let alone in the required "clear and manifest" way. *See Rice*, 331 U.S. at 230.

The district court also reasoned that *OCA-Greater Houston v. Texas*, 867 F.3d 604 (5th Cir. 2017), already decided that §208 preempts regulations on voter assistance. App.A.78, 81-83. But that case "[a]t bottom" concerned "how broadly to read the term 'to vote' in Section 208," *OCA-Greater Houston*, 867 F.3d at 614, not whether "a person of the voter's choice" means "*any* person of the voter's choice," even someone who cannot satisfy general requirements necessary to prevent intimidation. The case thus does not resolve—let alone *definitively* resolve—the question here via stray language picked up from an "example[]" offered by a party attempting to explain its argument. *See id.* at 614-15 (agreeing that "to vote" means more than "the literal act of marking the ballot," and observing with OCA's examples such as "navigating the polling location and communicating with election officials" that "[u]nder OCA's reading, Section 208 guarantees to voters the right to choose any person they want").

The district court warned that Appellants' proposed test would "eviscerate Section 208." App.A.83. Not so. In fact, Appellants *agree* with cases adopting and enforcing reasonable constructions of §208. *See, e.g.*, *Democracy N.C. v. N.C. State Bd. of Elections*, 476 F.Supp.3d 158, 233-36 (M.D.N.C. 2020). Nothing in S.B.1 imposes weighty burdens on voters; instead, voters have broad flexibility to pick assistors, so long those assistors meet minimal requirements to prevent coercion.

To support its analysis, the district court relied on snippets of legislative history. App.A.77-78. To start, legislative history is inappropriate here, especially because

the statute is plain and—to the extent it is not—the presumption against preemption applies. *Cf. Salazar v. Maimon*, 750 F.3d 514, 518 (5th Cir. 2014). In any event, legislative history *disproves* the district court's conclusion. Even in the language the district court identified, Congress was clear that States must allow voter-assistance only "from *a* person of their own choosing." S. Rep. No. 97-417, at 2 (1982) (emphasis added). Moreover, the Senate Judiciary Committee emphasized that §208 preempts state election laws "only to the extent that they *unduly* burden the right recognized in [§208], with that determination being a practical one dependent upon the facts." *Id.* at 63 (emphasis added). In fact, it acknowledged that voters who need assistance "are more susceptible than the ordinary voter to having their vote unduly influenced or manipulated." *Id.* at 62. Thus, the committee recognized that §208 does not interfere with "the legitimate right of any State to establish necessary election procedures" that are "designed to protect the rights of voters." *Id.* at 63.

3. Based on its erroneous preemption analysis, the district court misapplied §208 to virtually every voter-assistance provision at issue. To start, it incorrectly ruled that §208 preempts Sections 6.03, 6.05, and 6.07 because they have "deterred voters from requesting assistance and narrowed the universe of willing assistors." App.A.91. But S.B.1's disclosure requirements merely require a person who chooses to assist a voter to disclose his relationship to the voter and whether he received compensation for his assistance. Such a minor requirement cannot reasonably trigger preemption.

For the same reason, §208 does not preempt Section 6.04's amendments to the existing oath requirement. A person who does not desire to take the oath may simply

decline to assist. The district court relied upon speculative concerns that the oath might have a "chilling effect" on assistors. App.A.90. But in the almost two years between when S.B.1 took effect and when the district court held trial, Appellees could not identify a single person who was investigated or prosecuted under this requirement—let alone wrongly prosecuted. *See, e.g.*, Transcript of Bench Trial (App.D.2467, 2496-97).

The district court again misapplied §208 in concluding that it preempts S.B.1's amendments to the ban on compensated voter assistance by incorrectly reasoning that §208 entitles voters to assistance from strangers. App.A.95-97. S.B.1, however, merely prevents complete strangers from seeking out voters to assist while being paid specifically to do so. *See* Transcript of Bench Trial (App.C.1902). Nor does S.B.1 prevent individuals from being reimbursed for their expenses, *id.* at 1903-04, or individuals with paid jobs, such as canvassing, from assisting voters in due course, *see, e.g.*, Transcript of Bench Trial (App.E.3994).

Finally, the district court's conclusion with respect to Section 7.04 is also wrong. The vote-harvesting ban does not prohibit anyone from assisting voters; it merely prevents would-be assistors paid by political entities from simultaneously urging support for candidates and measures while assisting voters. Here again, §208 does not prohibit Texas from enacting reasonable regulations for voting assistance to prevent paid persuaders from advocating while in a ballot's physical presence—a moment when the risk of pressure is highest. *See also LUPE II*, 2024 WL 4487493, at *3; *Veasey v. Abbott*, 830 F.3d 216, 239 (5th Cir. 2016).

II. The Equities Overwhelmingly Favor a Stay.

A. The State and the public interest will suffer irreparable injury without a stay.

Among the State's many injuries here is the inherent and irreparable injury to the State's sovereignty that the State *always* suffers when its law is enjoined. *See Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers) (citing *New Motor Vehicle Bd. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977) (Rehnquist, J., in chambers)). This is especially true where the law enjoined is an election law because regulating elections is a heartland duty of the state legislature. *See Storer*, 415 U.S. at 730. Courts must respect the "State's authority to set its electoral rules and the considerable deference to be given to election procedures so long as they do not constitute invidious discrimination." *Vote.Org II*, 89 F.4th at 481.

Moreover, if it was true that "any requirement that may prohibit an individual from voting if the individual fails to comply denies the right of that individual to vote," then "virtually every rule governing how citizens vote would be suspect." *Vote.Org I*, 39 F.4th at 305 n.6. This would undermine the State's ability to enforce its own laws and administer its elections, not to mention irreparably injure the state's sovereignty.

Here, that is a significant risk. Texas's Election Integrity Division, which is responsible for investigating and prosecuting election crimes, is currently pursuing multiple ongoing investigations for potential violations of provisions of S.B.1 covered by the district court's injunction. *See* Declaration of Geoff Barr (App.B.¶¶1-2). Specifically, the Division's pending investigations and prosecutions concern

possible crimes related to Sections 6.05, 6.06, and 7.04. App.B.¶2. Those investigations and prosecutions "would be impacted" or "halt altogether" if these provisions of S.B.1 are enjoined. App.B.¶2. The Division must be able to continue these investigations and prosecutions as an "essential" function of its "ongoing obligation to enforce Texas law and to prevent, deter, and punish election crimes." App.B.¶3. Allowing the district court's injunction to resume would significantly hamper that function.

As this Court noted in *LUPE II*, because neither the Attorney General nor the Secretary enforces S.B.1, "the practical effect" of the district court's previous injunction was "to prevent enforcement of S.B.1, but only in certain counties in Texas." 2024 WL 4487493, at *3 (citations omitted). Simply put, "[i]f you vote in Travis County, Dallas County, Hidalgo County, El Paso County, Culberson County, or Hudspeth County," *id.*, the relevant provisions of S.B.1 do not apply to you. But if you vote in any of Texas's *other* 248 counties, S.B.1's provisions *do* apply to you. It cannot be that voters in the same election will be subject to different rules.

And as to the counties to which S.B.1's provisions do not apply, the district court's injunction will leave individuals free to violate key election laws with impunity, nullifying the protections the Texas Legislature judged essential. And that will present a recurring problem with each new election, including local elections that are scheduled to be held next May and November, as well as a tentative runoff

election scheduled for December 14, 2024.[2] Early voting for a runoff election is scheduled to occur between December 2, 2024, and December 10, 2024. Unless a stay is granted, the inequities the district court's injunction creates will continue to arise in each of these election proceedings.

In addition to the other stay factors, the threat of irreparable harm to the State's sovereign interests—plus the importance of avoiding confusion—also mean that the public interest favors a stay. "Because the State is the appealing party, its interest and harm merge with that of the public." *Veasey v. Abbott*, 870 F.3d 387, 391 (5th Cir. 2017) (per curiam).

B. Appellees will suffer no lawful injury from a stay.

The harm to the State and the public outweighs any supposed harm to Appellees. An injunction requires a showing of *likely*, not merely possible, "irreparable harm." *See, e.g.*, *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008); *see also Crown Castle Fiber, L.L.C. v. City of Pasadena*, 76 F.4th 425, 441 (5th Cir. 2023) (applying *Winter* standard in context of permanent injunction). And the threatened harm must be "imminent." *Chacon v. Granata*, 515 F.2d 922, 925 (5th Cir. 1975). In considering whether a plaintiff will be irreparably harmed, "the

[2] Pursuant to Texas Election Code §2.025, the Secretary of State has designated Saturday, December 14, 2024 as the election date for all runoff elections resulting from elections held by local political subdivisions on the November 5, 2024 Election Date.

maintenance of the status quo is an important consideration." *E.T. v. Paxton*, 19 F.4th 760, 770 (5th Cir. 2021).

Here, a stay would maintain the status quo that has existed since 2021 when S.B.1 became law. S.B.1's rules have governed many elections—including at least six statewide primary, general, and constitutional-amendment elections. There is no reason to change the status quo while litigation is ongoing. Further, because the injunction enjoins the applicable provisions of S.B.1 for some counties but not for others, a stay will eliminate inevitable confusion that would otherwise ensue in several scheduled upcoming elections. *See supra* at 14-15.

In deciding to the contrary, the district court reasoned that S.B.1's voter-assistance provisions injured Appellees "by interfering with voters' rights and ability to vote with help from their chosen assistors." App.A.99. The court's reasoning—which is tied to its merits analysis—is both legally and factually wrong for many reasons. And it is precisely the sort of open-ended, speculative analysis that this Court has already considered with respect to the district court's prior injunction. *See LUPE II*, 2024 WL 4487493, at *3 (citation omitted).

Conclusion

For the reasons set out above, the Court should grant a stay pending appeal.

Respectfully submitted,

Ken Paxton
Attorney General of Texas

Brent Webster
First Assistant Attorney General

Office of the Attorney General
P.O. Box 12548 (MC 059)
Austin, Texas 78711-2548
Tel.: (512) 936-1700
Fax: (512) 474-2697

Aaron L. Nielson
Solicitor General

/s/ Kateland R. Jackson
Kateland R. Jackson
Assistant Solicitor General
Kateland.Jackson@oag.texas.gov

Counsel for State Defendants-Appellants

John M. Gore
E. Stewart Crosland
Louis J. Capozzi, III
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
Phone: (202) 879-3939
Fax: (202) 626-1700
jmgore@jonesday.com
scrosland@jonesday.com
lcapozzi@jonesday.com

Counsel for Intervenor-Defendants-Appellants