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I. INTERESTS OF AMICUS CURIAE

The Ohio Education Association (OEA), an affiliate of the National Education Association, is a non-profit association representing approximately 118,000 teachers, faculty, and support professionals who work in Ohio's schools, colleges, and universities. The organization was founded in 1847 and is headquartered in Columbus, Ohio. The OEA Vision Statement is to create an Ohio where every student has access to a high-quality public education and where all members are supported, valued, and respected. OEA's mission is to lead the way for the continuous improvement of public education while advocating for our members and the students they serve. OEA works to advance the rights and interests of educators and to ensure that every student in Ohio has access to a high-quality public education.

As part of ensuring a high-quality education to every student in Ohio, the educators we serve teach students about the three distinct branches of government; the legislative, executive, and judicial branches whose powers are vested by the U.S. Constitution. They also teach them that free and fair elections are the bedrock of democracy. Because of this, the OEA and educators in the State of Ohio have an inherent interest in ensuring that the sanctity of the election process is protected so that "all political power remains inherent in the people" as it was promised in the Ohio Constitution, Article I, Section 2 and as it is taught to the children in this great State.

II. SUMMARY OF ARGUMENT

The Ohio General Assembly's passage of Amended Substitute Senate Joint Resolution Number 2 (S.J.R. 2) on May 10, 2023, calling for a special election on August 8, 2023, to amend the Ohio Constitution, raises significant legal concerns. S.J.R. 2 aims to increase the popular vote threshold for adopting constitutional amendments and modify the procedures for initiative

petitions. However, the way this special election is authorized and scheduled violates the Ohio Revised Code and constitutional provisions.

Firstly, Ohio Revised Code §3501.01(D) defines a special election as any election other than those specified in other divisions of the section. It further specifies that a special election may only be held on the first Tuesday after the first Monday in May or November, on the first Tuesday after the first Monday in August in accordance with section 3501.022 of the Revised Code, or as authorized by municipal or county charters. There is no provision in the statute permitting a special election to be held in August as unlawfully authorized in S.J.R. 2. Thus, the August special election called for by S.J.R. 2 contradicts a statutory basis and is invalid.

Secondly, Ohio Revised Code §3501.022 outlines the conditions under which an August special election may be held, which include a political subdivision or taxing authority being under a fiscal emergency at the time the board of elections certifies the office, question, or issue for placement on the ballot. These conditions do not apply to the proposed Amendment in S.J.R. 2, rendering this section inapplicable to the authorization of an August special election.

Furthermore, Ohio Revised Code §§3501.02(E) and 3501.01(E) explicitly state that proposed constitutional amendments by the General Assembly should be presented to the voters during general, primary, or presidential primary elections occurring in November, May, or March, respectively. S.J.R. 2's attempt to deviate from these prescribed election dates and hold a special election in August contravenes the statutory requirements.

The actions of the Ohio General Assembly in passing laws that have been declared unconstitutional by the Ohio Supreme Court have significant implications for Ohio educators and their responsibilities in the classroom as seen in the cases of *DeRolph v. State*, 78 Ohio St.3d 193, 677 N.E.2d 733 (1997) and *Neiman v. LaRose*, 169 Ohio St.3d 565, 2022-Ohio-2471. Since

educators are required to instruct students on laws, legislative processes, and the judicial system, they must navigate the challenges posed by such unconstitutional legislation while still adhering to the *Licensure Code of Professional Conduct for Ohio Educators*.

The Ohio General Assembly's track record of passing laws that have been invalidated by the Ohio Supreme Court highlights the inherent conflict between educators' obligations to follow the law and the potential clash with their duty to provide accurate information and teach students about the constitutional framework. When laws are found to be unconstitutional, educators face the challenge of imparting knowledge and fostering critical thinking while simultaneously respecting the rule of law.

Likewise, educators in Ohio are required to follow laws and may face disciplinary action for failing to do so, as outlined in the *Licensure Code of Professional Conduct for Ohio Educators*. In order to fulfill their duties effectively, educators must have confidence in the validity and constitutionality of the laws they are required to teach. The passing of laws by the General Assembly that are subsequently struck down by the Ohio Supreme Court undermines this confidence and raises questions about the appropriateness of enforcing compliance with laws that have been deemed unconstitutional.

Given the aforementioned significance of legal validity for educators, it becomes highly critical to scrutinize and challenge questionable legislative actions that directly contradict the established legal framework. One such example that has recently gained prominence is the contentious scheduling of a special election in August for the proposed Amendment in S.J.R. 2. This controversial decision seems to breach both the Ohio Revised Code and constitutional provisions, posing a significant challenge for educators who are duty-bound to uphold and teach the laws of the state. The situation magnifies the precariousness of enforcing laws and

amendments that may not stand up to constitutional scrutiny.

The lack of statutory basis, failure to meet the conditions outlined in the relevant statute, and departure from the prescribed election dates for constitutional amendments all demonstrate the illegality of the August special election called for by S.J.R. 2. Thus, the court should grant the mandamus action filed by the *Relators* and declare the August special election unauthorized and contrary to law.

Furthermore, it is crucial for the court to consider the implications of unconstitutional laws on educators and their professional obligations. By granting the mandamus action and declaring the August special election unauthorized and contrary to law, the court can provide clarity and guidance to educators in Ohio, ensuring that they can fulfill their roles in instructing students while upholding the principles of the state's constitution and the rule of law.

III. LAW AND ARGUMENT

A. Background

The Ohio General Assembly enacted Amended Substitute Senate Joint Resolution Number 2 (“S.J.R. 2”) on May 10, 2023, decreeing a “special election” for August 8, 2023. This election aims to propose an amendment to the Ohio Constitution, increasing the popular vote threshold from a simple majority to a sixty percent supermajority for adopting constitutional amendments (“the Amendment”). (Complaint ¶3.). Furthermore, S.J.R. 2 intends to alter the initiative petition procedures. It calls for signatures to be collected from every county when proposing constitutional amendments, a shift from the current requirement of gathering signatures from only half the counties as per Ohio Constitution Article II, Section 1g. Additionally, the Amendment intends to remove the provision that allows initiative petitioners to

correct an insufficient petition by submitting more signatures. (Complaint ¶¶51-53.).

Under S.J.R. 2, the planned Amendment would be put forward to voters at a special election slated for August 8, 2023, invoking the power granted by Section 1 of Article XVI to call such an election. Nevertheless, it neither cites any statutory grounds for the election nor claims to revoke or modify any features of Revised Code Sections 3501.01, 3501.022, or 3501.02. (Complaint ¶55.).

Ohio Revised Code §3501.01(D) defines special election as:

"Special election" means any election other than those elections defined in other divisions of this section. A special election may be held only on the first Tuesday after the first Monday in May or November, on the first Tuesday after the first Monday in August in accordance with section 3501.022 of the Revised Code, or on the day authorized by a particular municipal or county charter for the holding of a primary election, except that in any year in which a presidential primary election is held, no special election shall be held in May, except as authorized by a municipal or county charter, but may be held on the third Tuesday after the first Monday in March.

Nothing in Ohio Revised Code §3501.01(D) provides for a "Special Election" in August. Further, nothing in Ohio Revised Code 3501.022 qualifies for a special election as unlawfully authorized in S.J.R. 2. Ohio Revised Code 3501.022 sets forth "When August Special Election may be held" and provides:

- A) A political subdivision or taxing authority may hold a special election on the first Tuesday after the first Monday in August for an office, question, or issue if the political subdivision is under a fiscal emergency under section 118.03 of the Revised Code, or the taxing authority that is a school district is under a fiscal emergency under division (B) of section 3316.03 of the Revised Code, at the time the board of elections certifies the office, question, or issue for placement on the ballot for that special election.
- B) (B) The deadlines applicable to a special election held by a political subdivision or taxing authority under division (A) of this section shall be the same as the deadlines specified to place the office, question, or issue on the ballot on the day of a primary or general election.
- C) (C) The entire cost of a special election held under division (A) of this section shall be charged to the political subdivision or taxing authority in accordance with division (D) of section 3501.17 of the Revised Code.

This amendment does not qualify under any of these circumstances.

Finally, Ohio Revised Codes §§ 3501.02(E) and 3501.01(E) specifically provide that proposed constitutional amendments by the general assembly shall be presented to the voters during the general, primary, or presidential primary elections in either November, May, or March respectfully. Ohio Revised Code §3501.02(E) provides that:

Proposed constitutional amendments or proposed measures submitted by the general assembly or by initiative or referendum petitions to the voters of the state at large may be submitted to the general election in any year occurring at least sixty days, in case of a referendum, and ninety days, in the case of an initiated measure, subsequent to the filing of the petitions therefor. Proposed constitutional amendments submitted by the general assembly to the voters of the state at large may be submitted at a special election occurring on the day in any year specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, when a special election on that date is designated by the general assembly in the resolution adopting the proposed constitutional amendment.

No special election shall be held on a day other than the day of a general election, unless a law or charter provides otherwise, regarding the submission of a question or issue to the voters of a county, township, city, village, or school district.

Ohio Revised Code § 3501.01(E) provides:

- (1) "Primary" or "primary election" means an election held for the purpose of nominating persons as candidates of political parties for election to offices, and for the purpose of electing persons as members of the controlling committees of political parties and as delegates and alternates to the conventions of political parties. Primary elections shall be held on the first Tuesday after the first Monday in May of each year except in years in which a presidential primary election is held.
- (2) "Presidential primary election" means a primary election as defined by division (E)(1) of this section at which an election is held for the purpose of choosing delegates and alternates to the national conventions of the major political parties pursuant to section 3513.12 of the Revised Code. Unless otherwise specified, presidential primary elections are included in references to primary elections. In years in which a presidential primary election is held, all primary elections shall be held on the third Tuesday after the first Monday in March except as otherwise authorized by a municipal or county charter.

Subsequently, on May 12, 2023, *Relators*, State of Ohio ex rel. One Person One Vote, et al. filed an original action in Mandamus pursuant to Article XVI, section 1 of the Ohio Constitution contending that the General Assembly's attempt to put the Amendment before

voters in an August special election is contrary to law.

B. The Ohio General Assembly's Resolution for the August 8, 2023, special election undeniably contravenes the Constitution and statutory laws of Ohio through the unlawful submission of the amendment to voters

Article XVI, Section 1 of the Ohio Constitution provides that “either branch of the General Assembly may propose amendments to the Constitution if three-fifths of the members elected to each house agree, and the proposed amendment is entered on the journals, with yeas and nays, and is filed with the Secretary of State at least ninety days before the date of the election which they are to be submitted to the electors for approval or rejection.” Article XVI further provides that proposed amendments “shall be submitted on a separate ballot without party designation of any kind, at either a special or a general election *as the General Assembly may prescribe.*” (emphasis added).

The resolution by the General Assembly to present the Amendment during an August special election, which typically sees low voter turnout, contravenes the law. A clear schedule for elections is outlined in the Revised Code, which restricts special elections regarding constitutional amendments to either November, March (aligning with presidential primaries), or May. A statewide election in August is not permissible. (Complaint ¶8.)

The synergy between the Ohio Constitution and the Revised Code sanctions the execution of elections, either for approving or dismissing constitutional amendments proposed by the General Assembly, solely during the annual general election in November or the annual primary election in March or May. (Complaint ¶24.)

According to R.C. section 3501.02, constitutional amendments proposed by the General Assembly can be submitted to the state's voters at one of two elections: either at “the general

election,” at least 90 days post-filing, or “at a special election,” on the day designated by division (E) of section 3501.01 of the Revised Code for conducting a primary election, when the General Assembly specifies a special election in the resolution endorsing the proposed constitutional amendment. (Complaint ¶28.) Revised Code section 3501.01(A) designates the general election as “the election held on the first Tuesday after the first Monday in each November.” (Complaint ¶29.)

Furthermore, Revised Code section 3501.01(E) establishes primary elections to occur “on the first Tuesday after the first Monday in May of each year,” except during presidential years, when they “shall be held on the third Tuesday after the first Monday in March.” (Complaint ¶30.) Consequently, the Revised Code proposes two alternatives for presenting a constitutional amendment to voters: either the general election in November or a primary election in May (or in presidential years, March). (Complaint ¶31.)

Section 3501.01(D) clarifies under what circumstances special elections may occur. Specifically, Section 3501.01(D) stipulates that “[a] special election may be held only on the first Tuesday after the first Monday in May or November, on the first Tuesday after the first Monday in August in accordance with section 3501.022 of the Revised Code,” or in compliance with “a particular municipal or county charter,” barring presidential years when it may be conducted in March rather than May. (Emphasis added.) (Complaint ¶32.)

R.C. section 3501.022 further modifies the law by stipulating that “a political subdivision or taxing authority may hold a special election on the first Tuesday after the first Monday in August,” only if the political subdivision is “under a fiscal emergency” or if the taxing authority “is a school district” and “under a fiscal emergency.” As such, Section 3501.022 does not authorize a statewide August special election under any conditions. (Complaint ¶33.)

Together, Sections 3501.01, 3501.022, and 3501.02 formulate an exhaustive and exclusive set of guidelines for organizing special elections to accept or reject constitutional amendments put forth by the General Assembly. Such elections may be scheduled on three occasions: (i) the date of the November general election; (ii) the date of the May primary in a non-presidential year; or (iii) the date of the March primary in a presidential year. (Complaint ¶36.)

This Court has determined that the “statute law of the state can neither be repealed nor amended by a joint resolution of the general assembly.” *State ex rel Attorney General v. Kinney*, 56 Ohio St. 721, 724, 47 N.E. 569 (1897). While the Court has previously permitted the General Assembly to convene a special election via joint resolution without statutory sanction, it did so under an alternate statutory structure—a structure that did not contradict the wording of the joint resolution. *State ex rel. Foreman v. Brown*, 10 Ohio St.2d 139, 142, 226 N.E.2d 116 (1967). (Complaint ¶37.)

C. The Relators' compelling presentation of credible criteria establishes an indisputable justification for the Court's intervention via mandamus action

The jurisdiction for this action lies with this Court as per Article IV, Section 2(B)(1)(b), bestowing upon the Court original jurisdiction in mandamus actions. Furthermore, Article XVI, Section 1 provides the Court with both original and exclusive jurisdiction in all cases that involve “challenging the adoption or submission of a proposed constitutional amendment to the electors.” (Complaint ¶13.).

Mandamus actions are governed by R.C. Chapter 2731. A mandamus is a writ to enforce performance of a specific act by a public official or agency and will only be issued where there is a clear legal duty to act. A writ of mandamus will not be issued when there is a plain and adequate remedy in the ordinary course of law. R.C. 2731.05. When the right to require the

performance of an act is clear and it is apparent that no valid excuse can be given for not doing it, a court, in the first instance, may allow a peremptory mandamus. Otherwise, an alternate writ must first be issued by the court or judge. R.C. 2731.06.

A Court will grant a writ of mandamus when a relator establishes (i) a clear legal right to the requested relief, (ii) a clear legal duty on the part of the respondent to provide it, and (iii) the lack of an adequate remedy in the ordinary course of law, *State ex rel. Berger v. McMonagle*, 6 Ohio St. 3d 28, 451 N.E.2d 225 (1983)). In the aforementioned case, this Court articulated the following standard: "The writ of mandamus will be granted by this court only when the relator establishes a clear legal right to the requested relief, a clear legal duty on the part of the respondents to provide it, and the lack of an adequate remedy in the ordinary course of law."

Relators assert a clear legal entitlement to the requested relief, as the submission of the Amendment to the people on August 8, 2023, would contravene the explicit provisions of the Revised Code (Complaint ¶73). Respondent Secretary LaRose bears a manifest legal obligation to furnish the requested relief since he is tasked with ascertaining and establishing "the forms of ballots ... required by law" and ensuring "the compliance of election officers in the various counties with the stipulations of the election laws" (R.C. 3501.05(G), (H), (M)) (Complaint ¶74). Given that this Court exercises original and exclusive jurisdiction over the subject matter of the case, and mandamus has consistently been recognized as the sole available recourse when an elector seeks to eliminate an unlawfully presented constitutional amendment from the ballot, *Relators* are bereft of a satisfactory legal remedy (Complaint ¶75).

D. The obligation of the General Assembly to adhere to their enacted laws must be held to the same standard as that expected of educators in lawful compliance

Under the *Licensure Code of Professional Conduct for Ohio Educators* Principle 1, "An

educator serves as a positive role model to both students and adults and is responsible for preserving the dignity and integrity of the teaching profession and for practicing the profession according to the highest ethical standards.” To that end, Principle 1 provides that a teacher can be sanctioned for Conduct unbecoming to the profession which includes, but is not limited to, the following actions: “d) Committing any violation of state or federal laws, statutes or rules although the conduct may not have resulted in a criminal charge, indictment, prosecution or conviction (Except as noted in Principle 6(b), this does not include traffic violations).” Licensure Code of Prof'l Conduct for Ohio Educators, Principal [1], (Ohio Dep't of Education, September 17, 2019).

Under Principle 4, Criminal Acts, of the *Licensure Code of Professional Conduct for Ohio Educators*, conduct unbecoming includes, but is not limited to, the following actions:

- a) A criminal offense that is an offense of violence, theft, drug abuse, or sexually-oriented offense as defined in Ohio Administrative Rule 3301-20-01 (for example, murder, rape, drug trafficking, kidnapping, robbery, felonious assault).
- b) A criminal offense that requires an educator to meet the rehabilitation standards, as defined in Ohio Administrative Code Rule 3301-20-01 (for example, assault, passing bad checks, fraud, domestic violence, possession of drugs).
- c) Conveying or possessing a deadly weapon or dangerous ordnance in a school safety zone, on school premises or at a school-related activity, unless authorized by state or federal law.
- d) A criminal offense that is not identified as an absolute bar offense or offense requiring rehabilitation pursuant to Ohio Administrative Code Rule 3301-20-01 and the offense involves a student, minor, school district, or school personnel.
- e) A criminal offense that is not identified as an absolute bar offense or offense requiring rehabilitation pursuant to Ohio Administrative Code Rule 3301-20-01 and the offense does not involve a student, minor, school district, or school personnel. (Except as noted in Principle 6(b), this does not include traffic violations.).

The Ohio Department of Education, in its role of upholding public trust in education, diligently follows up on claims of professional misconduct. It understands that mere allegations

do not definitively establish an educator's unprofessional behavior. According to law, all educators have the right to due process, and each situation is evaluated individually to ascertain the suitable course of action. Not every inquiry or reported incident necessarily leads to disciplinary measures. The *Licensure Code of Professional Conduct for Ohio Educators* outlines the likely scope of disciplinary actions for any person who holds credentials from the State Board of Education. *Licensure Code of Prof'l Conduct for Ohio Educators*, (Ohio Dep't of Education, September 17, 2019), at page 3.

When an investigation yields findings that justify disciplinary action under section 3319.31 of the Ohio Revised Code, the State Board of Education has the authority to apply a suitable penalty within the predefined range, assessed on a case-by-case basis as per the established disciplinary guidelines. However, the presence of exacerbating or mitigating elements in a specific situation could necessitate a penalty outside the typical range.

The array of potential disciplinary measures is flexible and may involve a warning letter, consent agreement, license restriction, suspension, revocation, or denial. The terms "suspension," "revocation," and "denial" encompass any duration, including permanent suspension or denial. A license can be suspended or constrained based on a consent agreement or a resolution from the State Board. For a detailed description of the different kinds of disciplinary actions, visit the Ohio Department of Education's website at education.ohio.gov, and search using the keywords 'disciplinary actions'.

The State Board holds the discretion to impose a penalty outside the set disciplinary guidelines for individual cases. This may be based on aggravating or mitigating factors, as stated in Sections 3301-73-21 (A) (B) and section 3301-20-01 (E) of the Ohio Administrative Code, or any other considerations deemed relevant by the State Board, district, educational entity, or

superintendent. Additionally, the State Board may decide against imposing a disciplinary action concerning an educator's license or license application if the violation of the Licensure Code of Professional Conduct for Ohio Educators is minor or has been suitably addressed by the local school district or educational entity at the district or building level. *Licensure Code of Prof'l Conduct for Ohio Educators*, (Ohio Dep't of Education, September 17, 2019) at page 13. Discipline for Principal 1 includes letters of admonishment up to revocation/denial of a license for other acts unbecoming to the professional conduct of educators under Professional Behavior. *Licensure Code of Prof'l Conduct for Ohio Educators*, (Ohio Dep't of Education, September 17, 2019) at page 14.

Principal 4, Criminal Acts, of the *Licensure Code of Professional Conduct for Ohio Educators* provides that, "Educators shall adhere to federal, state and local laws and statutes." If an educator violates Principle 4, the presumption for the appropriate range of disciplinary action is the following: I. Revocation/denial of a license for a criminal offense that is an offense of violence, theft offense, drug abuse offense or sexually oriented offense, as defined in Ohio Administrative Code Rule 3301-29-01; II. Revocation/denial of a license for a criminal offense involving the school community or where the victim is a student or minor; III. Suspension (one day to five years) of a license up to revocation/denial of a license for all other felony criminal acts; IV. Letter of admonishment up to revocation/denial of a license for all other misdemeanor criminal acts (for example, disorderly conduct, trespassing, assault, passing bad checks, fraud, domestic violence, possession of drugs). *Licensure Code of Prof'l Conduct for Ohio Educators*, (Ohio Dep't of Education, September 17, 2019) at page 15.

The legislature has historically violated the Ohio Constitution without any repercussions. All the while, teachers are held to a higher standard. It should not be surprising

that *Amicus Curiae Ohio Education Association* is skeptical of the General Assembly's ability or desire to follow legal interpretations of the law as ordered by this Court. In *DeRolph v. State*, 78 Ohio St.3d 193, 677 N.E.2d 733 (1997), the Ohio Supreme Court held that "Ohio's elementary and secondary public school financing system violates Ohio Const. Art. VI § 2, which mandates a thorough and efficient system of common schools throughout the state." Despite the Court's order in *DeRolph* that "Ohio's public school financing scheme must undergo a complete systematic overhaul," little has changed in Ohio's school funding since the case was decided twenty-five ago. *Id.* at 438.

On January 14, 2022, this court held that the congressional-district plan passed by the General Assembly and signed by the governor in November 2021 was invalid in its entirety. *Adams v. DeWine*, 167 Ohio St.3d 499, 2022-Ohio-89, 195 N.E.3d 74, ¶ 5, 102. Subsequently, this Court ruled that the March 2, 2022, revised legislative redistricting plan like the one passed by the legislature in 2021 and ruled unconstitutional by the Court in January 2022 was also unconstitutional. The July 19, 2022, opinion stated the latest map, drafted by the Ohio Redistricting Commission, violated provisions of Article XIX of the Ohio Constitution because it "unduly favors" the Republican Party. *Neiman v. LaRose*, 169 Ohio St.3d 565, 2022-Ohio-2471.

The Ohio legislature is free to pass unconstitutional laws without regard for its citizens. We should hold the legislature to the same standard as our educators. We cannot permit them to violate state law without recourse. S.J.R. 2 provides that upon ratification, the increased threshold shall go into force immediately (Complaint ¶54.). Ostensibly, the General Assembly fast tracked the Amendment to set a higher threshold for the November 2023 elections to make potential ballot initiatives in the works for reproductive decisions on

abortion and the legalization of cannabis more difficult to pass. Ballotpedia, Ohio 2023 Ballot Measures, available at: https://ballotpedia.org/Ohio_2023_ballot_measures (last visited May 17, 2023). However, regardless of their motive, if the Amendment passes it will have long lasting implications for the success of constitutional ballot initiatives in Ohio. The legislature is continuing its disregard for the law by trying to push an unlawful, statewide August special election.

In the last special election held on August 9, 2022, there was a paltry turnout of 638,708 out of 7,973,819 eligible voters; only 8.01% of those eligible to vote. Ohio Secretary of State, Voter Turnout in Primary Elections – Even, <https://www.ohiosos.gov/elections/election-results-and-data/historical-election-comparisons/voter-turnout-in-primary-elections-even/> (last visited May 17, 2023). This compares to an average of 4,890,774 out of 8,058,232 in the last three general elections. Ohio Secretary of State, Voter Turnout in General Elections, <https://www.ohiosos.gov/elections/election-results-and-data/historical-election-comparisons/voter-turnout-in-general-elections/> (last visited May 17, 2023).

The recent constraints on August elections, as stipulated in Sections 3501.01(D) and 3501.022, were introduced in December 2022 through Substitute House Bill 458, which took effect on April 7, 2023 (Relators’ Exhibits 4 and 5). Secretary LaRose backed Substitute House Bill 458, stating that “August special elections were disadvantageous to taxpayers, election officials, voters, and the state's civic welfare.” (*Relators’ Exhibit 6*).

In addition to Secretary LaRose’s original support for limiting August special elections in HB 458, former Republican Governor and former Secretary of State, Taft, wrote to the General Assembly opposing Senate Bill 92 and S.J.R. 2. As a previous Secretary of State, he expressed his concern about the high costs of August special elections for the low voter

turnout they typically attract (*Relators' Exhibit 9*). Former Governors Kasich, Strickland, and Celeste likewise voiced their objections to this legislative package (*Relators' Exhibit 10*).

Likewise, in a letter to the General Assembly, five out of seven living former attorneys general of Ohio, comprising two Republicans and three Democrats, cautioned against hasty changes to the constitution without engaging the individuals most directly impacted—the public. They opined that this haste was evident in the current rush to amend the constitution (*Relators' Exhibit 11*).

Now, this same General Assembly, elected pursuant to unconstitutional legislative districts, seeks to unlawfully make it more difficult to for citizens to pass Constitutional Amendments. Is it unreasonable for Ohio's Educator's to expect the General Assembly to adhere to the same laws that they discuss in the classroom and that they are required to follow under the *Licensure Code of Professional Conduct for Ohio Educators*?

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IV. CONCLUSION

For the reasons articulated above, *amici curiae* OEA requests that the Court issue a writ of mandamus directing Respondent Ohio Secretary of State Frank LaRose to (i) remove the constitutional amendment proposed by Amended Substitute Senate Joint Resolution Number 2 from the August 8, 2023, special election ballot and (ii) instruct county election officials not to proceed with the special election.

Dated: May 18, 2023

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on May 18, 2023, the foregoing was filed electronically using the Court's e-filing system. I further certify that the foregoing was served via electronic mail upon the following pursuant to S.Ct.Prac.R. 3.11(C)(3):

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