

Cause No: D-1-GN-23-003523

HARRIS COUNTY, TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
v.	§	
	§	
THE STATE OF TEXAS; OFFICE OF ATTORNEY	§	
GENERAL OF TEXAS; ANGELA COLMENERO, IN	§	
HER OFFICIAL CAPACITY AS PROVISIONAL	§	
ATTORNEY GENERAL; OFFICE OF THE TEXAS	§	TRAVIS COUNTY
SECRETARY OF STATE; AND JANE NELSON, IN	§	
HER OFFICIAL CAPACITY AS TEXAS SECRETARY	§	
OF STATE,	§	
Defendants,	§	
	§	
CLIFFORD TATUM,	§	
Plaintiff-Intervenor,	§	
	§	
THE STATE OF TEXAS AND	§	345TH JUDICIAL DISTRICT
THE ATTORNEY GENERAL OF TEXAS,	§	
	§	
Defendant-Intervenors,	§	
	§	
HARRIS COUNTY REPUBLICAN PARTY,	§	
	§	
Intervenor-Cross Plaintiff.	§	

**DEFENDANTS' AND DEFENDANT-INTERVENORS' NOTICE OF
ACCELERATED INTERLOCUTORY APPEAL**

Defendants Office of the Attorney General of Texas; Angela Colmenero, in her official capacity as Provisional Attorney General of Texas; Office of the Texas Secretary of State; Jane Nelson, in her official capacity as Texas Secretary of State; and Intervenor-Defendants the State of Texas and Attorney General of Texas desire to appeal the Order on Defendants' Plea to the Jurisdiction, Order Granting Plaintiff's Application for Temporary Injunction, and Order on Intervenor/Cross-Claimant Clifford Tatum's Application for Temporary Injunction Against

Harris County signed by the trial court on August 14, 2023. *See* Appendix (attaching the three orders). These Defendants and Defendant- Intervenors (“Appellants,” collectively) desire to take a direct appeal to the Supreme Court of Texas because the trial court granted an interlocutory injunction on the ground of the constitutionality of a statute of this State. Tex. Gov’t Code § 22.001(c); Tex. R. App. P. 57. This is an accelerated appeal because it is an appeal from interlocutory orders. Tex. Civ. Prac. & Rem. Code § 51.014(a)(4), (a)(8); Tex. Gov’t Code § 22.001(c); Tex. R. App. P. 28.1. This is not a parental-termination or child-protection case or an appeal from an order certifying a child to stand trial as an adult.

Appellants are not required to file a bond for court costs incident to this appeal. Tex. Civ. Prac. & Rem. Code § 6.001(a), (b)(1)-(3). Upon filing of this instrument, any injunction is superseded pursuant to Texas Civil Practice and Remedies Code section 6.001(b) and Texas Rule of Appellate Procedure 29.1(b). Appellants’ appeal is therefore perfected upon the filing of the notice of appeal.

This notice of appeal is being filed to ensure that Appellants’ right to appeal is not lost due to procedural technicalities. *See Chen v. Razberi Techs., Inc.*, 645 S.W.3d 773, 782 (Tex. 2022). It follows Appellants’ filing of two other notices of appeal on August 15, 2023. The first, filed before Appellants received notice of the trial court’s temporary-injunction orders, noticed an appeal to the Third Court of the only order that Appellants were aware of at the time: the trial court’s order denying Appellants’ plea to the jurisdiction in part. The second, filed after all three orders were made available to Appellants, noticed a direct appeal to the Texas Supreme Court of the trial court’s orders on Appellants’ plea to the jurisdiction and the trial court’s temporary-injunction orders. According to the Third Court clerk’s office, Appellants’ initial appeal of the trial court’s plea order has been docketed under cause number 03-23-00490-CV. Appellants will soon file an

unopposed motion to abate that Third Court appeal so as not to interfere with or delay the Texas Supreme Court's resolution of the direct appeal that Appellants have noticed and that plaintiff Harris County has agreed is properly before the Texas Supreme Court. *See* Harris County's Emergency Motion for Temporary Relief 1, 3, *Office of the Att'y Gen. of Tex. v. Harris County*, No. 23-0656 (Tex. Aug. 15, 2023).

Pursuant to Texas Civil Practice and Remedies Code section 51.014(b), all further proceedings in the trial court are stayed pending resolution of this appeal. Appellants previously waived their right to the automatic stay solely to the extent necessary to allow the temporary-injunction orders to properly issue after the initial notice of appeal had been filed. They did so to prevent unnecessary litigation unrelated to the merits of the appealed orders and based on the trial court's representation that it had filed the orders before the initial notice of appeal was filed. For all other purposes, Appellants seek enforcement of the automatic stay and would object to court actions in violation of the stay.

Dated: August 17, 2023.

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Provisional Attorney General of Texas

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First Assistant Attorney General

GRANT DORFMAN
Deputy First Assistant Attorney General

RALPH MOLINA
Deputy Attorney General for Legal Strategy

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2023, a true and correct copy of the foregoing document was served via the Court's electronic filing system to Christian Menefee, Wallace B. Jefferson, and Nicholas Bacarisse, counsel for Harris County, via Christian.Menefee@harriscountytexas.gov, wjefferson@adjtlaw.com, and nbacarisse@adjtlaw.com; Gerald Birnberg, lead counsel for Clifford Tatum, via birnberg@wba-law.com; and Andy Taylor, lead counsel for Harris County Republican Party, via ataylor@andytaylorlaw.com.

Their physical addresses are listed below:

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/s/ Susanna Dukupil
SUSANNA DOKUPIL

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HARRIS COUNTY, TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff/Cross-Defendant,	§	
	§	
v.	§	
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THE STATE OF TEXAS; ANGELA	§	
COLMENERO, IN HER OFFICIAL CAPACITY AS	§	
PROVISIONAL ATTORNEY GENERAL; AND JANE	§	TRAVIS COUNTY, TEXAS
NELSON, IN HER OFFICIAL CAPACITY AS TEXAS	§	
SECRETARY OF STATE,	§	
Defendants.	§	
	§	
AND	§	
	§	
CLIFFORD TATUM,	§	
Intervenor/Cross-Claimant.	§	
	§	
AND	§	
	§	
THE ATTORNEY GENERAL OF TEXAS,	§	
Intervenor.	§	345th JUDICIAL DISTRICT

**ORDER GRANTING PLAINTIFF'S
APPLICATION FOR TEMPORARY INJUNCTION**

On this day, the Court considered the application by Plaintiff Harris County, Texas (“Plaintiff” or “Harris County”) for a Temporary Injunction (the “Application”), as found in Plaintiff’s Verified Second Amended Petition and Application for Temporary Injunction and Permanent Injunction (the “Petition”) filed against Defendants the State of Texas, Angela Colmenero, in her official capacity as Interim Attorney General of Texas, and Jane Nelson, in her official capacity as Texas Secretary of State (collectively, “Defendants”). Having granted the State of Texas’s Plea to the Jurisdiction, the remaining Defendants are Angela Colmenero, in her official capacity as Interim Attorney General of Texas, and Jane

Nelson, in her official capacity as Texas Secretary of State (collectively, the “State Officer Defendants”).

Based on the facts set forth in Plaintiff’s Application, the stipulation among the parties filed on August 7, 2023, the testimony, the evidence, the argument of counsel presented in Plaintiff’s Amended Brief in Support of Temporary Injunctive Relief filed on August 7, 2023 (the “Brief in Support”), as well as during the August 8, 2023 hearing on Plaintiff’s Application, and being otherwise fully informed in the premises, this Court finds sufficient cause to enter a Temporary Injunction against the State Officer Defendants. The Court therefore GRANTS Plaintiff’s request for temporary injunction and does hereby FIND the following:

1. The Temporary Injunction is hereby GRANTED.
2. Plaintiff has demonstrated a valid cause of action, a probable right to relief, and imminent and irreparable injury.
3. Plaintiff states a valid cause of action against each State Officer Defendant and has a probable right to the declaratory and permanent injunctive relief it seeks. For the reasons detailed in Plaintiff’s Application, Brief in Support, and accompanying evidence, there is a substantial likelihood that Plaintiff will prevail after a trial on the merits because Senate Bill 1750 (“SB 1750”), passed during the Texas Legislature’s 88th Regular Session, is an unconstitutional local law under Article III, section 56 of the Texas

Constitution. As a result, any actions taken by the State Officer Defendants premised on the operation of SB 1750 would be void.

4. It clearly appears to the Court that unless the State Officer Defendants are immediately enjoined from taking any actions premised on the operation of SB 1750, Plaintiff will suffer imminent and irreparable injury. First, Harris County suffers injury because it will be forced to implement an unconstitutional statute. Moreover, on September 1, 2023, just weeks before voting begins for the November 7, 2023 election (the “November Election”) that is run by Harris County, Harris County will be required to effect massive transfers of employees and resources from the Harris County Elections Administrator’s Office (the “Harris County EA”) to the Harris County Clerk and the Harris County Tax Assessor-Collector. Not only will this transfer lead to inefficiencies, disorganization, confusion, office instability, and increased costs to Harris County, but it will also disrupt an election that the Harris County EA has been planning for months. The Harris County Clerk and the Harris County Tax Assessor-Collector have had no role in preparing for the November Election. Transferring responsibility for that election just weeks before voting starts will disrupt existing processes and risk the efficient administration of the election. Over the next few months, the Harris County elections department will have to undertake a multitude of crucial tasks to effectively administer the November Election; as a result of SB 1750,

Harris County will be forced to hire additional permanent and temporary workers, as well as consultants, at a great cost, to ensure it can meet its many obligations and to navigate the management structure to be used, the personnel to be retained, and the numerous decisions that need to be made in hopes of orderly administering Harris County, as well as this November's election. Absent intervention by this Court, Harris County would face the full weight of the Election Code, as well as the Secretary of State's mandatory rules on issues relating to voter registration and elections administration. Harris County running elections through a legally defunct office could jeopardize the results of the November Election and also risk the validity of voter lists, polling locations, thousands of financial transactions, and contracts with other entities. Without this order, the State Officer Defendants will likely disrupt the upcoming election and cause havoc (e.g., with respect to voter outreach, voter registration, election administration, and vote tallying), and Harris County's entire election apparatus would be thrown into disarray, as well as the unnecessary expense associated with such disruption. The harm to Harris County, its residents, and the public outweighs any potential harm caused to the State Office Defendants by entering this injunctive relief. State Officer Defendants' wrongful actions cannot be remedied by any award of damages or other adequate remedy at law.

5. The Temporary Injunction being entered by the Court today maintains the status quo prior to September 1, 2023, and should remain in effect while this Court, and potentially the Court of Appeals, and the Supreme Court of Texas, examine the parties' merits and jurisdictional arguments.
6. This injunctive relief is appropriate under traditional equitable standards and principles.

IT IS THEREFORE ORDERED that, until all issues in this lawsuit are finally and fully determined, the State Officer Defendants, and their employees, agents, and representatives, are immediately enjoined and restrained from taking actions premised on the operation of SB 1750. This Temporary Injunction restrains the following actions by the State Officer Defendants:

1. Taking any actions to enforce SB 1750;
2. The Secretary of State is enjoined from:
 - a. refusing to recognize the Harris County Elections Administrator's Office as a lawful elections office;
 - b. refusing to accept from the Harris County Elections Administrator results of any Harris County election;
 - c. refusing to coordinate with, and approve election action taken by, Harris County's Elections Administrator;
 - d. refusing to provide official election reporting forms and voting by mail forms;

- e. refusing to provide funds to which Harris County is entitled under Texas Election Code Section 19.002;
- f. taking any actions on the sole basis that the Harris County Elections Administrator position is abolished; and
- g. refusing to cooperate with the Harris County Elections Administrator to perform election-related responsibilities.

3. The Attorney General is enjoined from:

- a. Refusing to recognize the Harris County Elections Administrator's Office as a lawful elections office after SB 1750's effective date, including by enforcing SB 1750 by seeking civil penalties against Harris County or its elections officials.

IT IS FURTHER ORDERED that a trial on the merits of this case is preferentially set before Judge Karin Crump of the 250th Judicial District Court of Travis County, Texas on January 29, 2024 at 9:00 AM in the 250th Judicial District, located at 1700 Guadalupe Street, Austin, TX 78701, Courtroom 9B.

No bond is required as Plaintiff Harris County is exempt from the bond requirements under Tex. Civ. Prac. & Rem. Code § 6.001.

The Clerk of the Court shall forthwith issue a temporary injunction in conformity with the laws and terms of this Order.

It is further ORDERED that this Order shall expire at 11:59 p.m. on January 29, 2024, or upon further order of the Court.

SIGNED this 14th day of August, 2023, at 4:00 p.m. in Travis County, Texas.



**JUDGE PRESIDING
KARIN CRUMP
250TH DISTRICT COURT**

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THE STATE OF TEXAS; ANGELA	§	
COLMENERO, IN HER OFFICIAL CAPACITY AS	§	
PROVISIONAL ATTORNEY GENERAL; AND JANE	§	TRAVIS COUNTY, TEXAS
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Defendants.	§	
	§	
AND	§	
	§	
CLIFFORD TATUM,	§	
Intervenor/Cross-Claimant.	§	
	§	
AND	§	
	§	
THE ATTORNEY GENERAL OF TEXAS,	§	
Intervenor.	§	345th JUDICIAL DISTRICT

**ORDER ON INTERVENOR/CROSS-CLAIMANT
CLIFFORD TATUM'S APPLICATION FOR TEMPORARY INJUNCTION
AGAINST HARRIS COUNTY**

On August 8, 2023, this Court heard Clifford Tatum's Application for a Temporary Injunction against Harris County, Texas. Mr. Tatum seeks to enjoin the County from taking any action against Mr. Tatum or his office, the Harris County Elections Administrator's Office (the "Harris County EA"), due to the passage of Texas Senate Bill 1750 ("SB 1750"), arguing SB 1750, and the proposed new Texas Election Code Section 31.050 contained within SB 1750, are unconstitutional because they violate Article III, section 56 of the Texas Constitution. Due notice was given of the hearing, including notice to the

Attorney General that Mr. Tatum is challenging the constitutionality of a state statute. At the hearing, Mr. Tatum appeared personally and through his counsel. Plaintiff/Cross-defendant Harris County and Defendants the State of Texas, The Honorable Jane Nelson, in her official capacity as Secretary of State of the State of Texas and The Honorable Angela Colmenero, in her official capacity as Interim Attorney General of the State of Texas, all appeared through their respective counsel. The Court has jurisdiction over Mr. Tatum's Application, and personal jurisdiction and venue are uncontested. After considering Mr. Tatum's Application, the pleadings, exhibits, testimony, and evidence admitted at the Hearing, and the argument of counsel, the Court grants the injunctive relief sought by Mr. Tatum for the reasons that follow.

FINDINGS

Counties in Texas are responsible for voter registration and the administration of elections. Every county has a choice about who will be in charge of handling these matters: either (1) partisan, elected county tax assessor-collectors and county clerks may manage voter registration and election administration, along with their many other statutory duties; or (2) a county may opt to establish the office of county elections administrator and hire a trained, professional, non-partisan administrator to manage voter registration and the administration of elections. TEX. ELEC. CODE § 31.031. Pursuant to state law, Harris County has opted to hire a county elections administrator and transfer the duties of voter registration and election administration to that office, as it is statutorily entitled to do.

Texas Senate Bill 1750, enacted during the Texas Legislature's 88th Regular Session, amends the Texas Election Code in two critical ways relevant to this case. The first is the addition of new Section 31.050, scheduled to take effect on September 1, 2023. New Section 31.050 abolishes the office of county elections administrator only in Texas counties with a population of 3.5 million on September 1, 2023, and in those counties transfers responsibilities for voter registration and election administration back to the county tax assessor-collector and county clerk. The second change made by SB 1750 is to amend Section 31.031(a), and effectively prohibit any county with a population of over 3.5 million that does not have a county elections administrator from ever establishing the office of county elections administrator.

Only one county in Texas has a population that on September 1, 2023, will exceed 3.5 million: Harris County.¹ The effect of the plain language of SB 1750, new Texas Election Code Section 31.050, and newly amended Texas Election Code Section 31.031(a) is to eliminate the office of county elections administrator in Harris County and prevent Harris County from ever establishing such an office again. No other county in Texas is so affected by SB 1750 and new Section 31.050. The Court finds SB 1750, new Section 31.050, and amended Section 31.031(a) were targeted to regulate the affairs and administration of voter registration and elections in only one county in Texas: Harris County.

¹ Harris County's current population is approximately 4.9 million, making it the third largest county in the country. <https://worldpopulationreview.com/us-counties/tx/harris-county-population>. Dallas County is the next most populous county in Texas, with approximately 2.6 million residents. <https://worldpopulationreview.com/us-counties/tx/dallas-county-population>.

The Court also finds SB 1750 and the new statutory provisions were intentionally designed to affect only one county in Texas – Harris County – in perpetuity and to deprive Harris County of a statutory right available to every other county in Texas.

Should SB 1750 go into effect on September 1, 2023, Harris County will be statutorily obligated to comply with its provisions. This is even though Texas Election Code Section 31.037 provides that a county elections administrator’s employment can be terminated only “for good and sufficient cause on the four-fifths vote of the county election commission and approval of that action by a majority vote of the commissioners court.”

Intervenor Clifford Tatum is the current duly appointed, qualified, and serving Elections Administrator of Harris County, having been appointed to that position on August 16, 2022, by the Harris County election commission, pursuant to and in accordance with Texas Election Code Section 31.032. Mr. Tatum is a non-partisan professional trained in managing all aspects of the elections process with over twenty years of experience at both state and county levels. The Court, having heard the testimony of Mr. Tatum, finds that he was a credible witness and is well-qualified to do his job.

If the Harris County EA is abolished, Mr. Tatum will lose his job and be deprived of both the tangible economic benefits of the Harris County EA (such as salary, health insurance, retirement benefits, and automobile expense allowance) and the significant non-economic benefits of that position, including: (1) the stature and status of holding the position as elections administrator of the third most populous county in the country, a position which, if SB 1750 goes into effect, he will never again be able to obtain; (2) the

reputation as one of the leading election administrators in the country; and (3) the fulfillment of important (to Mr. Tatum) public service objectives of meaningfully ensuring the sanctity of the electoral process by spearheading both voter registration efforts and election administration functions in ways which Mr. Tatum believes will help safeguard and facilitate participatory democracy. Mr. Tatum has chosen a career in government service because of the importance of the role he can play. He has nearly reached the pinnacle in his chosen field – heading both voter registration and elections administration activities of the third largest county in the nation. The Court finds that the abolition of this office will irreparably affect Mr. Tatum’s ability to continue in the unique role he has achieved, to the irreplaceable detriment of his life ambition, his reputation, his stature, and the potential of future employment in a comparable role.

The Court finds that there is currently no “good and sufficient cause” to terminate Mr. Tatum as Harris County’s Elections Administrator and that the only conceivable “good and sufficient cause” would be if SB 1750 is found to be constitutional, eliminating his position as a matter of law.

Nevertheless, if not restrained, Harris County will follow the law and abolish the Harris County EA because it would be mandated to do so by SB 1750, *if* that enactment is constitutional, which the Court concludes, as explained below, it likely is not.

Further, if SB 1750 goes into effect on September 1, 2023, the whole Harris County EA will be closed, its duties transferred to the Harris County Tax Assessor-Collector’s and the Harris County Clerk’s offices, and Mr. Tatum will never again be able to head the

county elections office of the third largest county in the country. The Court finds that the harm Mr. Tatum faces is real, imminent, and irreparable. *Krier v. Navarro*, 952 S.W.2d 25, 28 (Tex. App.—San Antonio 1997, pet. denied) (holding threatened removal of Bexar County’s elections administrator sufficient imminent harm to justify injunctive relief).

Article III, section 56(a) of the Texas Constitution bars the legislature from passing “any local or special law” (1) “regulating the affairs of counties;” (2) authorizing the “conducting of elections;” (3) “prescribing the powers and duties of officers” in counties; and (4) “relieving or discharging any person” from the “performance of any public duty or service imposed by general law.” TEX. CONST. art. III, § 56(a)(2), (12), (14) and (30). Article III, section 56(b) prohibits enactment of any local or special laws “where a general law can be made applicable.” TEX. CONST. art. III, § 56(b). The purpose of section 56 is twofold. The first is to “prevent the granting of special privileges and to secure uniformity of law throughout the State as far as possible.” *Miller v. El Paso County*, 150 S.W.2d 1000, 1001 (Tex. 1941). The second is to prevent “lawmakers from engaging in the ‘reprehensible’ practice of trading votes for the advancement of personal rather than public interests.” *Maple Run at Austin Municipal Utility District v. The City of Austin*, 931 S.W.2d 941, 945 (Tex. 1996) (citing *Miller*, 150 S.W.2d at 1001).

When interpreting the Texas Constitution, a court must rely heavily on the literal text of the Constitution and give effect to its plain language. *Bosque Disposal Systems, LLC v. Parker County Appraisal District*, 555 S.W.3d 92, 94 (Tex. 2018). The Court finds it is likely Mr. Tatum will prevail on his claim that SB 1750 and proposed Texas Election

Code Section 31.050 are unconstitutional because they violate the plain language of the text of the Constitution.

The Court finds SB 1750 and new Texas Election Code Section 31.050 violate both purposes underlying Article III, section 56. The Court finds it is likely Mr. Tatum will prevail on his claim that SB 1750 and proposed Texas Election Code Section 31.050 are unconstitutional because they violate the purposes underlying Article III, section 56.

Admittedly, the Supreme Court of Texas has recognized that the Legislature has “a rather broad power to make classifications for legislative purposes and to enact laws for the regulation thereof, even though such legislation may be applicable only to a particular class or, in fact, affect only the inhabitants of a particular locality.” *Miller*, 150 S.W.2d at 1001. For such a law to be constitutional, however, “there must be a substantial reason for the classification. It must not be a mere arbitrary device resorted to for the purpose of giving what is, in fact, a local law the appearance of a general law.” *Id.* at 1002. “The primary and ultimate test [of whether a law is general or special] is whether there is a reasonable basis for the classification and whether the law operates equally on all within the class.” *Maple Run*, 931 S.W.2d at 947 (citing *County of Cameron v. Wilson*, 326 S.W.2d 162, 165 (Tex. 1959)).

The Court, having heard all the testimony and weighed the credibility of the witnesses presented, reviewed all the documentary evidence, read all the pleadings and briefing, and carefully listened to all the arguments of counsel, finds it is likely that Mr. Tatum will prevail on his claim that there is no reasonable basis or substantial reason for

the classification established by the Legislature in SB 1750, new Election Code Section 31.050 and amended Election Code Section 31.031(a). The Court reaches this conclusion for several reasons, including, but not limited to, the ones set out below.

First, the Court finds there is no reasonable basis or substantial reason for the classification that counties with a population of 3.5 million persons or more *on September 1, 2023*, must abolish the office of county elections administrator, but that a county whose population grows to surpass 3.5 million persons *after September 1, 2023* may keep the office of county elections administrator. The Court further finds this classification to be unreasonable, arbitrary, and simply a means of singling out one county for special treatment and attempting to regulate how Harris County, to the exclusion of all other counties in the state, manages voter registration and elections.

Second, the Court finds there is simply no rational basis for a conclusion, crucial to the constitutionality of SB 1750 and new Texas Election Code Section 31.050, that if a county's population exceeds 3.5 million *on September 1, 2023*, its voter registration functions need to be performed by its tax assessor collector, rather than discharged by an appointed county elections administrator, but that when it does not attain that population until after that date, no such transfer of duties is required to protect the public interest. Further, there is simply no rational basis for a conclusion, crucial to the constitutionality of SB 1750, that if a county's population exceeds 3.5 million *on September 1, 2023*, its elections need to be managed by its county clerk, rather than by an appointed elections administrator, but that when it does not reach that population mark until after that date, no

such transfer of responsibility is necessary to secure the state's interest in achieving accountability and transparency to the voting public. The Court finds this classification to be unreasonable, arbitrary, and simply a means of singling out one county for special treatment and attempting to regulate Harris County differently than any other county in the State.

Third, the Court finds that the number 3.5 million bears no rational relationship to the stated objectives of the statute – transparency, placing election related activities in the hands of elected officials who will be more accessible, and therefore more responsive, to the voting public, and minimizing concentration of authority in a single individual. Assuming those objectives are within the Legislature's prerogatives, the Court finds there is no rational reason why these objectives are more important in Harris County than in Dallas, Tarrant, or Bexar Counties, counties with a population that exceeds 2 million persons. Indeed, if county elections administrators pose such a pernicious threat, the Court finds there is no rational basis for allowing any county in Texas to have one.

Fourth, the Court finds there is no rational nexus between the objectives of the statute and a population of 3.5 million (or more), and the irrationality is exacerbated by the fact that if populations of Dallas, Tarrant, or Bexar Counties grow to 3.5 million, they may keep their elections administrators, but Harris County must eliminate its elections administrator position, solely because its population got there (3.5 million) sooner than did that of Dallas, Tarrant, or Bexar counties.

The Court also finds that the equities and hardships favor granting a temporary injunction. The Court finds that Clifford Tatum will be grievously and irreparably injured if his position is abolished, and the Harris County EA eliminated. The Court finds that the hardships Harris County will suffer are minimal, at most. Indeed, the County seeks its own temporary injunction to restrain the State of Texas from enforcing SB 1750 because of the significant harm the County will suffer if the law goes into effect on September 1, 2023. Further weighing in favor of the injunction is the fact that if the County abolishes the office of county elections administrator and distributes the employees and functions between the Harris County Tax Assessor-Collector and the Harris County Clerk, if Mr. Tatum prevails, as is likely, that administrative alteration will have to be unwound. *Houston Elec. Co. v. Glen Park Co.*, 155 S.W. 965, 971 (Tex. Civ. App—Galveston 1913, writ ref'd). As between the parties, the Court finds the equities and hardships favor granting a temporary injunction.

Adding consideration of the public interest tilts the balance overwhelmingly in favor of granting a temporary injunction. *Storey v. Central Hide & Rendering Co.*, 226 S.W.2d 615, 618–19 (Tex. 1950) (in balancing the equities a court may consider the effect of a temporary injunction on the public). The public interest will be seriously disserved if responsibility for voter registration activities are transferred to the tax assessor-collector barely a month before the registration deadline for the November 7, 2023, the City of Houston election and responsibility for administration of the election itself must be transferred from the election administrator's office to the county clerk less than eight weeks

before the start of early voting. Those actions would likely result in incalculable disruption to and chaos in the November election. *See* TEX. ELEC. CODE § 31.031(c) (allowing counties to hire a county elections administrator-designate 90 days before the creation of the position of county elections administrator to “facilitate the orderly transfer of duties”). In these circumstances the public interest weighs heavily in favor of a temporary injunction pending trial on the merits. *Cf. Purcell v. Gonzalez*, 549 U.S. 1 (2006) (*per curiam*).

CONCLUSIONS OF LAW

The purpose of a temporary injunction is to preserve the status quo pending a trial on the merits. To obtain a temporary injunction, an applicant must plead and prove: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim. An injury is irreparable if the injured party cannot be adequately compensated in damages or if the damages cannot be measured by any certain pecuniary standard. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002).

The Court concludes Clifford Tatum has met the standard required for the issuance of a temporary injunction: he has stated a cause of action against Harris County, has shown a substantial likelihood he will prevail on the merits, and has established that if the Court does not issue a temporary injunction, he will suffer imminent, irreparable harm. Further, the equities and hardships favor the granting of the injunction that Mr. Tatum seeks.

The issuance of the temporary injunction described below will maintain the status quo between the parties during the pendency of this order.

The Court assesses bond at \$1,000.00 and allows Intervenor Clifford Tatum to place a cash deposit of that amount into the registry of the Court, to be accepted by the Travis County District Clerk, in lieu of bond, for the temporary injunction issued below.

IT IS THEREFORE ORDERED that the Clerk of this Court issue a Temporary Injunction, operative until final judgment, restraining Harris County and each of its instrumentalities, commissions, elected officials, agents, servants, employees, attorneys, representatives or any person or persons in active concert or participation with the County who receives actual notice of this Temporary Injunction from enforcing any provision of Texas Senate Bill 1750, including new Texas Election Code Section 31.050, to the extent that statute abolishes the position of county elections administrator in Harris County and/or requires transferring the duties and responsibilities of the Harris County EA from that office to the offices of the Harris County Tax Assessor-Collector and/or the Harris County Clerk. Harris County and each of its instrumentalities, commissions, elected officials, agents, servants, employees, attorneys, representatives or any person or persons in active concert or participation with the County who receives actual notice of this Temporary Injunction are further enjoined from terminating Clifford Tatum's employment as county elections administrator or discontinuing or reducing the compensation, employee benefits, or other emoluments of the office of county elections administrator he was receiving, or entitled to receive, from Harris County on August 31, 2023, on account of or in reliance upon SB 1750 or new Texas Election Code Section 31.050, set to go into effect on September 1, 2023.

IT IS FURTHER ORDERED that Clifford Tatum shall post a bond in the amount of \$1,000.00. In lieu of the bond, Clifford Tatum may make a cash deposit of the same amount into the registry of the court, to be accepted by the Travis County District Clerk. This cash deposit shall be deemed in conformity with the law for the period during which this Temporary Injunction is in effect.

IT IS FURTHER ORDERED that a trial on the merits of this case is preferentially set before Judge Karin Crump of the 250th Judicial District Court of Travis County, Texas on January 29, 2024 at 9:00 AM in the 250th Judicial District, located at 1700 Guadalupe Street, Austin, TX 78701, Courtroom 9B.

The Clerk of the Court shall forthwith issue a temporary injunction in conformity with the laws and terms of this Order.

It is further ORDERED that this Order shall expire at 11:59 p.m. on January 29, 2024, or upon further of the Court.

SIGNED this 14th day of August, 2023, at 4:04 p.m. in Travis County, Texas.



**JUDGE PRESIDING
KARIN CRUMP
250TH DISTRICT COURT**

Cause No. D-1-GN-23-003523

HARRIS COUNTY, TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff/Cross-Defendant,	§	
	§	
v.	§	
	§	
THE STATE OF TEXAS; ANGELA	§	
COLMENERO, IN HER OFFICIAL CAPACITY AS	§	
PROVISIONAL ATTORNEY GENERAL; AND JANE	§	TRAVIS COUNTY, TEXAS
NELSON, IN HER OFFICIAL CAPACITY AS TEXAS	§	
SECRETARY OF STATE,	§	
Defendants.	§	
	§	
AND	§	
	§	
CLIFFORD TATUM,	§	
Intervenor/Cross-Claimant.	§	
	§	
AND	§	
	§	
THE ATTORNEY GENERAL OF TEXAS,	§	
Intervenor.	§	345th JUDICIAL DISTRICT

ORDER ON DEFENDANTS' PLEA TO THE JURISDICTION

On August 8, 2023, this Court heard Defendants' the State of Texas, Angela Colmenero in her Official Capacity as Provisional Attorney General, and Jane Nelson in her Official Capacity as Texas Secretary of State Plea to the Jurisdiction (the "Plea"). After considering the Plea, the responses filed thereto, and the argument of counsel, the Court has determined that the Plea should be, and is, **GRANTED** as to the State of Texas and **DENIED** as to Angela Colmenero in her Official Capacity as Provisional Attorney General and Jane Nelson in her Official Capacity as Texas Secretary of State Plea to the Jurisdiction.

The Court **FINDS** that it does not have jurisdiction over Plaintiff's claims against the State of Texas. It is **THEREFORE ORDERED** that Plaintiff's claims against the State of Texas are dismissed for lack of jurisdiction.

The Court **FURTHER FINDS** that it has jurisdiction over Plaintiff's claims against Angela Colmenero in her Official Capacity as Provisional Attorney General and Jane Nelson in her Official Capacity as Texas Secretary of State Plea to the Jurisdiction. It is **THEREFORE ORDERED** that Plaintiff's claims against Angela Colmenero in her Official Capacity as Provisional Attorney General and Jane Nelson in her Official Capacity as Texas Secretary of State Plea to the Jurisdiction remain pending before the Court.

SIGNED this 14th day of August, 2023.



**JUDGE PRESIDING
KARIN CRUMP
250TH DISTRICT COURT**

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Maria Mendoza-Williamson on behalf of Lanora Pettit

Bar No. 24115221

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Accelerated Interlocutory Appeal Aug 171

Status as of 8/17/2023 1:14 PM CST

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Associated Case Party: Office of the Attorney General of Texas

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Associated Case Party: Clifford Tatum

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Status as of 8/17/2023 1:14 PM CST

Associated Case Party: Clifford Tatum

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