No. 23-0656

In the Supreme Court of Texas

OFFICE OF THE ATTORNEY GENERAL OF TEXAS, ET AL.,
Appellants,
v.

HARRIS COUNTY, TEXAS, ***Appellee/ Cross-Defendant,***

v.

CLIFFORD TATUM,
Appellee/Cross-Claimant,

On Direct Appeal from the
345th Judicial District Court, Travis County, Texas
No. D-1-GN-23-003523

APPELLEE CLIFFORD TATUM'S BRIEF

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STATEMENT OF THE CASE

Nature of the Case: Appellants fail to mention in their "Nature of the Case" that Appellee Clifford Tatum, the duly appointed Elections Administrator for Harris County, intervened in the lawsuit filed by Harris County, thereby asserting the same constitutional challenges to SB 1750 against the Appellants as had the County. Tatum also filed a crossclaim against Harris County seeking a declaration that his position could not be terminated solely on the basis of SB 1750, because that enactment was unconstitutional. Appellee Tatum also takes issue with the Appellants' assertion that SB 1750 "prohibit[s] large counties" (plural) from managing election using an elections administrator. SB 1750 only prohibits Harris County—not "counties" (plural)—from utilizing an elections administrator. No other county in the state, regardless of size, is now, or ever can be (under SB 1750) restricted in this manner.

Course of Proceedings: Harris County filed its Original Petition and Application for Temporary and Permanent Injunction on July 6, 2023. On July 31, 2023, Harris County amended that pleading. On August 1, 2023, Clifford Tatum filed his Petition in Intervention, Cross-Action, and Application for Temporary and Permanent Injunction. On August 3, 2023, Defendants filed an Original Answer and Plea to the Jurisdiction seeking dismissal of Harris County's lawsuit against the state defendants (but not Tatum's crossclaim). In fact, the Plea does not mention Tatum except to state he was appointed elections administrator after the 2022 primary election. On August 7, 2023, the State of Texas and the Attorney General of the State of Texas filed petitions to intervene in

Tatum's cross-claim against Harris County. On August 8, 2023, an evidentiary hearing was conducted before the 345th District Court, Hon. Karin Crump, presiding, and on August 14, 2023, orders were entered, including: overruling, in part Defendants' Plea to the Jurisdiction; denying Appellants' motion to strike Tatum's intervention, granting intervenor Tatum's application for a temporary injunction, and granting Harris County's application for a temporary injunction. On August 17, 2023, Appellants filed a notice of direct, accelerated appeal to this Court from (a) the order overruling their Plea to the Jurisdiction, (b) the order granting Tatum's application for temporary injunction, and (c) the order granting Harris County's application for temporary injunction. The filing of that notice of appeal automatically superseded the temporary injunctions and stayed further proceedings in the district court as a matter of law. The Appellees sought temporary injunctions from this Court restraining effectiveness of SB 1750, but on August 22, 2023, the Court denied those motions without opinion.

STATEMENT CONCERNING ORAL ARGUMENT

Appellee Clifford Tatum would like to participate in oral argument. By letter dated August 22, 2023, the Clerk sent a letter (via email) to counsel for Appellee Harris County and counsel for the Appellants notifying them that the case had been set for oral submission on November 28, 2023, with each side being allotted twenty minutes for oral argument. The style of the case in the Clerk's letter did not mention Appellee Clifford Tatum, who has been consistently denominated as "Appellee" by the Appellants throughout this appeal, and the letter was not addressed to Tatum's counsel.

It is unclear, therefore, whether Appellee Tatum's counsel will be permitted to present oral argument, but as his interests do not coincide with those of Harris County (particularly with regard to "standing" issues) and Tatum believes the Court lacks jurisdiction to consider the appeal of the temporary injunction issued in his favor, counsel for Appellee Tatum wishes to participate in oral argument and requests that he be permitted to do so.

If the Court would allow a total of thirty minutes per side, Tatum would request ten minutes of that time. If the Court will only allow a

total of twenty minutes per side, Tatum would request seven minutes of that time.

ISSUES PRESENTED

The issues presented are:

1. Whether this Court has jurisdiction to hear an appeal of the temporary injunction issued in favor of Clifford Tatum, since the underlying conditions have changed; all the actions the injunction sought to prevent have now occurred, rendering the temporary injunction moot; and reinstating the injunction, which was superseded by this appeal, would accomplish nothing.
2. Whether the trial court properly exercised jurisdiction over Clifford Tatum's intervention and crossclaim, given Tatum was directly harmed by Senate Bill 1750 and pled a viable claim that Senate Bill 1750 violated article III, Section 56 of the Texas Constitution.

TO THE HONORABLE SUPREME COURT OF TEXAS:

"We know local people make the best decisions for their communities and schools."

Gov. George W. Bush, Texas State of the State Address, https://www.c-span.org/video/?78409-1/texas-state-state-address at 2:37 (January 28, 1997).

When then-Governor George W. Bush described the importance of "local control", he was doing more than expressing his political philosophy; he was also articulating the fundamental principle underlying the separation of powers between the state legislature and local governments enshrined for over 100 years in the Texas Constitution, in a sense, "Texas's Federalism".[1] The Framers of the Texas Constitution of 1876 did not leave the boundaries of "Texas's Federalism" in doubt; instead in Article III, Section 56 they drew clear lines the Texas Legislature was expressly prohibited from crossing. Among the subject matters constitutionally off-limits to the Legislature are "local or special law[s]": "regulating the affairs of counties", "prescribing the powers and duties of officers in counties"; "authorizing" the "conducting of elections"

[1] *See, Younger v. Harris*, 401 U.S. 37, 44 (1971) (describing "Our Federalism" as a sensitivity to the legitimate interests of the different levels of governments).

and "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).

In the last session of the Legislature, the House and Senate trampled multiple boundaries and enacted Senate Bill 1750, a piece of local legislation that can only ever affect one county in our State, Harris County; one government position in our State, the Harris County Elections Administrator; and one person in our State, Clifford Tatum, the then Harris County Elections Administrator. This targeted local legislation, which clearly violates multiple sections of article III, Section 56, led Appellee Clifford Tatum to bring a claim seeking to prevent his wrongful discharge against the party that controls his employment: his employer, Harris County, as well as (by intervention in the lawsuit filed by Harris County) various state actors with responsibility and authority to enforce SB 1750. In his pleadings Tatum clearly articulates facially valid constitutional claims and seeks injunctive relief and a declaratory judgment that SB 1750 is unconstitutional.

The merits of Tatum's claims, like those advanced by Harris County, have yet to be reached. This case comes to the Court as an appeal

from two temporary injunctions issued by the trial court—one in favor of Harris County and one in favor of Clifford Tatum—and a claim, raised by the Appellants' Plea to the Jurisdiction, that the trial court lacked jurisdiction to consider the lawsuit in which Tatum intervened. While the temporary injunction issued in favor of Tatum is now moot (because he has been discharged as county elections administrator and all employees, records, and equipment of that office have been transferred to other county departments), it is clear the trial court properly exercised jurisdiction over Tatum's intervention (as well as over his now mooted claims for temporary injunctive relief).

STATEMENT OF FACTS

I. Long-standing Problems in Harris County with the Administration of Elections Led the County to Opt to Have a County Elections Administrator.

For decades counties in Texas have had the choice of who they want to administer their elections: partisan-elected county tax assessor-collectors and county clerks, who may manage voter registration and election administration along with their many other statutory duties, or trained, professional, non-partisan administrators, who focus solely on managing voter registration and the administration of elections. TEX. ELEC. CODE §31.031.[2] Over half of the counties in Texas have chosen to place their elections in the hands of professionals as opposed to partisans.[3] 2RR.125.

[2] One need only look at the allegations made after the 2020 election to see the dangers and drawbacks of elections administered by elected officials. For a more detailed analysis of how the administration of elections by those elected in partisan races undermines public confidence in our democracy, *See,* MARTHA KROPF AND DAVID KIMBALL, HELPING AMERICA VOTE: THE LIMITS OF ELECTION REFORM, p.97-98 (2012); G. Gordon, M. Weil, A. Vanderklipp, and K. Johnson, *The Dangers of Partisan Incentives for Election Officials*, Bipartisan Policy Center (April 6, 2022), https://bipartisanpolicy.org/report/the-dangers-of-partisan-incentives-for-election-officials/ (all websites were last visited October 18, 2023).

[3] For a list of the persons in charge of elections in each county, *see, Election Duties*, Texas Secretary of State, https://www.sos.state.tx.us/elections/voter/county.shtml#M.

Harris County has had a long-running history of problems with the way elected Tax Assessor-Collectors handled voter registration[4] and County Clerks ran elections.[5] Concerned, in 2019 the Houston Endowment commissioned a study to assess civic involvement in the political process in Harris County. This study, conducted by professors at

[4] For example, elected Tax Assessor-Collectors have been accused of voter suppression by dragging their "feet on processing voter registration applications and rejecting applications on technicalities", rejecting minority voter registration applications more frequently than the voter registration applications of whites, and mistakenly suspending voter registrations. Lee Nichols, *Voter Suppression Allegations in Harris County*, Austin Chronicle (October 23, 2008), https://www.austinchronicle.com/daily/news/2008-10-23/694106/; Cameron Langford, *Harris County Accused of Voter Suppression*, Courthouse News, (October 12, 2012), https://www.courthousenews.com/harris-county-accused-of-voter-suppression/; Zach Despart, *Harris County Mistakenly Suspends Voter Registration After GOP Challenge*, Houston Chronicle (August 28, 2018), https://www.chron.com/news/houston-texas/houston/article/Harris-County-mistakenly-suspends-voter-13175685.php. An employee was even convicted for destroying voter registration forms, thus preventing potential voters from voting. 2RR.131. The uncontroverted record revealed a host of problems with voter registration since at least 2006. 2RR.133.

[5] One elected county clerk was so dilatory in reporting election results that the hashtag #*firestanstanert* was created. Michael Hardy, *Why Political Junkies are Frustrated by the Harris County Clerk,* Texas Monthly (November 8, 2016) https://www.texasmonthly.com/the-daily-post/political-junkies-frustrated-harris-county-clerk/. Unfortunately, being late was not his only flaw; he and his predecessors apparently regularly and repeatedly violated federal law, leading to the County entering into a settlement agreement with the United States, which was represented by then United States Attorney for the Southern District of Texas Ryan Patrick, son of the Lt. Governor of the State of Texas. *Settlement Agreement between the United States of America and Harris County*, DJ No. 204-74-351 (March 12, 2019), https://archive.ada.gov/harris_co_sa.html. The uncontroverted record revealed a multitude of other problems with Harris County Clerks administration of elections since at least 2006. 2RR.133.

Houston's three major universities, included an in-depth analysis of the Harris County elections process. It revealed significant concerns about the way partisan elected tax assessor collectors and county clerks handled voter registration and administered elections in Harris County. SUZANNE PRITZKER, MELISSA MARSCHALL, AND DENAE KING, HARRIS COUNTY CIVIC ENGAGEMENT POLICY AUDIT (January 2019), https://research.houstoninaction.org/assets/Take-Action-Houston-Report.pdf. These researchers made important findings demonstrating how poorly elected officials in Harris County had been handling the administration of elections, including:

- Harris County lags both the state and country in the percentage of its population registered to vote, in part due to failure of elected tax assessor-collectors to follow state laws and provide sufficient "Volunteer Deputy Voter Registrar (VDVR) trainings in Spanish, Vietnamese and Chinese." (p.3)
- Harris County voter turnout is lower than national turnout; among the potential causes identified are failures by elected Harris County Clerks in the placement of polling locations. (p.3).
- Harris County's administration of elections has been inadequate because it "has not taken significant steps to increase voter participation and engagement, and has instead, made decisions that sometimes limit residents' opportunities to register and vote, and/or increase the costs of electoral participation." (p.3)[6]

[6] Turns out the "good ol' days" of voter registration and election administration in Harris County, run by partisan elected officials, weren't so good.

To cure these long-running problems that were resulting in civil rights violations, reduced civic engagement and the undermining of confidence in the fairness and accuracy of elections, in November 2020 Harris County Commissioners Court opted, as it was statutorily entitled to do, to hire a professional county elections administrator and transfer the duties of voter registration and election administration to that office. Subsequently, while the voter registration problems were ironed out, there were problems with two elections held in 2022.

The first of those elections was held in the spring of 2022, before Clifford Tatum's appointment as Harris County Elections Administrator on August 16, 2022, CR 104, 2RR.124-25, 3RR462; the second was held shortly after his appointment, in November 2022, before Tatum, an experienced and well-qualified elections administrator, 3RR.456-60,[7] who had been on the job only weeks, had the chance to address many of the problems that had existed for a long time, dating back to the era of elected county clerks, including those related to systems and technology.[8] 2RR.121-22, 137-39.

[7] The trial court found Tatum to be a well-qualified to perform the job of election administrator, and this fact finding has not been appealed. CR.827.

[8] Interestingly, it is uncontroverted that in 2022 other counties whose elections are administered by a county elections administrator experienced problems like those experienced by Harris County, but the legislature took no action against them. 2RR.134-35.

II. Harris County Legislators Introduce Legislation That Only Affects Harris County's Right to Choose to Have a Non-Partisan, Professional Administer Elections.

In the 2023 regular legislative session, two Harris County legislators, Senator Paul Bettencourt and Representative Briscoe Cain, introduced a bill, SB 1750, that affected only Harris County's ability to use a non-partisan professional elections administrator. Section 3 of SB 1750 added a new provision, Section 31.050, to the Texas Election Code. Section 3 mandates that on September 1, 2023, all powers and duties of the county elections administrator in all counties with a population greater than 3.5 million—which in Texas is only Harris County—are transferred to the offices of the tax assessor-collector and county clerk. Section 2 of SB 1750 then prohibited any county with a population in excess of 3.5 million from ever opting for a non-partisan professional to run elections. Section 5 of SB 1750 provided that the Act would take effect on September 1, 2023. The net effect was to abolish the office of county elections administrator in Harris County only and to prevent Harris County from ever being able to exercise the statutory right available to all other counties to have a non-partisan professional administer its elections.

At the committee hearings on the bill, these two Harris County legislators were clear: this bill was exclusively aimed at Harris County and the legislative intent was to regulate the administration of elections in Harris County only. Senator Bettencourt told the Senate Committee on State Affairs that "we've talked about the problems in Harris County" and this bill "would effectively transition the Election Administrator back to the Harris County Clerk and Tax Assessor." 3RR.18. Senator Bettencourt went on to explain that SB 1750 "as originally filed actually had other counties involved", but after investigation it was limited to counties with over 3.5 million, which in Texas is only Harris County.[9] *Id.* Representative Cain was equally as explicit in his presentation before the House Elections Committee. He expressly stated that "the bill relates to Harris County only" and that the purpose of the bill was "for Harris County elections to return the accountability of elected officials, the Harris County Clerk and Harris County Tax-Assessor Collector." 3RR.23-26. Both were clear in their explanations about the reasons for the bill: the bill was aimed at Harris County because of the problems with

[9] Harris County's current population is approximately 4.9 million. 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 past two elections, which the two Harris County legislators blamed on the elections administrators who had held that position in 2022, including its then-occupant, Clifford Tatum. *Id.*

The bill analysis presented to the senators after SB 1750 was passed out of committee but prior to the floor vote clearly delineates that SB 1750 was only ever intended to be applicable to Harris County. Page 2 of that analysis expressly states:

> SECTION 3. Amends Subchapter B, Chapter 31, Election Code, by adding Section 31.050, as follows:
>
> Sec. 31.050. ABOLISHMENT OF POSITION AND TRANSFER OF DUTIES IN CERTAIN COUNTIES. Provides that all powers and duties of the county elections administrator of a county *with a population of more than 3.5 million under this subchapter, on September 1, 2023, are transferred* to the county tax assessor-collector and county clerk. Requires the county tax assessor-collector to serve as the voter registrar, and the duties and functions of the county clerk that were performed by the administrator revert to the county clerk, unless a transfer of duties and functions occurs under Section 12.031 (Designation of County Clerk as Voter Registrar) or 31.071 (Transfer of Duties).
>
> SECTION 4. Requires a county that has a county elections administrator and *a population of more than 3.5 million, on the effective date of this Act,* to transfer employees, property, and records as necessary to accomplish the abolishment of the position of county elections administrator under this Act.

3RR.463-64 (emphasis added). There is no mention anywhere in the bill analysis that SB 1750 might impact other counties in the future.

In short, the Legislature was asked by Harris County legislators to pass a bill to eliminate one government position in the State of Texas: the Harris County Elections Administrator. Interestingly, no evidence was ever offered before either the House or Senate, or before the trial court, that a non-partisan professional is not able to administer elections as efficiently and effectively as partisan elected officials in counties with a population that exceeds 3.5 million. Indeed, the uncontroverted evidence offered to the trial court proved just the opposite: there is no rational relationship between the classification established in SB 1750 (population) and the ability of a county election administrator to efficiently run an election. 2RR.136-37. SB 1750 passed both houses of the Legislature and was signed into law by Gov. Abbott.

III. Appellees Filed Suit Seeking to Enjoin SB 1750 From Taking Effect.

Prior to September 1, 2023, Harris County filed suit against Appellants[10] seeking a declaratory judgment that SB 1750 violated Article III, §56 of the Texas Constitution and asking the trial court to

[10] Harris County ultimately sued the State of Texas, the Office of the Attorney General of Texas, Angela Colmenero in her Official Capacity as Interim Attorney General of the State of Texas, the Office of the Texas Secretary of State and Jane Nelson in her Official Capacity as Secretary of State of the State of Texas. CR.405-32. These parties will be referred to collectively as the "State Defendants".

grant temporary and permanent injunctive relief to prevent the State Defendants from enforcing SB 1750 against Harris County. CR.5-25

Appellee Clifford Tatum both intervened in Harris County's lawsuit against the State Defendants and filed a crossclaim against Harris County only, seeking a declaratory judgment that SB 1750 is unconstitutional and asking the trial court to grant temporary and permanent injunctive relief **to prevent Harris County, his employer,** from abolishing the position of Harris County Elections Administrator and transferring the duties of that office to the Harris County Clerk and Harris County Tax Assessor-Collector, based solely on, and as ostensibly required by, SB 1750. CR.73-106. Appellants challenged Tatum's right to intervene, claiming, among other things, without offering any evidence, that it was collusive. CR.438-46 and 807-13. Tatum responded, CR.785-806, and the trial court denied Appellants' motion to strike Tatum's intervention. CR.816.

The State of Texas and the Attorney General of Texas intervened in Clifford Tatum's cross-action to defend SB 1750 from Tatum's constitutional attack, CR.770-72, 775-77, as they had a statutory right to do. TEX. CIV. PRAC. & REM. CODE § 37.006(b). In their interventions, both

asked the district court to render judgment that SB 1750 does not violate the Constitution of Texas.

On August 8, 2023, the trial court held a hearing on Appellants' Plea to the Jurisdiction with respect to Harris County's action[11] and Appellees Harris County's and Clifford Tatum's separate requests for temporary injunctions to preserve the *status quo ante* pending resolution of the merits disputes. 2RR.6-206. On August 14, 2023, the trial court issued orders granting in part and denying in part Appellants' Plea to the Jurisdiction with respect to Harris County's claim, CR.814-15, and granting both Harris County's and Clifford Tatum's requests for temporary injunctions, CR.817-23, 824-36. By granting the temporary injunctions the trial court preserved the *status quo ante* by enjoining implementation and enforcement of SB 1750 pending trial on the merits, which the court set for January 29, 2024. CR.822, 836.

Specifically, with respect to the Order granting Appellee Clifford Tatum's request for a temporary injunction, the district court mandated that until final judgment in this case, Harris County (and others working

[11] No hearing was held on Appellants' Plea to the Jurisdiction with respect to Clifford Tatum's crossclaim, as the Plea was not timely filed, and the required notice was not given. 2RR.203-205.

in concert with the County) were temporarily restrained from (a) enforcing SB 1750 (and Tex. Elec. Code § 31.050, which it added) to the extent it required transfer of the duties and responsibilities of the Harris County Election Administrator to the offices of the Harris County Tax Assessor-Collector and/or the Harris County Clerk and (b) terminating Appellee Clifford Tatum's employment as county elections administrator solely on account of or in reliance on SB 1750 or Tex. Elec. Code § 31.050. CR.835.

The next day Appellants filed an Amended Notice of Accelerated Interlocutory Appeal, appealing these three rulings directly to this Court. CR.856-58. The filing of the Amended Notice of Accelerated Interlocutory Appeal, as a matter of law, superseded the Temporary Injunction issued by the district court in Tatum's favor. Tex. R. App. P. 29.1(b); TEX. CIV. PRAC. & REM. CODE § 6.001(b); *In re Abbott*, 645 S.W.3d 276, 280, 282 (Tex. 2022). Accordingly, SB 1750 went into effect on September 1, 2023, notwithstanding the trial court's temporary injunction seeking to prevent that result.

IV. Since the Appeal, All Assets and Employees of the Office of the Harris County Elections Administrator Have Been Transferred, the Elections Administrator Has Been Discharged and The Office of Harris County Elections Administrator Has Effectively Been Dissolved.

Once the temporary injunctions granted by the district court were automatically superseded when Appellants filed their Amended Notice of Accelerated Interlocutory Appeal, the Harris County Commissioners Court had no choice but to comply with the law. On August 29, 2023, the Commissioners Court adopted an Order transferring 131 positions, employees, budget, and equipment from the Elections Administrator Department to the Harris County Clerk and the remaining 39 positions, employees, budget, and equipment to the Harris County Tax Assessor-Collector "to comply with SB 1750." (Tab A.) Then SB 1750 (and Tex. Elec. Code § 31.050) took effect on September 1, 2023, all duties and responsibilities of the office of Harris County Elections Administrator were transferred to the Harris County Tax Assessor-Collector and County Clerk respectively, and Appellee Clifford Tatum lost his job as county election administrator. In sum, everything the Temporary Injunction granted in Tatum's favor would have prevented from taking place, had that decree remained in effect, happened; everything Appellees sought to enjoin was accomplished.

SUMMARY OF ARGUMENT

I. This Court lacks jurisdiction over Appellants' appeal from the temporary injunction issued in favor of Clifford Tatum. Everything prohibited by the Temporary Injunction has occurred, rendering it inoperative. When a temporary injunction becomes inoperative, an appeal of its validity is moot. *National Collegiate Athletic Ass'n v. Jones*, 1 S.W.3d 83, 86 (Tex. 1999). The Court should dismiss this portion of Appellants' appeal for want of jurisdiction and return it to the trial court for that court to set aside all orders pertaining to the temporary injunction. *Texas Foundries, Inc. v. International Moulders & Foundry Workers' Union*, 248 S.W.2d 460, 461 (1952).

II. The trial court properly exercised jurisdiction over both Clifford Tatum's intervention and, should the Court reach the issue, his cross-action against Harris County. Appellants' arguments that sovereign immunity and lack of a justiciable controversy bar jurisdiction over his claims are misplaced.

A. Sovereign immunity is not a bar to suits to vindicate constitutional rights if the plaintiff pleads a viable claim of a constitutional violation. *Klumb v. Houston Municipal Employees Pension*

System, 458 S.W.3d 1, 13 (Tex. 2015). Clifford Tatum has met this pleading burden.

Tatum pled, and the trial court found, there was no good cause to discharge him from the position of Elections Administrator of Harris County—a fact not contested on this appeal—and that the only reason he lost his job is because of the passage of SB 1750. Tatum has further pled and established that the sole basis for his discharge, SB 1750, violates article III, §56 of the Texas Constitution. The common meaning of the plain language of SB 1750 clearly shows the bill creates a "closed bracket", a statute that can **only ever apply** to the one county that met the classification of having a population in excess of 3.5 million on September 1, 2023: Harris County. A statute containing this type of closed bracket constitutes a clear and long-standing violation of the plain text of article III, §56, as well as the policies underlying that constitutional provision and the intent of its Framers. *See, e.g., Smith v. Decker*, 312 S.W.2d 632 (Tex. 1958).

Appellants' inventive efforts to salvage the statute all violate well-settled canons of statutory construction. Appellants' proposals ignore or distort the plain language of the statute, render portions of SB 1750

surplusage, or ask the Court to assume the role of legislature and re-write the statute, in and of itself a constitutional violation of the separation of powers found in article II, §1 of the Constitution.

By pleading and establishing he was fired solely as the result of the enactment of an unconstitutional statute, Clifford Tatum has pled a facially valid claim of a constitutional violation to which sovereign immunity does not apply.

B. Appellants' argument that Tatum's intervention and cross-claim is non-justiciable because the County and he agree that SB 1750 is unconstitutional is also contrary to well-settled law.

Appellants' argument ignores that the ruling below that was appealed regarding Tatum's claim against Harris County only involves the temporary injunction issued in Tatum's favor. Because, as discussed previously, the Court lacks jurisdiction over the appeal of that temporary injunction, as it is now inoperative and moot, no component of Tatum's crossclaim against Harris County is currently before the Court.

What is before the Court is the litigation between Harris County and Appellants, in which Tatum has successfully intervened. By its very nature an intervention invariably involves the intervenor agreeing with

one party and disagreeing with the other(s). And there is no dispute about the adversariness of Harris County and the Appellants in this part of the appeal before the Court.

Even if the justiciability of Tatum's claims against Harris County were before the Court, Appellants' argument is of no avail because there are parties in that action vigorously defending the statute being challenged; Appellants the State of Texas and its Attorney General both intervened and are aggressively disputing the merits of Tatum's claims. The fact that a named defendant does not disagree with the plaintiff does not make the case non-justiciable, so long as another party (and an intervenor is a "party") asserts claims contrary to that of the plaintiff. *See, e.g., United States v. Windsor*, 570 U.S. 744 (2013).

Similarly, the mere fact that Appellees agree SB 1750 violates the Texas Constitution does not render either Tatum's intervention or his claims against the County "collusive." "Collusion" involves conduct which amounts to a fraud upon the court. *See, e.g., U.S. v. Johnson*, 319 U.S. 302 (1943). Nothing in the record supports any such finding in this case, and the trial court implicitly found that there was no collusion when it denied Appellants' motion to strike Tatum's intervention. Appellants do

not challenge the district court's implied fact-finding on appeal and are thus bound by it.

Further, Tatum clearly has standing to seek declaratory and injunctive relief pronouncing SB 1750 violative of the Texas Constitution. Standing requires an injury-in-fact traceable to the defendant's unlawful conduct that is susceptible of being redressed by the litigation. *In re Abbott*, 601 S.W.3d 802, 807 (Tex. 2020). Tatum meets all prongs of the test: he lost his job (injury), solely because of SB 1750 (traceability) and his job can be reinstated if SB 1750 is declared unconstitutional (redressability).

Indeed, to deny Tatum the right to challenge the constitutionality of a statute that cost him his job would be to violate the Open Courts provision in the Texas Constitution, which requires Tatum be provided access to a judicial forum to determine whether he has been the victim of an unlawful act.

ARGUMENT

I. Because the Requested Status-Quo-Preserving Temporary Relief Can No Longer Be Effectuated, the Appeal from the Temporary Injunction Is Moot and This Court Lacks Jurisdiction Over Appellants' Appeal of the Temporary Injunction Issued in Favor of Tatum.[12]

For almost 90 years this Court has routinely held that once a temporary injunction loses its operative effectiveness (becomes moot),[13] appellate courts must dismiss an appeal challenging the propriety of that interim order. *Serv. Fin. Corp. v. Grote*, 131 S.W.2d 93, 94 (Tex. 1939); *Poole v. Giles*, 248 S.W.2d 464 (Tex. 1958), *Cameron v. Saathoff*, 345 S.W.2d 281 (Tex.1961) and *City of Corpus Christi v. Public Utility Commission*, 569 S.W.2d 494 (Tex. 1978). The temporary injunction issued in favor of Clifford Tatum has lost its operative effectiveness and is now moot. SB 1750 took effect on September 1, 2023, and Harris County complied with the law, relocating the powers, duties, and

[12] On September 27, 2023, pursuant to Texas Rule of Appellate Procedure 56.2, Appellee Clifford Tatum filed a Motion to Dismiss Appellants' appeal of the temporary injunction granted in favor of Tatum. As the Court has not yet ruled on that Motion, in this section of the brief Tatum again asserts that the Court should dismiss Appellants' appeal of the temporary injunction granted in his favor due to want of jurisdiction.

[13] This does not, of course, mean that Tatum's underlying lawsuit is moot – only the appeal of the Temporary Injunction is.

employees of the office of Elections Administrator to the offices of the Harris County Clerk and Tax Assessor-Collector respectively, and discharging Clifford Tatum from his position as Harris County Elections Administrator. The very things the district court's temporary injunction sought to prevent from happening, occurred. At this point, restoring the Temporary Injunction to its original operative status would accomplish nothing, because the injunction orders things that have already happened not to take place.

"When a temporary injunction becomes inoperative due to a change in status of the parties or the passage of time, the issue of its validity is also moot." *National Collegiate Athletic Ass'n v. Jones*, 1 S.W.3d 83, 86 (Tex. 1999). If a temporary injunction is moot, "any opinion regarding whether the trial court erred in granting the temporary injunction would be advisory and without any practical legal effect." *Kohoe v. R. Yates Properties, II, Ltd.*, No. 04-11-00274-CV, 2011 WL 4383620 (Tex. App.– San Antonio, Sept. 21, 2011, no pet. h.). *See, Correa v. First Court of Appeals*, 795 S.W.2d 704 (Tex. 1990) (dismissing appeal challenging constitutionality of a provision of the Election Code where plaintiff obtained writ of mandamus requiring his name to be included on ballot,

but subsequently lost the election, because the issue of the constitutionality was moot, and any opinion would be advisory only).

This Court has repeatedly held that when a temporary injunction becomes moot while on appeal, not only does an appellate court lose jurisdiction, but all orders pertaining to that temporary injunction must be set aside. *Texas Foundries, Inc. v. International Moulders & Foundry Workers' Union*, 248 S.W.2d 460, 461 (1952). This is to "prevent premature review of the merits of the case." *See, Iranian Muslim Org. v. City of San Antonio*, 615 S.W.2d 202, 208 (Tex.1981). Accordingly, the Court should dismiss as moot the State Defendants' appeal of the Temporary Injunction rendered in Appellee Tatum's favor in his cross-action against Harris County, without reaching the merits of the arguments presented by the Appellants concerning the validity of the temporary injunction favoring Clifford Tatum,[14] and remand the case to the district court for trial on the merits with instructions that the district court's Order granting the temporary injunction in Tatum's cross-action be vacated.

[14] Appellee Tatum takes no position on the continuing operative effect of the temporary injunction issued in favor of Harris County in its lawsuit against the State Defendants.

II. The Trial Court Has Jurisdiction Over Tatum's Claims.

Appellants argue the trial court lacked jurisdiction over Clifford Tatum's claims and advance two arguments in support of this contention: (1) sovereign immunity bars his claims and (2) there is no justiciable controversy between Tatum and Harris County, his employer and the party he sued, as a result of which not only is Tatum's cross-claim barred for lack of adversariness, but his intervention cannot be entertained either, leaving Tatum, of course, without redress for the loss of his position, even if he was unlawfully dispossessed of it. Both arguments are incorrect.

A. Tatum's Claims Are Not Barred by Sovereign Immunity.

1. Tatum Has Pled a Viable Claim of a Constitutional Violation.

Sovereign immunity is not a bar to suits to vindicate constitutional rights, provided the plaintiff pleads a viable claim of a constitutional violation. *Klumb v. Houston Municipal Employees Pension System*, 458 S.W.3d 1, 13 (Tex. 2015); *Andrade v. NAACP of Austin*, 345 S.W.3d 1, 11 (Tex. 2011). In determining whether a plaintiff has met this burden, courts consider the pleadings and factual assertions, as well as any evidence in the record relevant to the jurisdictional issue. *City of Elsa v.*

Gonzalez, 325 S.W.3d 622, 625 (Tex. 2010). Courts construe the pleadings liberally in favor of the plaintiff, looking to the pleaders' intent and determining whether the pleaders have alleged facts affirmatively demonstrating the court's jurisdiction to entertain the matter. *Id.* Applying these standards, it is obvious Clifford Tatum has pled a viable constitutional cause of action.[15]

TEX. ELEC. CODE §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 of the commissioners court."[16] Thus, Clifford Tatum has a vested interest in not being suspended or terminated as Harris County's elections administrator except in those

[15] In addition to the arguments made in this brief and in his pleadings below, in accordance with Tex. R. App. Pro. 9.7, Tatum adopts in full the arguments and evidence offered by Appellee Harris County in its brief before this Court as well as those set out in *Plaintiff Harris County's Verified Original Petition and Application for Temporary Injunction and Permanent Injunction* (CR 5-25); *Plaintiff Harris County's Verified Amended Petition and Application for Temporary Injunction and Permanent Injunction* (CR 48-72); *Plaintiff Harris County's Verified Second Amended Petition and Application for Temporary Injunction and Permanent Injunction* (CR 405-432); *Plaintiff Harris County's Brief in Support of Temporary Injunctive Relief* (CR 169-388); *Plaintiff Harris County's Amended Brief in Support of Temporary Injunctive Relief* (CR 510-731); and *Plaintiff Harris County's Response to Defendants' Plea to the Jurisdiction* (CR 492-509).

[16] The purpose of this provision is to insulate the position of county elections administrator from political pressure and the vicissitudes of partisan elections.

circumstances. Tatum pled, and the uncontroverted evidence at the temporary injunction hearing established, he would be discharged from his position as Harris County Elections Administrator by Harris County solely because of the enactment of SB 1750, and such a basis for termination would not be "good cause" because the statute violates the Texas Constitution.[17] CR 76-78, 99-101; 2RR.128-29, 135-36. He further pled, and the evidence establishes, that SB 1750 is unconstitutional because it violates article III, § 56 of the Texas Constitution, CR 78-88, and thus his discharge, which was not for "good and sufficient cause" (nor approved by the county elections commission) and not in accordance with TEX. ELEC. CODE §31.037, would be due solely the result of an unconstitutional statute. CR 77-78. Tatum clearly alleges a viable constitutional claim.

2. Tatum's Constitutional Claim Is Facially Valid.

a. SB 1750 can only ever apply to Harris County.

It "is cardinal law in Texas that a court construes a statute, 'first, by looking to the plain and common meaning of the statute's words.' "

[17] The trial court specifically found, based on the evidence offered at the August 8th hearing, that there was no existing good and sufficient cause for discharging Tatum from his position as Harris County Elections Administrator. CR.828. Appellants do not challenge this fact-finding.

Fitzgerald v. Advanced Spine Fixation Sys., Inc., 996 S.W.2d 864, 866 (Tex.1999) (citation omitted). If a statute's language is unambiguous, its plain meaning will determine its interpretation. *McIntyre v. Ramirez,* 109 S.W.3d 741, 745 (Tex.2003). There is nothing clearer than the meaning of the statute at issue.

New Section 31.050 of the Texas Election Code provides that "On September 1, 2023, all powers and duties of the county elections administrator of a county with a population of more than 3.5 million under this subchapter are transferred to the county tax assessor-collector and county clerk."[18] TEX. ELEC. CODE §31.050. That can only—and forever—be Harris County.

The common meaning of the usage of the word "on" in conjunction with a certain date is that what is being described is a one-time event. For example, I am having a party at my house on May 1st does not mean the party continues in perpetuity; it describes a specific moment in time when the event will occur. Thus, common usage of the phrase "On September 1, 2023" in SB 1750 means that a one-time event is taking

[18] It is undisputed that, as of September 1, 2023, the only county in Texas with a population of more than 3.5 million was Harris County.

place on September 1, 2023, the transferring of all powers and duties of an elections administrator's office to the county clerk and tax assessor-collector, in any county that at that moment in time had a population in excess of 3.5 million. But "on September 1, 2023" does not transfer powers on September 2, 2023, or any other date for any county which had fewer than 3.5 million inhabitants on September 1, 2023, even though that other county may achieve that population at any time thereafter. The statute and the act it effectuates—the transfer of powers in a county with a population in excess of 3.5 million—are stuck in time and Harris County, the only county in Texas with a population in excess of 3.5 million on September 1, 2023, is thus the only county that can ever be affected by this statute.

Despite the requirement that courts "presume the Legislature chose the statute's language with care, purposefully choosing each word, while purposefully omitting words not chosen," *In re CenterPoint Energy Houston Electric, LLC*, 629 S.W.3d 149, 158-59 (Tex. 2021), Appellants make a series of arguments for not interpreting the statute in accord with its plain text. For example, Appellants contend that the phrase "On September 1, 2023" is "best understood as a reference to the effective date

of the statute…." Appellants' Brief, p.15. But this makes no sense for at least two reasons.

First, Section 5 of SB 1750 expressly states that the statute takes effect on September 1, 2023; why would that date need to be repeated in such a brief bill that barely exceeds one page in length? If, in fact, the phrase "On September 1, 2023" was simply meant to provide a reference to the effective date of the statute, why wasn't it also included in Section 2(a) of SB 1750? And why in Section 4 of SB 1750 does the bill simply reference "On the effective date of this Act" rather than including the date September 1, 2023? Appellants' argument makes no sense contextually.

Second, Appellants' argument violates the statutory construction canon regarding surplusage. This Court has repeatedly emphasized that statutes are to be read "to give effect to every word." *El Paso Education Initiative, Inc. v. Amex Properties, LLC*, 602 S.W.3d 521, 531-32 (Tex. 2020); *In re CenterPoint Energy Houston Electric, LLC*, 629 S.W.3d at 159 ("We must give effect to all words of a statute."); *Columbia Medical Center of Las Colinas, Inc. v. Hogue*, 271 S.W.3d 238, 256 (Tex. 2008) ("The Court must not interpret the statute in a manner that

renders any part of the statute meaningless or superfluous"). *See,* Tex. Atty Gen. Op. No. JC-0537 (1976) ("we are obliged to give effect to every sentence, clause, phrase, and word of a statute, if it is reasonable and possible to do so.")

TEX. GOV'T CODE § 311.021(2) (the "Code Construction Act") embraces this tenant of statutory construction and condemns Appellant's argument that the language "on September 1, 2023" found in section 3 of SB 1750 is just surplusage that means the same thing the phrase does in section 5 of the Act. Not only is Appellants' argument obviously factually incorrect, but it relegates express legislative language, "On September 1, 2023", to the junkpile of statutory surplusage, a result canons of statutory construction condemn and direct be avoided. Clearly, the reference to "On September 1, 2023" in Section 3 of SB 1750 is not simply a duplicative, redundant reference to the effective date of the statute, but rather a critical component of the statutory scheme.

Recognizing the weakness of their "effective date" argument, Appellants offer up another possible interpretation: the phrase "On September 1, 2023" means that any county that reaches a population of 3.5 million in the future will also have to abolish the office of elections

administrator in their county. Appellants' Brief, p.15. But if that is what the Legislature intended, it would have had to add a lot of other words to the statute to achieve that result; simply omitting the limiting phrase "On September 1, 2023" in Section 3 of SB 1750, or changing "on" to "Starting" or "As of" do not accomplish that "opening" of the "closed" bracket linguistically, because, among other deficiencies, such modifications standing alone actually render the remaining language undecipherable and meaningless.

In textual analysis, context is important, and in this context, where the authors of the bill expressly state they intended the bill to apply only to Harris County, the sponsors of the legislation should be taken at their word: they intended for the Act to apply only to Harris County, and they selected words which accomplished precisely that effect. The legislative intent for the use of "On September 1, 2023" is quite clear:[19] the phrase was adopted to ensure the statute would only apply to a county which had a population of 3.5 million "on September 1, 2023."

[19] Appellants' arguments, at best, establish that the statute is ambiguous. If that is the case, the Court can look at the legislative history and express objective of the authors. *Galbraith Engineering Consultants, Inc. v. Pochucha*, 290 S.W.3d 863, 867 (Tex. 2009).

Indeed, it is absurd to argue otherwise or to claim that it was not the intent of the legislature for SB 1750 to apply only to Harris County. The authors' statements provide conclusively that was precisely what they were trying to achieve. The Bill Analysis shows that the enactment was originally designed to cover "all counties with a population over 1,000,000," but that would have captured Bexar, Collin, Dallas, Tarrant, and Travis counties, as well as Harris. 3RR.463. So, the population threshold was changed to 3.5 million to make sure it would only apply to Harris County.

Finally, Appellants ask the Court to put on its legislative hat and re-write the statute by deleting the phrase "On September 1, 2023". But courts cannot just re-write a law, for doing so usurps powers and functions constitutionally vested solely in the legislative department of our government. *Turner v. Cross,* 18 S.W. 578, 579 (1892). To engage in editing and re-writing a statute, as Appellants here urge, is to violate the bedrock constitutional principle of separation of powers. TEX. CONST. art. II, SECTION 1. *See, Entergy Gulf States, Inc. v. Summers*, 282 S.W.3d 433, 443 (Tex. 2009) ("we should always refrain from rewriting text that lawmakers chose.")

If the Court engages in any one of the statutory contortions advocated by the State Defendants, it will create an even bigger can of worms. The Court would then have to legislate judicially when the transfer of powers and duties will take place for a county reaching the 3.5 million population after September 1, 2023. As currently written, the statute calls for that transfer to take place on September 1, 2023, and September 1, 2023, alone. When would the transfer of powers and duties take place if the Court rewrites the statute to make it applicable to counties reaching 3.5 million after September 1, 2023? The current law (SB 1750) provides no subsequent or alternate trigger date for the transfer; it's September 1, 2023, or no date at all. So, on what day would the transfer of powers take place on the judicially re-crafted version of SB 1750 – still September 1, 2023? (Obviously not.)

But if the transfer of powers does not happen on the exact date that the population crosses the 3.5 million threshold, when does it occur—90 days later? The next September 1? Some undefined "reasonable time" thereafter? When a court so decrees? Or did the transfer take place on September 1, 2023, as mandated by the statute?

Suppose a county attains a population of 3.5 million on an election day, or a day, or a week before election day; is the transfer effective in the middle of the election? And what are the consequences if the transfer is not made on that exact date? Is the election invalid? And are all elections administered after the population threshold of 3.5 million is crossed potentially constitutionally or statutorily infirm because they were administered by the wrong entity? The Legislature could not possibly have intended such absurd or potentially confusing and ridiculous results.

And how is a county to know in the future when that threshold is reached, and the transfer of duties must occur? County population figures are not instantly known or, frankly, even knowable; there is no countdown clock which can be relied on to tell officials exactly when a county's population reaches 3.5 million.

Even if the Court contorts the language of SB 1750 to address these issues, it is left with the problem that the statute uses the present tense phrase "*are* transferred" with respect to the date of the transfer of powers and duties from the office of elections administrator to the county tax assessor-collector and clerk. Is the Court going to re-write that portion of

the statute, too, using the future tense "*will be* transferred" (rather than "*are* transferred?

In sum, much more substantial judicial wordsmithing will be required to transmogrify the bill as enacted into one abolishing elections administrator offices in counties which do not yet have a population of 3.5 million, but exceed that mark in the future. But if the Bill cannot be interpreted (or judicially rewritten) in such a way as to make it applicable to counties reaching a population of 3.5 million in the future, it is virtually indisputably a prohibited "local or special" law.

The absurdities produced by Appellants' advocated approaches to the interpretation of SB 1750 prove a simple fact: the Legislature enacted a bill intended to impact Harris County and only Harris County. Its goal was to abolish the office of county elections administrator in Harris County and only in Harris County, alone among all the 254 counties in Texas. Its intent was to prevent one county alone, Harris County, from ever being able to choose to have its voter registration operation and elections administration run by a non-partisan professional. Fidelity to the constitutional roles of the courts and legislature, textualism, judicial restraint, and common sense all preclude departure from the actual

words employed by the Legislature, leaving no escape from facing the constitutional consequences of intentionally designing a law which can never apply to any other county.20 The question at the root of the jurisdictional inquiry is not, contrary to the Appellants' argument, whether the statute can be saved, but rather whether a constitutional challenge to a bill that targets one position in one Texas county states a facially valid claim. The answer is obviously, "Yes," because such a bill contravenes the Texas Constitution.

b. SB 1750 violates Article III, Section 56 of the Constitution.

i. SB 1750 violates the plain language of the Constitution.

Article III, §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)

[20] The trial court expressly found that the Legislature intended SB 1750 to affect only one county, Harris County, and that its purpose was to deprive the County in perpetuity of its statutory right available to every other county to have an elections administrator run voter registration and elections. CR.827. This finding of fact has not been appealed and is thus binding on Appellants.

and (30). Article III, §56(b) prohibits enactment of any local or special laws "where a general law can be made applicable." TEX. CONST. art. III, §56(b). A "local law is one limited to a specific geographic region of the State, while a special law is limited to a particular class of persons distinguished by some characteristic other than geography." *Maple Run at Austin Municipal Utility District v. Monaghan*, 931 S.W.2d 941, 945 (Tex. 1996). SB 1750 is both a "local law" (in that it affects only Harris County, and forever can only affect that one geographic area of the state) and a "special law" (as it only impacts individuals living in a county populated with more than 3.5 million residents on September 1, 2023).

When interpreting the Texas Constitution, courts 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). SB 1750 regulates the affairs and administration of elections in only one county, Harris; it prescribes the powers and duties of an election administrator in only one county, Harris; it abolishes the office of elections administrator in only one county, Harris; and it operates to force the discharge of only one person, Clifford Tatum, from his position as the statutorily authorized elections

administrator in Harris County. SB 1750 is thus clearly a local and special law that invades the sacrosanct provinces delegated exclusively to local government by the plain language of the text of article III, §56(a). *See, Hall v. Bell County*, 138 S.W. 178, 183 (Tex. Civ. App.—Austin 1911), *aff'd*, 153 S.W. 121 (1913) (holding legislation that repeals or materially changes any law controlling or affecting the collection, safekeeping or disbursement of county funds is a law regulating county affairs that violates article III, §56); *City of Tyler v. Liberty Utilities Corp.*, 571 S.W.3d 336, 344 (Tex. App.—Houston [1st Dist.] 2018, no history) (holding a law that brings about changes in the affairs in only one city is an unconstitutional regulation by local or special laws); *Austin Bros. v. Patton*, 288 S.W. 182, 186 (Tex. Comm'n App. 1926), *modified*, 290 S.W. 153 (Tex. Comm'n App. 1927). The plain text of the Constitution supports the trial courts finding of jurisdiction.

ii. SB 1750 violates the policies underlying Article III, Section 56.

Courts and scholars have identified two purposes underlying Section 56. 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)

(emphasis added). The second is to "combat corruption, personal privileges, **and meddling in local affairs—or, conversely, to prevent a group from dashing to the Capitol to get something their local government would not give them**." *Kelly v. State*, 724 S.W.2d 42, 47 (Tex. Crim. App. 1987) (emphasis added), *quoting* GEORGE D. BRADEN, 1 THE CONSTITUTION OF THE STATE OF TEXAS: AN ANNOTATED AND COMPARATIVE ANALYSIS, 273 (1977). The uncontroverted evidence shows SB 1750 and the circumstances surrounding its introduction and passage violate both policies. First, the legislation creates a lack of uniformity, with 253 counties having the statutory right to have an elections administrator and one being denied that right. Second, the legislative history[21] of SB 1750 clearly reveals the blatant practice of meddling in local affairs and "dashing to the Capitol to get something" a local government would not agree to. *See, City of Tyler v. Liberty Utilities Corp.*, 571 S.W.3d at 339-344. The policies underlying article III, § 56 support the trial court's exercise of jurisdiction.

[21] Legislative history may be considered on this issue. *See, City of Tyler v. Liberty Utilities Corp.*, 571 S.W.3d 336, 339-40 (Tex. App.—Houston [1st Dist.] 2018, no pet.).

iii. SB 1750 violates the original intent of the drafters of Article III, Section 56.

Article III, §56 first appeared in its current form in the Texas Constitution of 1876. The history of that constitution has been studied and well documented, *See*, John Walker Mauer, *State Constitutions in a Time of Crisis: The Case of the Texas Constitution of 1876*, 68 TEX. L. REV. 1615 (1990) (discussing the history of the 1876 Texas Constitution and the intent of the Framers), but it is worth a brief review.

The Texas Constitution of 1876 was drafted by a constitutional convention consisting of 90 delegates, almost half of whom were members of the Grange, an organization of agrarian interests that believed in a very limited role for state government. *Id.* at 1640, 1646. The Framers who attended that convention had lived through 15 years of rapid expansion of the federal and state government during the Civil War and Reconstruction, and the increase in the exercise of power over local affairs by those governments, and then had seen Democrats who were elected in the early 1870s do little to reverse, or even control, that expansion. *Id.* at 1627-32.

The Framers of the 1876 Constitution were eager to reverse this trend and significantly restrict the role and powers of the state

government. This desire, however, was not an exclusively Southern phenomenon driven by the experiences of its citizens in Reconstruction. In fact, throughout the 1870s there was a national movement toward restrictive constitutionalism that "arose as the result of popular dissatisfaction with the high cost of government, as well as the general belief that political leaders were unwilling to respond to the popular will," *Id.* at 1638, along with a national sense that there had been many legislative abuses, especially in the form of granting special privileges to private persons, corporations, and municipalities. Herman I. Morris, Comment, *Population Bills in Texas*, 28 Tex. L. Rev. 829, 830 (1950).

Thus, a philosophy developed that state government should have a limited and constricted role, with guardrails established to keep the legislature from meddling in local affairs and focused on the interests of the state as a whole. *Id.* This is the philosophy and intent that underlies the Texas Constitution of 1876 in general, and article III, §56 in particular. *Id.* at 1619-21, 1625.

The very first article that emerged from the Texas Constitutional Convention concerned the "Legislative Department" and is described as "strongly restrictive in character." Mauer, *supra* at 1641. It placed

restrictive provisions on the legislature's power to tax, aid private companies or cities, or extinguish certain financial obligations, and it expressly prohibited the legislature from passing broad categories of special and local laws, the provision we now know as article III, §56. *Id.* at 1641-42.

In short, the intent of the Framers when they adopted article III, §56 was to limit the power of the legislature and keep it from meddling in local affairs. *Id. See,* GEORGE D. BRADEN, 1 THE CONSTITUTION OF THE STATE OF TEXAS: AN ANNOTATED AND COMPARATIVE ANALYSIS, 273, 280 (1977) (it is an "eminently reasonable assumption" "that people generally would prefer that the legislature attend to state matters and leave local governments to solve their own problems.") SB 1750 is the antithesis of what the Framers of the Texas Constitution intended when they drafted article III, §56, it constitutes meddling in local affairs *extraordinaire*. The intent of the Framers supports the facial validity of Tatum's claims and thus the trial court's finding that it had jurisdiction over those claims.

iv. SB 1750 violates Texas jurisprudence.

The terms of Section 3 of SB 1750 constitute the classic "closed bracket" based on population; that is, a law that applies to one location that falls within a particular population range on a certain day but is closed to all other locations and can never apply to any other location, even if they eventually have a population falling within the same range. Texas courts have historically and routinely declared such statutes unconstitutional because they violate article III, §56. *See, e.g., Hall v. Bell County*, 138 S.W. 178 (Tex. Civ. App.—Austin 1911), *aff'd*, 153 S.W. 121 (1913); *City of Fort Worth v. Bobbitt*, 36 S.W.2d 470 (Tex. Comm'n App. 1931, opinion adopted); *Smith v. Decker*, 312 S.W.2d 632 (Tex. 1958); *Suburban Util. Corp. v. State*, 553 S.W. 2d 396 (Tex. Civ. App.—Houston [1st Dist.] 1977, writ ref'd n.r.e.); *Southwest Travis County Water District v. City of Austin*, 64 S.W.3d 25 (Tex. App.—Austin 2000, pet. withdrawn); *City of Tyler v. Liberty Utilities Corp.*, 571 S.W.3d at 339-344. The same is true for statutes with similar brackets that exempt one locale from a law that applies to all other jurisdictions. *See, e.g., Anderson v. Wood,* 152 S.W.2d 1084 (Tex. 1941); *Bexar County v. Tynan*, 97 S.W.2d 467 (Tex. Comm' App. 1936, opinion adopted).

Texas jurisprudence demonstrates that a legislative enactment that contains a closed population bracket encompassing only one location and depriving the residents of that location of local autonomy, will be found to be unconstitutional as violative of article III, §56, regardless of how salutary the alleged reason for the bracket. *See,* Morris, *supra* at 830.

This is especially true when the classification bears no relationship to the legislation. *See, Maple Run at Austin Municipal Utility Dist. v. Monaghan*, 931 S.W.2d 941, 945 (Tex. 1996) (holding that where a law affects only the inhabitants of a particular locality, "the classification must be broad enough to include a substantial class and must be based on characteristics legitimately distinguishing such class from others with respect to the public purpose sought to be accomplished by the proposed legislation."); *Smith v. Decker*, 312 S.W.2d 632, 635-36 (Tex. 1958) ("it has long been held that the use of population brackets alone to direct legislation toward a particular county needing a particular type of legislation will not in itself save the law from being unconstitutional as a special law if the classification bears no reasonable relationship to the objects sought to be accomplished.)

Using population as the basis of a classification cannot be sustained unless population "bore a reasonable relation to the objects and purposes of the law and was founded upon rational difference in the necessities or conditions of the groups subjected to different laws." *Oakley v.* State, 181 S.W.2d 919, 923 (Tex.Civ.App.–Eastland 1944, n.w.h.).

In this case, there is no evidence of a relationship between the object sought to be accomplished, the permanent elimination of Harris County's right to have a non-partisan professional administer its elections, and the population of the county, the metric contained in SB 1750.[22] *See, Anderson v. Wood*, 152 S.W.2d 1084, 1087 (Tex. 1941). Indeed, the Author's/Sponsor's Statement of Intent, 3RR.463, states that the harms sought to be addressed by the original version of SB 1750 (concentration of control over elections in too few persons) impacted counties "with a population over 1,000,000" (naming Bexar, Collin, Dallas, Harris, Tarrant, and Travis as counties needing two officials, rather than one, performing election-related functions in order to dilute concentration of

[22] Not only was no testimony offered before the legislature or at the temporary injunction hearing establishing that a non-partisan professional is not able to administer elections as efficiently and effectively as partisan elected officials in counties with a population that exceeds 3.5 million, but the uncontroverted testimony at the hearing was just the opposite: that there is no rational basis for the legislative classification contained in SB 1750. 2RR.136-37.

power problems by increasing accessibility and thus transparency). The ultimate "fix" to problems identified as resulting from concentration of power in counties with populations in excess of 1,000,000 was to prohibit only one of them (Harris County) from ever having an elections administrator.

A more arbitrary and irrational solution to an identified and articulated problem would be difficult to imagine. Using the population of a county only on one day—September 1, 2023—as the sole basis for distinguishing between which counties may continue to use their chosen means of administering elections and which ones may not is even more irrational because it allows some counties with a population over 3.5 million (so long as they attain that level after September 1, 2023) to continue to utilize elections administrators, but denies one county of that size—Harris County—to same statutory right to have elections run by a non-partisan professional, rather than elected officials.

To demonstrate the lack of connection between S.B. 1750's population-based-on-September 1, 2023, classification scheme and its purported purpose, suppose Harris, Dallas, Tarrant, and Bexar counties all have populations of 3.6 million in 2028. Dallas, Tarrant, and Bexar

counties could continue to have their election functions managed by an elections administrator, but not Harris County – even if all four counties had identical populations, or even if the other three had populations greater than that of Harris County at that time.

Distinctions resulting in application of a statute to a single geographical area generally offend article III, § 56 of the Texas Constitution. The repugnancy is even more firmly established when state officials cannot articulate a rational explanation for the classificatory criteria utilized. SB 1750 is, clearly, an unconstitutional local or special law.

Long-standing case law clearly establishes Clifford Tatum has stated a viable constitutional claim. The trial court correctly exercised jurisdiction over his claims.

B. Tatum Has "Standing" to Pursue His Claims, and They Are Justiciable.

Seeking to forestall forever any determination by this Court concerning whether SB 1750 unconstitutionality deprived Appellee Tatum of rights to which he was statutorily entitled, Appellants have

constructed a novel[23] and syllogistic Rubik's Cube that would deny him the right to sue for the harm he has suffered: True, Appellants would have to concede, Tatum was deprived of his position as Harris County Elections Administrator—a position to which he had been duly appointed[24] and in which he was statutorily entitled to continue[25]—solely because of SB 1750. But, Appellants maintain, he cannot sue Harris County to prevent it from unlawfully depriving him of his position, because Harris County agrees with Tatum that SB 1750 is unconstitutional, making any lawsuit against Harris County *ipso facto* "collusive," and therefore non-justiciable for lack of adversariness. Further, the State Defendants maintain, Tatum cannot obtain relief from anyone else either, because he cannot intervene in Harris County's suit against the State Defendants since that intervention, too, would be "collusive" and thus non-justiciable, and because the County lacks

[23] No case cited by Appellants nor found by Appellee Tatum has come close to adopting the Rube Goldberg standing argument Appellants advance here.

[24] CR 104, 2RR.124-25.

[25] *See,* TEX. ELEC. CODE §31.037, which 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 of the commissioners court."

standing, thus denying Clifford Tatum a case in which he can intervene. Fortunately, this is not the law.

1. This Appeal Is Solely About the Lawsuit Between Harris County (Plaintiff) and Intervenor (Tatum) on the One Hand and the State Defendants (Appellants) on the Other, Because the Court Lacks Jurisdiction over Tatum's Crossclaim Against Harris County.

As discussed above, the Court lacks jurisdiction over Tatum's claims against Harris County as the temporary injunction issued in that case is now moot. What remains before the Court are appeals from the trial court's overruling of the Appellants' Plea to the Jurisdiction in the lawsuit in which Harris County sued the State of Texas and Clifford Tatum intervened, and the appeal from the temporary injunction issued in that case. Appellants' argument that there is no real dispute between Harris County and Tatum in that case because both agree SB 1750 is unconstitutional, and thus Tatum's claims are not justiciable, displays an inexplicable misunderstanding of the nature of an intervention.

By definition, an intervenor in a case joins the case on one side or the other. *See, Guar. Fed. Sav. Bank v. Horseshoe Operating Co.,* 793 S.W.2d 652, 657 (Tex. 1990) (holding an intervenor may only intervene "if the intervenor could have brought the same action, or any part thereof,

in his own name [against the defendant], or, if the action had been brought against him [by the plaintiff], he would be able to defeat recovery, or some part thereof.") Obviously, an intervenor could have brought the same suit in his or her name only if he or she agrees with the position taken by the party on whose side they intervene. Thus, an intervenor may only intervene in a case in which it has a justiciable interest that is going to align with one party or the other. Indeed, Appellants provide no case holding or even suggesting that an intervenor must be adversarial to *both* sides in the ongoing underlying lawsuit, undoubtedly because no such case exists.

All that matters for standing to intervene to exist is that the intervenor be adverse to one party in the lawsuit—as Appellee Tatum is to the State Defendants in the instant case—not necessarily to both (or all) of them. Here there is no dispute that Tatum is adversarial to the State Defendants: he maintains SB 1750 is unconstitutional; they vigorously contend it is not. That is obviously sufficient to create justiciability.

An excellent example demonstrating that lack of antagonism between the plaintiff and intervenor is not fatal to an intervention is one

in which the Attorney General of Texas himself intervened—*Pizza Properties, Inc., et al v. El Paso County, Texas and Samaniego*, No. 2020-DCV-3515 (34th Dist. Ct., El Paso County, Tex. Oct. 30, 2020). In that case, several businesses filed a lawsuit claiming that an emergency "stay at home" order issued by El Paso County Judge Samaniego during the COVID-19 crisis violated the Texas constitution. The State of Texas, represented by its Attorney General, filed a Plea in Intervention, agreeing with the plaintiffs and joining their prayer for a declaration that Judge Samaniego's Emergency Order was unconstitutional (and seeking preliminary and permanent injunctions against the emergency order). There was not one centimeter of disagreement between the position of the plaintiffs, urging that the emergency order be declared to violate the Texas Constitution, and that of the Intervenor (represented by the Attorney General), and no hint of a suggestion that lack of antagonism precluded intervention.

The Court must reach the same conclusion here.

2. Even if the Court Exercises Jurisdiction Over the Temporary Injunction Issued in the Crossclaim, Tatum's Claim Is Justiciable.

Even if the Court chooses to exercise jurisdiction over the temporary injunction issued in Tatum's crossclaim against Harris County, Tatum's claims in that action are clearly justiciable. In the first place, the Attorney General of Texas and the State of Texas have intervened in that action, CR.770-72, 775-77, as they had an uncontested right to do, to defend SB 1750, which they have done energetically and forcefully at both the trial and appellate levels.[26] The risk of collusion is effectively eliminated where, as here, there are parties involved in the litigation aggressively contesting, on both sides, the constitutionality of a statute.

Indeed, this is the purpose of TEX. GOV'T CODE § 402.010(a), which requires that the Attorney General be given notice whenever the constitutionality of a statute of the state of Texas is challenged, so the

[26] Appellee Tatum agrees completely with the argument made by the Appellants in the last paragraph on page 44 of their Brief that the State has a right to intervene to defend a law passed by the legislature and once they timely file a petition in intervention, as they did in this case, they become "parties" in every sense of the term (citing *Kenneth D. Eichner, P.C. v. Dominguez*, 623 S.W.3d 358, 362 (Tex. 2021) (*per curiam*). In fact, Tatum made this very argument to the trial court to show there was adversariness in his counterclaim. CR.786-87, 792-95.

Attorney General may then participate in that lawsuit and seek to defend the constitutionality of the challenged statute, should he choose to do so. That is precisely what happened here. CR.107-09.

In this respect, the case is no different from any other in which the executive has concluded that the challenged enactment is unconstitutional and declines to defend it. See, e.g., *United States v. Windsor*, 570 U.S. 744 (2013). In that case, the plaintiff challenged the constitutionality of the federal Defense of Marriage Act ("DOMA"). After a change in Administrations, the Department of Justice announced that it agreed that § 3 of the Act was unconstitutional, and it would no longer defend the statute. At that point, the Bipartisan Leal Advisory Group of the House of Representatives ("BLAG") intervened in the litigation to defend the constitutionality of § 3 of DOMA. The Supreme Court ruled that the case should not be dismissed for lack of a justiciability (even though the executive agreed with the plaintiff's assertion that the law was unconstitutional), because there was another entity (BLAG), legally empowered to defend the statute in court.

Windsor demonstrates how courts handle cases (like this one) in which a governmental entity declines to defend a legislative enactment

on grounds that it has concluded that the challenged law is, in fact, unconstitutional. In those situations, the Court allows the challenged statute to be defended by some other party with legal authority to do so. In this case, that is the Attorney General of Texas, whose responsibilities include defending enactments of the State Legislature from constitutional challenges. *See, e.g., Zurawski v. State of Texas*, No. D-1-GN-23-000968 (353rd Dist. Court, Travis County, Texas) (Attorney General defending constitutionality of Texas abortion statutes in state court).

In such circumstances, participation by an official with authority to act on behalf of the government defending the law is sufficient to create a justiciable case or controversy the judiciary can resolve. That is precisely what has happened here and the result which should obtain. This case is justiciable. Thanks to the active participation by the Office of the Attorney General of the State of Texas, as evidenced by the hearing record, the motions filed in district court and the briefs filed before this Court, there is no lack of adversariness in this litigation.

3. Tatum's Status as a Witness Called by the County Does Not Destroy Adversariness or Justiciability.

Appellants make much of the fact that Clifford Tatum was a witness for both himself and Harris County. In fact, they characterize Appellee Tatum as the "star witness" for the County. But who else would the County better call? Tatum was obviously the single person with the most knowledge of the operations of the Elections Administrator Office; he was, after all, the Elections Administrator. Who could better describe the harm which would most likely result from a precipitous transfer of that office's functions and personnel to a new department on the eve of a major election or testify about problems which had or had not occurred? Of course, the trier of fact could take witness Tatum's self-interest into account in assessing the credibility of his testimony, but the mere fact that Tatum was called by the County as a witness in its case in chief says nothing about whether the litigation is contested and adversarial, and Appellants have not cited one case to the contrary.

4. Tatum and Harris County Are Clearly Adversarial.

Regardless of Clifford Tatum's appearance as a witness called by the County, make no mistake, Tatum and Harris County are clearly adversarial. Harris County fired Clifford Tatum, and Tatum alleges it

was due to the County's voluntary application of an unconstitutional statute that even the County knew was unconstitutional. That claim is as adversarial as it gets.

True enough, Harris County agrees with Tatum that the legislative enactment which precipitated the discharge was unconstitutional, but that does not change the fact that Tatum was harmed in real and tangible ways by the direct actions of Harris County, actions that can be remedied should he prevail on the merits.

5. Tatum's Crossclaim Against Harris County Is Not a "Collusive" Lawsuit.

Pejoratively invoking the boogey-man "collusion," the State Defendants create the following Catch-22 paradigm: Tatum (who has undeniably suffered an injury-in-fact—he has been discharged from his position as Harris County Elections Administrator solely because of SB 1750) cannot challenge the statute because his employer and the party he must sue, Harris County, and he are in agreement that the law is unconstitutional, rendering Tatum's involvement in the case non-adversarial and therefore "collusive" in the view of Appellants.

But Harris County cannot obtain a ruling that SB 1750 is unconstitutional because it has not suffered any injury-in-fact, the State

Defendants contend. Thus, on the Appellants' theory, a party who has been terminated from a position to which he is statutorily entitled not to be discharged without good cause, cannot obtain a judicial declaration that his firing violates the Texas Constitution and his employer must reinstate him, because his employer (Harris County) agrees with him that the law is invalid.

But the employer itself cannot obtain a decree to that effect, according to the Appellants. In short, according to the State Defendants, no one can sue here, an unconstitutional statute may remain on the books, unchallengeable, and an indisputable victim of the unconstitutional law (the person whose position was eviscerated) cannot obtain judicial review of the constitutionality of the Act. In a state with an Open Courts provision enshrined in its constitution, TEX. CONST., art. I, § 13, that cannot be the law.

Happily, it is not. In the first place, Appellants' reliance on *U.S. v. Johnson*, 319 U.S. 302 (1943), and *Block Distributing Co. v. Rutledge*, 488 S.W.2d 479 (Tex.Civ.App.–San Antonio 1972, no writ), is sorely misplaced. In *Johnson*, the lawsuit was brought in a fictitious name, it was instituted at the defendant's request, the plaintiff did not employ,

pay or even meet the attorney who appeared of record in his behalf, plaintiff was assured that he would incur no expense in the litigation, plaintiff did not read the complaint which was filed in his name and was told his presence in court would not be necessary, and the plaintiff did not actively participate in the proceedings and exercised no control over his own case. 319 U.S. at 303-04. None of those circumstances occurred in this case, as the record clearly reveals.

In *Block Distributing*, the defendant's attorney urged the plaintiff to file suit against the defendant in order to test the validity of legislation restricting liquor sales. Defendant's attorney suggested the plaintiff retain the services of the attorney who nominally represented the plaintiff, but that lawyer never met his client. All the pleadings—for both sides—were prepared by the law firm representing the defendant. Plaintiff's counsel merely signed them. The answer consisted of only an appearance and a prayer that the court enter the judgment it deemed proper. On that record, the court concluded that there was no *bona fide*, real controversy between the only two parties named in the lawsuit—the plaintiff and the defendant—so the case was non-justiciable. Again, not one of these things occurred in this case.

By contrast to both of those cases, here there is a real, live defendant, the Appellants, and they are represented by one of the largest law firms in the State of Texas—the Office of the Attorney General of the State of Texas—which is aggressively defending the law in question. There is no hint or suggestion that Harris County and/or Tatum are in cahoots with the defendants in this case, or that Harris County v. The State of Texas, John Scott, and Jane Nelson, No. D-1-GN-23-003523, in the 345th District Court was a contrived, fictitious, or fraudulent lawsuit.

Further, while facts such are those presented by *Johnson* and *Block Distributing* would constitute hallmarks of a "collusive" scheme fraudulently to secure judicial imprimatur, Appellants have not—and cannot, because they do not exist—provided any court any equivalent jurisdiction-defeating facts. Clifford Tatum filed his intervention (and cross-action) because he wanted to retain his job and for no other reason. Characterizing his intervention (and cross-action) as fraudulent or "collusive" is merely a scurrilous averment intended to besmirch the reputations of the lawyers representing Harris County and Clifford Tatum. The accusation has no legal significance in this case, as mere agreement with the position of an opposing party hardly in the same category as the "collusion" described in *Johnson* or *Block Distributing*.

Perhaps more disturbingly, Appellants made these same baseless allegations to the trial court in their effort to strike Clifford Tatum's intervention, CR.439-41, but, as here, offered no facts to support the claim. Whether collusion occurred is obviously a fact issue. In this case, the trial court denied Appellants' motion to strike Tatum's intervention without issuing any findings of fact or conclusions of law, CR.816, and Appellants did not request them either. Where no findings of fact were made or requested, appellate courts infer all facts necessary to support the rulings below and the trial court's judgment. *See, Moki Mac River Expeditions v, Drugg*, 221 S.W.3d 569, 574 (Tex. 2007). By denying the motion to strike the trial court implicitly found there were no, or insufficient facts, to support the Appellants' allegation of collusion. Appellants neither mention nor challenge that implicit fact-finding, and not having raised an evidentiary challenge, are bound by that ruling.

There is simply no basis for characterizing Tatum's intervention and cross-action against Harris County as "collusive".

6. Tatum Has Standing to Press His Constitutional Claims by Intervening in Harris County's Lawsuit Against The State Defendants.

Appellants do not challenge Clifford Tatum's standing to pursue his claims by intervening in the suit brought by Harris County against the State Defendants, recognizing that such an argument would be fruitless. By any standard, Tatum has standing to pursue the claims made in the County's lawsuit that SB 1750 violates the Texas Constitution.

"Standing requires an injury-in-fact that is fairly traceable to the defendant's conduct and likely to be redressed by a decision in the plaintiff's favor." *Heckman v. Williamson County*, 369 S.W.3d 137, 154–55 (Tex. 2012). Tatum has established all three elements (injury, traceability, redressability). He has clearly suffered an injury—loss of the position in which he was statutorily entitled to continue. It is uncontroverted, and the trial court found, there was no good cause that would justify firing Clifford Tatum at this time and that the only reason he could lawfully lose his job as Elections Administrator of Harris County is if SB 1750 is constitutional. 2RR.128-29, 135-36; CR.828. And declaring SB 1750 unconstitutional and enjoining Tatum's termination of employment as elections administrator would certainly remedy the constitutional wrong done to him.

Appellants' vigorous defense of the constitutionality of the Act obviously constitutes a "credible threat" of enforcement. Indeed, the very act of defending the statute on the merits is action to enforce it.[27] If there is a causative link between that action and Tatum being fired, there is injury in fact fairly traceable to the acts of the State Defendants.

And that connection cannot plausibly be denied: if the State Defendants had not opposed Tatum's request for temporary injunction prohibiting Harris County from discharging Tatum solely on the basis of SB 1750 and then filed this interlocutory appeal of the trial court's grant of a temporary injunction, the injunction issued by the trial court would still be in effect and Tatum's employment as Harris County Elections Administrator would not have been terminated.

Thus, the undeniable injury-in-fact (termination of employment) suffered by Appellee Tatum was solely the result of (fairly traceable to) the affirmative acts of the State Defendants, and a decision in Tatum's behalf that SB 1750 (and its addition of Section 31.050 to the Texas

[27] A plaintiff seeking an injunction against a defendant's enforcement of a governmental enactment may establish injury-in-fact by demonstrating 'a credible threat of prosecution thereunder.' *In re Abbott*, 601 S.W.3d at 812 (quoting *Babbitt v. Farm Workers Nat'l Union*, 442 U.S. 289, 298, 99 S.Ct. 2301, 60 L.Ed.2d 895 (1979))." *Abbott v. Harris County*, 672 S.W.3d 1, 8 (Tex. 2023).

Election Code) violated the Texas Constitution and an injunction restoring him to the position from which he was wrongfully (unconstitutionally) terminated would unquestionably "redress" those injuries. These facts establish standing, plain and simple.

And if Tatum has standing, then Harris County has standing, too, because, as Appellants themselves admit: "A single party with standing is sufficient to invoke this Court's jurisdiction. *Andrade* [*v. NAACP of Austin*], 345 S.W.3d [1] at 6 & n.9 [(Tex. 2011)]." Brief for Appellants p. 44.

PRAYER

The Court should affirm the trial court has jurisdiction over Clifford Tatum's causes of action, dismiss Appellants' appeal of the Temporary Injunction issued in Clifford Tatum's favor as moot, remand Tatum's case to the district court for the court to vacate the order regarding the temporary injunction and for trial on the merits, and provide Clifford Tatum any additional relief to which he may be entitled.

Respectfully submitted,

/s/ Gerald M. Birnberg

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the forgoing document has been forwarded to all known counsel of record, pursuant to Rule 21a of the Texas Rules of Appellate Procedure, on October 23, 2023.

/s/ *Richard Schechter*
Richard Schechter

CERTIFICATE OF COMPLIANCE

Microsoft Word reports that this document contains 13,013 words, excluding exempted text.

/s/ *Richard Schechter*
Richard Schechter

No. 23-0656

In the Supreme Court of Texas

OFFICE OF THE ATTORNEY GENERAL OF TEXAS, ET AL.,
Appellants,
v.

HARRIS COUNTY, TEXAS, ***Appellee/ Cross-Defendant,***

v.

CLIFFORD TATUM,
Appellee/Cross-Claimant,

On Direct Appeal from the
345th Judicial District Court, Travis County, Texas
No. D-1-GN-23-003523

APPENDIX

TAB A:

HARRIS COUNTY COMMISSIONERS COURT ORDER TRANSFERRING EMPLOYEES

1001 Preston St., Suite 934
Houston, Texas 77002

Harris County, Texas

Commissioners Court

Request for Court Action

File #: 23-5110 **Agenda Date:** 8/29/2023 **Agenda #:** 220.

Department: Elections Administrator
Department Head/Elected Official: Clifford Tatum, Elections Administrator

Regular or Supplemental RCA: Regular RCA
Type of Request: Position

Project ID (if applicable): N/A
Vendor/Entity Legal Name (if applicable): N/A

	YES	NO	ABSTAIN
~~Judge Lina Hidalgo~~	☐	☐	☐
Comm. Rodney Ellis	☑	☐	☐
Comm. Adrian Garcia	☑	☐	☐
Comm. Tom S. Ramsey	☑	☐	☐
Comm. Lesley Briones	☑	☐	☐

MWDBE Contracted Goal (if applicable): N/A
MWDBE Current Participation (if applicable): N/A
Justification for 0% MWDBE Participation Goal: N/A - Goal not applicable to request

Request Summary (Agenda Caption):
Request for approval to transfer 131 positions, employees, budget and equipment to the County Clerk; 39 positions, employees, budget and equipment to the Tax Assessor-Collector; and work with relevant county departments as necessary.

Background and Discussion:
These transfers are to comply with SB 1750.

Expected Impact:

Alternative Options:

Alignment with Goal(s):

_ Justice and Safety
_ Economic Opportunity
_ Housing
_ Public Health
_ Transportation
_ Flooding
_ Environment

Presented to Commissioners Court

August 29, 2023

Approve: G/R

Exhibit 1

X Governance and Customer Service

Prior Court Action (if any)**:**

Date	Agenda Item #	Action Taken

Location:
Address (if applicable):
Precinct(s): Choose an item.

Fiscal and Personnel Summary			
Service Name			
	FY 23	**FY 24**	**Next 3 FYs**
Incremental Expenditures (do NOT write values in thousands or millions)			
Labor Expenditures	$	$	$
Non-Labor Expenditures	$	$	$
Total Incremental Expenditures	**$**	**$**	**$**
Funding Sources (do NOT write values in thousands or millions)			
Existing Budget			
Choose an item.	$	$	$
Choose an item.	$	$	$
Choose an item.	$	$	$
Total Current Budget	$	$	$
Additional Budget Requested			
Choose an item.	$	$	$
Choose an item.	$	$	$
Choose an item.	$	$	$
Total Additional Budget Requested	$	$	$
Total Funding Sources	**$**	**$**	**$**
Personnel (Fill out section only if requesting new PCNs)			
Current Position Count for Service	-	-	-
Additional Positions Requested	-	-	-
Total Personnel	**-**	**-**	**-**

Anticipated Court Date: 8/29/23

Anticipated Implementation Date (if different from Court date): Sept. 1st

Emergency/Disaster Recovery Note: Choose an item.

Contact(s) name, title, department:

Attachments (if applicable)**:** 3441s

Budget Management Form 3441
Harris County, TX (06/01/2021)

POSITION MANAGEMENT REQUEST FORM

Business Unit Name: Harris County EA's Office Business Unit Number: 52000

SECTION I – TYPE OF REQUEST

Function	Check Applicable	Comments
Position Update	☑	May require Commissioners Court approval
Position Reclassification	☐	May require Commissioners Court approval
New Position Request	☐	Requires Commissioners Court approval
Is additional office space required?	☐ Yes ☐ No	

SECTION II – REASON FOR REQUEST

We are requesting to transfer the attached positions from the EA's Office to the County Clerk's Office.

SECTION III – PROPOSED EFFECTIVE DATE

Proposed Effective Date	09/09/2023	Date must be the beginning of a pay period. For requests requiring Commissioners Court approval, the earliest effective date will be the first pay period after approval.
Grant Effective Date	From: To:	

SECTION IV – POSITION DATA

Current *Use "Pos_List_File" (PCN Download) to complete all fields*		**Proposed** *Complete all fields for a new position or change appropriate field(s) for existing position.*	
		Number of Positions	
Position Description (Title)	*See attached spreadsheet	Position Description (Title-30 Spaces Max)	*See attached spreadsheet
Job Code Description		Job Code Description	
Position Number		Position Number (HRRM Use Only)	
Company (CS, FC, HC, JV or PA)		Company (CS, FC, HC, JV or PA)	
Business Unit		Business Unit	
Home Department ID Number		Home Department ID Number	
Location		Location	
Full Time, Part Time or Temporary		Full Time, Part Time or Temporary	
Budgeted Hours		Budgeted Hours	
Salary Range Maximum		Salary Range Maximum	
FLSA Code		FLSA Code	
Reports To Position Number		Reports To Position Number	
Fund Code		Fund Code	
Funding Department ID Number		Funding Department ID Number	
Account *(Same for all Business Units)*	*510010*	Account *(Same for all Business Units)*	*510010*
Business Unit PC *(Projects or Grants only)*		Business Unit PC *(Projects or Grants only)*	
Project/Grant *(Projects or Grants only)*		Project/Grant *(Projects or Grants only)*	
Activity ID *(Projects or Grants only)*		Activity ID *(Projects or Grants only)*	
Resource Type *(Not currently used)*		Resource Type *(Not currently used)*	

CDS

Business Unit Approval (Business Unit Head or Designee)

08/22/2023

Date

Budget Management Form 3441
Harris County, TX (06/01/2021)

POSITION MANAGEMENT REQUEST FORM

Business Unit Name: Harris County Elections Administration Business Unit Number: 52000

SECTION I – TYPE OF REQUEST

Function	Check Applicable	Comments
Position Update	☑	May require Commissioners Court approval
Position Reclassification	☐	May require Commissioners Court approval
New Position Request	☐	Requires Commissioners Court approval
Is additional office space required?	☐ Yes ☑ No	

SECTION II – REASON FOR REQUEST

To facilitate the transfer of positions from Elections Administration to the Tax Office per SB 1750.

SECTION III – PROPOSED EFFECTIVE DATE

Proposed Effective Date	09/09/2023	Date must be the beginning of a pay period. For requests requiring Commissioners Court approval, the earliest effective date will be the first pay period after approval.
Grant Effective Date	From: To:	

SECTION IV – POSITION DATA

Current *Use "Pos_List_File" (PCN Download) to complete all fields*		**Proposed** *Complete all fields for a new position or change appropriate field(s) for existing position.*	
		Number of Positions	39
Position Description (Title)	See Attachment	Position Description (Title-30 Spaces Max)	See Attachment
Job Code Description		Job Code Description	
Position Number		Position Number (HRRM Use Only)	
Company (CS, FC, HC, JV or PA)		Company (CS, FC, HC, JV or PA)	
Business Unit		Business Unit	
Home Department ID Number		Home Department ID Number	
Location		Location	
Full Time, Part Time or Temporary		Full Time, Part Time or Temporary	
Budgeted Hours		Budgeted Hours	
Salary Range Maximum		Salary Range Maximum	
FLSA Code		FLSA Code	
Reports To Position Number		Reports To Position Number	
Fund Code		Fund Code	
Funding Department ID Number		Funding Department ID Number	
Account *(Same for all Business Units)*	*510010*	Account *(Same for all Business Units)*	*510010*
Business Unit PC *(Projects or Grants only)*		Business Unit PC *(Projects or Grants only)*	
Project/Grant *(Projects or Grants only)*		Project/Grant *(Projects or Grants only)*	
Activity ID *(Projects or Grants only)*		Activity ID *(Projects or Grants only)*	
Resource Type *(Not currently used)*		Resource Type *(Not currently used)*	

CDT

08/23/2023

Business Unit Approval (Business Unit Head or Designee) **Date**

Spreadsheet for 3441 Reclassification Request from EA Office to Tax Office (Effective 09/09/2023)

Current

Position Description	Job Code	Position Number	Company	Business Unit	Home Dept ID Number	Location	Full/ Part	Budgeted Hours	Salary Range Max	FLSA Code	Reports To Position Number	Fund Code	Funding Dept ID Number
Supervisor III	000545	10010336		52000	52001200		F	40	32.39	1		1000	52001200
Coordinator III	000138	10010351		52000	52001300		F	40	36.01	N		1000	52001300
Systems Analyst II	000353	10010400		52000	52002000		F	40	39.95	1		1000	52002000
Clerk II	000104	10010441		52000	52001400		F	40	22.92	N		1000	52001400
Clerk II	000104	10010443		52000	52001600		F	40	22.92	N		1000	52001600
Clerk II	000104	10010459		52000	52001100		F	40	22.92	N		1000	52001100
Clerk I	000103	10010641		52000	52001400		F	40	19.68	N		1000	52001400
Clerk I	000103	10010642		52000	52001400		F	40	19.68	N		1000	52001400
Director III	000527	10011383		52000	52001200		F	40	68.25	1		1000	52001200
Appls Developer Program I	000060	10011450		52000	52002000		F	40	55.54	1		1000	52002000
Clerk IV	000106	10011476		52000	52001200		F	40	49.31	N		1000	52001200
Clerk I	000103	10011491		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10011503		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10011504		52000	52001200		F	40	19.68	N		1000	52001200
Clerk II	000104	10011543		52000	52001200		F	40	22.92	N		1000	52001200
Clerk II	000104	10011558		52000	52001200		F	40	22.92	N		1000	52001200
Clerk II	000104	10011563		52000	52001200		F	40	22.92	N		1000	52001200
Clerk I	000103	10011581		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10011583		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10011614		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10011615		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10011626		52000	52001200		F	40	19.68	N		1000	52001200
Clerk II	000104	10011646		52000	52001200		F	40	22.92	N		1000	52001200
Clerk I	000103	10011686		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10011718		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10011739		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10011749		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10011750		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10024113		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10024115		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10024116		52000	52001200		F	40	19.68	N		1000	52001200
Clerk I	000103	10024666		52000	52001600		F	40	19.68	N		1000	52001600
Clerk II	000104	10024671		52000	52001900		F	40	22.92	N		1000	52001900
Clerk II	000104	10024672		52000	52001900		F	40	22.92	N		1000	52001900
Clerk II	000104	10024677		52000	52001900		F	40	22.92	N		1000	52001900
Clerk II	000104	10024679		52000	52001500		F	40	22.92	N		1000	52001500
Clerk III	000105	10024682		52000	52001600		F	40	27.95	N		1000	52001600
Technician II	000368	10025601		52000	52001500		F	40	22.92	N		1000	52001500
Technician II	000368	10025602		52000	52001500		F	40	22.92	N		1000	52001500

Proposed

Position Description	Job Code	Position Number	Company	Business Unit	Home Dept ID Number	Location	Full/ Part	Budgeted Hours	Salary Range Max	FLSA Code	Reports To Position Number	Fund Code	Funding Dept ID Number
Supervisor III			HCT	53000	53001100	DEFAULT					10011462		53001100
Coordinator III			HCT	53000	53001100	DEFAULT					10011462		53001100
Systems Analyst II			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk II			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk II			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk II			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Director III			HCT	53000	53001100	DEFAULT					10011462		53001100
Appls Developer Program I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk IV			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk II			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk II			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk II			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk II			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk I			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk II			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk II			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk II			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk II			HCT	53000	53001100	DEFAULT					10011462		53001100
Clerk III			HCT	53000	53001100	DEFAULT					10011462		53001100
Technician II			HCT	53000	53001100	DEFAULT					10011462		53001100
Technician II			HCT	53000	53001100	DEFAULT					10011462		53001100
	HRRM Use Only												

Spreadsheet For Multiple Positions - Form 3441

Current														Projects or Grants Only			
Position Description	Job Code	Position Number	Company	Business Unit	Home Dept ID Number	Location	Full/Part	Budgeted Hours	Salary Range Max	FLSA Code	Reports To Position Number	Fund Code	Funding Dept ID Number	Business Unit	Business Unit PC	Project/Grant	Activity ID
Director III	000527	10024533	HCT	52000	52001100	DEFAULT	F	40	68.25	1	10024507	1000	52001100				
Administrative Assistant IV	000043	10024662	HCT	52000	52001100	DEFAULT	F	40	30.73	N	10024507	1000	52001100				
Supervisor III	000545	10010365	HCT	52000	52001100	DEFAULT	F	40	32.39	1	10024507	1000	52001100				
Supervisor IV	000546	10010340	HCT	52000	52001100	DEFAULT	F	40	47.10	1	10024507	1000	52001100				
Clerk II	000104	10010631	HCT	52000	52001100	DEFAULT	F	40	22.92	N	10024507	1000	52001100				
Clerk II	000104	10010574	HCT	52000	52001100	DEFAULT	F	40	22.92	N	10024507	1000	52001100				
Administrative Assistant II	000041	10024535	HCT	52000	52001100	DEFAULT	F	40	24.73	N	10024507	1000	52001100				
Clerk II	000104	10024130	HCT	52000	52001100	DEFAULT	F	40	22.92	N	10024507	1000	52001100				
Administrator IV	000500	10010405	HCT	52000	52001100	DEFAULT	F	40	68.25	1	10024507	1000	52001100				
Clerk II	000104	10011546	HCT	52000	52001100	DEFAULT	F	40	22.92	N	10024507	1000	52001100				
Executive Director II	000020	10024507	HCT	52000	52001000	DEFAULT	F	40	137.81	1	10024533	1000	52001000				
Director IV	000528	10010322	HCT	52000	52001000	DEFAULT	F	40	87.84	1	10024507	1000	52001000				
Director IV	000528	10023071	HCT	52000	52001000	DEFAULT	F	40	87.84	1	10024507	1000	52001000				
Technician II	000368	10010408	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Systems Specialist II	000361	10010402	HCT	52000	52001500	DEFAULT	F	40	49.31	N	10024507	1000	52001500				
Technician III	000369	10010413	HCT	52000	52001500	DEFAULT	F	40	36.01	N	10024507	1000	52001500				
Technician III	000369	10010412	HCT	52000	52001500	DEFAULT	F	40	36.01	N	10024507	1000	52001500				
Assistant Administrator I	000505	10010430	HCT	52000	52001500	DEFAULT	F	40	54.46	1	10024507	1000	52001500				
Technician III	000369	10010411	HCT	52000	52001500	DEFAULT	F	40	36.01	N	10024507	1000	52001500				
Systems Analyst II	000353	10010379	HCT	52000	52001500	DEFAULT	F	40	39.95	N	10024507	1000	52001500				
Systems Analyst II	000353	10010382	HCT	52000	52002000	DEFAULT	F	40	39.95	N	10024507	1000	52002000				
Assistant Director II	000509	10011446	HCT	52000	52001300	DEFAULT	F	40	54.46	1	10024507	1000	52001300				
Technician III	000369	10010418	HCT	52000	52001500	DEFAULT	F	40	36.01	N	10024507	1000	52001500				
Technician II	000368	10010493	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Technician II	000368	10010422	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Technician II	000368	10024136	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Clerk III	000105	10010480	HCT	52000	52001300	DEFAULT	F	40	27.95	N	10024507	1000	52001300				
Assistant Administrator I	000505	10024685	HCT	52000	52002000	DEFAULT	F	40	54.46	1	10024507	1000	52002000				
Assistant Administrator I	000505	10024326	HCT	52000	52001400	DEFAULT	F	40	54.46	1	10024507	1000	52001400				
Technician III	000369	10010417	HCT	52000	52001400	DEFAULT	F	40	36.01	N	10024507	1000	52001400				
Assistant Administrator I	000505	10024683	HCT	52000	52001400	DEFAULT	F	40	54.46	1	10024507	1000	52001400				
Supervisor III	000545	10023069	HCT	52000	52001600	DEFAULT	F	40	32.39	1	10024507	1000	52001600				
Supervisor III	000545	10010369	HCT	52000	52001900	DEFAULT	F	40	32.39	1	10024507	1000	52001900				
Clerk II	000104	10010573	HCT	52000	52001400	DEFAULT	F	40	22.92	N	10024507	1000	52001400				
Clerk I	000103	10010627	HCT	52000	52001600	DEFAULT	F	40	19.68	N	10024507	1000	52001600				
Technician III	000369	10010415	HCT	52000	52001500	DEFAULT	F	40	36.01	N	10024507	1000	52001500				
Supervisor III	000545	10010335	HCT	52000	52002000	DEFAULT	F	40	32.39	1	10024507	1000	52002000				
Administrator IV	000500	10024325	HCT	52000	52002000	DEFAULT	F	40	68.25	1	10024507	1000	52002000				
Clerk II	000104	10010644	HCT	52000	52001400	DEFAULT	F	40	22.92	N	10024507	1000	52001400				
Systems Analyst III	000354	10010381	HCT	52000	52002000	DEFAULT	F	40	55.54	N	10024507	1000	52002000				
Clerk III	000105	10010576	HCT	52000	52001300	DEFAULT	F	40	27.95	N	10024507	1000	52001300				
Clerk II	000104	10010483	HCT	52000	52001400	DEFAULT	F	40	22.92	N	10024507	1000	52001400				
Specialist III	000334	10024636	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Technician II	000368	10010444	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Technician II	000368	10010442	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Clerk I	000103	10010636	HCT	52000	52001400	DEFAULT	F	40	19.68	N	10024507	1000	52001400				
Clerk II	000104	10024668	HCT	52000	52001600	DEFAULT	F	40	22.92	N	10024507	1000	52001600				
Technician II	000368	10011707	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Technician II	000368	10011434	HCT	52000	52001500	DEFAULT	F	40	22.92	NN	10024507	1000	52001500				
Systems Analyst I	000352	10023070	HCT	52000	52002000	DEFAULT	F	40	36.01	N	10024507	1000	52002000				
Supervisor V	000547	10024778	HCT	52000	52001900	DEFAULT	F	40	60.96	1	10024507	1000	52001900				
Technician II	000368	10024663	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Technician II	000368	10010409	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Clerk I	000103	10010439	HCT	52000	52001400	DEFAULT	F	40	19.68	N	10024507	1000	52001400				
Clerk II	000104	10010437	HCT	52000	52001400	DEFAULT	F	40	22.92	N	10024507	1000	52001400				
Technician II	000368	10011535	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Systems Analyst II	000353	10010374	HCT	52000	52002000	DEFAULT	F	40	39.95	N	10024507	1000	52002000				
Clerk II	000104	10010645	HCT	52000	52001400	DEFAULT	F	40	22.92	N	10024507	1000	52001400				
Clerk II	000104	10024667	HCT	52000	52001300	DEFAULT	F	40	22.92	N	10024507	1000	52001300				
Specialist III	000334	10024647	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Specialist III	000334	10024658	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Clerk II	000104	10010517	HCT	52000	52001400	DEFAULT	F	40	22.92	N	10024507	1000	52001400				
Technician I	000367	10010421	HCT	52000	52001500	DEFAULT	F	40	19.68	N	10024507	1000	52001500				
Clerk II	000104	10024675	HCT	52000	52001900	DEFAULT	F	40	22.92	N	10024507	1000	52001900				
Clerk II	000104	10024676	HCT	52000	52001900	DEFAULT	F	40	22.92	N	10024507	1000	52001900				
Specialist III	000334	10024650	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Clerk II	000104	10024678	HCT	52000	52001900	DEFAULT	F	40	22.92	N	10024507	1000	52001900				
Clerk I	000103	10024664	HCT	52000	52001400	DEFAULT	F	40	19.68	N	10024507	1000	52001400				
Clerk II	000104	10024670	HCT	52000	52001900	DEFAULT	F	40	22.92	N	10024507	1000	52001900				
Assistant Administrator I	000505	10024324	HCT	52000	52001600	DEFAULT	F	40	54.46	1	10024507	1000	52001600				
Clerk II	000104	10024669	HCT	52000	52001900	DEFAULT	F	40	22.92	N	10024507	1000	52001900				
Systems Analyst II	000353	10010380	HCT	52000	52002000	DEFAULT	F	40	39.95	N	10024507	1000	52002000				
Clerk III	000105	10024681	HCT	52000	52001700	DEFAULT	F	40	27.95	N	10024507	1000	52001700				
Clerk II	000104	10024674	HCT	52000	52001900	DEFAULT	F	40	22.92	N	10024507	1000	52001900				
Supervisor IV	000546	10024632	HCT	52000	52001900	DEFAULT	F	40	47.10	1	10024507	1000	52001900				
Supervisor IV	000546	10024633	HCT	52000	52001900	DEFAULT	F	40	47.10	1	10024507	1000	52001900				
Supervisor IV	000546	10024634	HCT	52000	52001900	DEFAULT	F	40	47.10	1	10024507	1000	52001900				
Clerk II	000104	10010436	HCT	52000	52001600	DEFAULT	F	40	22.92	N	10024507	1000	52001600				
Supervisor IV	000546	10024635	HCT	52000	52001900	DEFAULT	F	40	47.10	1	10024507	1000	52001900				
Systems Analyst II	000353	10010401	HCT	52000	52002000	DEFAULT	F	40	39.95	N	10024507	1000	52002000				
Specialist III	000334	10024652	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Specialist III	000334	10024651	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Specialist III	000334	10024656	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Specialist III	000334	10024661	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Technician II	000368	10010425	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Clerk II	000104	10024133	HCT	52000	52001700	DEFAULT	F	40	22.92	N	10024507	1000	52001700				
Coordinator III	000138	10024134	HCT	52000	52001900	DEFAULT	F	40	36.01	N	10024507	1000	52001900				
Systems Analyst II	000353	10010394	HCT	52000	52001300	DEFAULT	F	40	39.95	N	10024507	1000	52001300				
Clerk II	000104	10010445	HCT	52000	52001700	DEFAULT	F	40	22.92	N	10024507	1000	52001700				
Specialist III	000334	10024653	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Specialist III	000334	10024655	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Specialist III	000334	10024659	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Specialist III	000334	10024660	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Clerk I	000103	10024114	HCT	52000	52001500	DEFAULT	F	40	19.68	N	10024507	1000	52001500				
Specialist III	000334	10024657	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Technician III	000369	10010414	HCT	52000	52001500	DEFAULT	F	40	36.01	N	10024507	1000	52001500				
Clerk II	000104	10024673	HCT	52000	52001900	DEFAULT	F	40	22.92	N	10024507	1000	52001900				
Clerk III	000105	10010435	HCT	52000	52001700	DEFAULT	F	40	27.95	N	10024507	1000	52001700				
Clerk II	000104	10024132	HCT	52000	52001300	DEFAULT	F	40	22.92	N	10024507	1000	52001300				
Clerk I	000103	10010643	HCT	52000	52001400	DEFAULT	F	40	19.68	N	10024507	1000	52001400				
Clerk I	000103	10024665	HCT	52000	52001400	DEFAULT	F	40	19.68	N	10024507	1000	52001400				
Specialist III	000334	10024648	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Administrative Assistant II	000041	10024534	HCT	52000	52001300	DEFAULT	F	40	24.73	N	10024507	1000	52001300				
Supervisor II	000544	10010368	HCT	52000	52001300	DEFAULT	F	40	26.80	1	10024507	1000	52001300				
Technician II	000368	10010424	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Technician II	000368	10010416	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Technician II	000368	10010423	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Technician I	000367	10010420	HCT	52000	52001500	DEFAULT	F	40	19.68	N	10024507	1000	52001500				
Technician II	000368	10010419	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Technician II	000368	10010372	HCT	52000	52001500	DEFAULT	F	40	22.92	N	10024507	1000	52001500				
Specialist III	000334	10024654	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Specialist III	000334	10024649	HCT	52000	52001900	DEFAULT	F	40	39.95	N	10024507	1000	52001900				
Clerk II	000104	10024131	HCT	52000	52001300	DEFAULT	F	40	22.92	N	10024507	1000	52001300				
Clerk II	000104	10010629	HCT	52000	52001600	DEFAULT	F	40	22.92	N	10024507	1000	52001600				
Coordinator III	000138	10011354	HCT	52000	52001900	DEFAULT	F	40	36.01	N	10024507	1000	52001900				
Coordinator III	000138	10011356	HCT	52000	52001900	DEFAULT	F	40	36.01	N	10024507	1000	52001900				
Coordinator III	000138	10011355	HCT	52000	52001900	DEFAULT	F	40	36.01	N	10024507	1000	52001900				
Coordinator III	000138	10024135	HCT	52000	52001900	DEFAULT	F	40	36.01	N	10024507	1000	52001900				
Clerk II	000104	10010526	HCT	52000	52001300	DEFAULT	F	40	22.92	N	10024507	1000	52001300				
Specialist IV	000335	10024779	HCT	52000	52001900	DEFAULT	F	40	48.20	N	10024507	1000	52001900				
Clerk III	000105	10011516	HCT	52000	52001900	DEFAULT	F	40	27.95	N	10024507	1000	52001900				
Assistant Administrator I	000505	10024323	HCT	52000	52001900	DEFAULT	F	40	54.46	1	10024507	1000	52001900				
Assistant Administrator I	000505	10024327	HCT	52000	52002000	DEFAULT	F	40	54.46	1	10024507	1000	52002000				
Director II	000526	10010323	HCT	52000	52001700	DEFAULT	F	40	47.10	1	10024507	1000	52001700				
Assistant Administrator I	000505	10024684	HCT	52000	52002000	DEFAULT	F	40	54.46	1	10024507	1000	52002000				
Systems Analyst I	000352	10010386	HCT	52000	52002000	DEFAULT	F	40	36.01	N	10024507	1000	52002000				
Supervisor III	000545	10023068	HCT	52000	52001600	DEFAULT	F	40	32.39	1	10024507	1000	52001600				
Supervisor IV	000546	10024402	HCT	52000	52001900	DEFAULT	F	40	47.10	1	10024507	1000	52001900				
Analyst IV	000054	10024957	HCT	52000	52000000	DEFAULT	F	40	0.00	N	10024507	2603	52000000	52000			
Analyst IV	000054	10024958	HCT	52000	52000000	DEFAULT	F	40	0.00	N	10024507	2603	52000000	52000			
Clerk II	000104	10024680	HCT	52000	52001700	DEFAULT	F	40	22.92	N	10024507	1000	52001700				

Proposed														Projects or Grants Only			
Position Description	Job Code	Position Number	Company	Business Unit	Home Dept ID Number	Location	Full/Part	Budgeted Hours	Salary Range Max	FLSA Code	Reports To Position Number	Fund Code	Funding Dept ID Number	Business Unit	Business Unit PC	Project/Grant	Activity ID
Director III	000527	10024533	HCT	51500	51550100	DEFAULT	F	40	68.25	1	10024507	1000	51550100				
Administrative Assistant IV	000043	10024662	HCT	51500	51550100	DEFAULT	F	40	30.73	N	10024507	1000	51550100				
Supervisor III	000545	10010365	HCT	51500	51550100	DEFAULT	F	40	32.39	1	10024507	1000	51550100				
Supervisor IV	000546	10010340	HCT	51500	51550100	DEFAULT	F	40	47.10	1	10024507	1000	51550100				
Clerk II	000104	10010631	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Clerk II	000104	10010574	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Administrative Assistant II	000041	10024535	HCT	51500	51550100	DEFAULT	F	40	24.73	N	10024507	1000	51550100				
Clerk II	000104	10024130	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Administrator IV	000500	10010405	HCT	51500	51550100	DEFAULT	F	40	68.25	1	10024507	1000	51550100				
Clerk II	000104	10011546	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Executive Director II	000020	10024507	HCT	51500	51550100	DEFAULT	F	40	137.81	1	10024533	1000	51550100				
Director IV	000528	10010322	HCT	51500	51550100	DEFAULT	F	40	87.84	1	10024507	1000	51550100				
Director IV	000528	10023071	HCT	51500	51550100	DEFAULT	F	40	87.84	1	10024507	1000	51550100				
Technician II	000368	10010408	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Systems Specialist II	000361	10010402	HCT	51500	51550100	DEFAULT	F	40	49.31	N	10024507	1000	51550100				
Technician III	000369	10010413	HCT	51500	51550100	DEFAULT	F	40	36.01	N	10024507	1000	51550100				
Technician III	000369	10010412	HCT	51500	51550100	DEFAULT	F	40	36.01	N	10024507	1000	51550100				
Assistant Administrator I	000505	10010430	HCT	51500	51550100	DEFAULT	F	40	54.46	1	10024507	1000	51550100				
Technician III	000369	10010411	HCT	51500	51550100	DEFAULT	F	40	36.01	N	10024507	1000	51550100				
Systems Analyst II	000353	10010379	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
Systems Analyst II	000353	10010382	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
Assistant Director II	000509	10011446	HCT	51500	51550100	DEFAULT	F	40	54.46	1	10024507	1000	51550100				
Technician III	000369	10010418	HCT	51500	51550100	DEFAULT	F	40	36.01	N	10024507	1000	51550100				
Technician II	000368	10010493	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
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Technician II	000368	10024136	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Clerk III	000105	10010480	HCT	51500	51550100	DEFAULT	F	40	27.95	N	10024507	1000	51550100				
Assistant Administrator I	000505	10024685	HCT	51500	51550100	DEFAULT	F	40	54.46	1	10024507	1000	51550100				
Assistant Administrator I	000505	10024326	HCT	51500	51550100	DEFAULT	F	40	54.46	1	10024507	1000	51550100				
Technician III	000369	10010417	HCT	51500	51550100	DEFAULT	F	40	36.01	N	10024507	1000	51550100				
Assistant Administrator I	000505	10024683	HCT	51500	51550100	DEFAULT	F	40	54.46	1	10024507	1000	51550100				
Supervisor III	000545	10023069	HCT	51500	51550100	DEFAULT	F	40	32.39	1	10024507	1000	51550100				
Supervisor III	000545	10010369	HCT	51500	51550100	DEFAULT	F	40	32.39	1	10024507	1000	51550100				
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Clerk I	000103	10010627	HCT	51500	51550100	DEFAULT	F	40	19.68	N	10024507	1000	51550100				
Technician III	000369	10010415	HCT	51500	51550100	DEFAULT	F	40	36.01	N	10024507	1000	51550100				
Supervisor III	000545	10010335	HCT	51500	51550100	DEFAULT	F	40	32.39	1	10024507	1000	51550100				
Administrator IV	000500	10024325	HCT	51500	51550100	DEFAULT	F	40	68.25	1	10024507	1000	51550100				
Clerk II	000104	10010644	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Systems Analyst III	000354	10010381	HCT	51500	51550100	DEFAULT	F	40	55.54	N	10024507	1000	51550100				
Clerk III	000105	10010576	HCT	51500	51550100	DEFAULT	F	40	27.95	N	10024507	1000	51550100				
Clerk II	000104	10010483	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Specialist III	000334	10024636	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
Technician II	000368	10010444	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Technician II	000368	10010442	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
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Technician II	000368	10011707	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Technician II	000368	10011434	HCT	51500	51550100	DEFAULT	F	40	22.92	NN	10024507	1000	51550100				
Systems Analyst I	000352	10023070	HCT	51500	51550100	DEFAULT	F	40	36.01	N	10024507	1000	51550100				
Supervisor V	000547	10024778	HCT	51500	51550100	DEFAULT	F	40	60.96	1	10024507	1000	51550100				
Technician II	000368	10024663	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Technician II	000368	10010409	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Clerk I	000103	10010439	HCT	51500	51550100	DEFAULT	F	40	19.68	N	10024507	1000	51550100				
Clerk II	000104	10010437	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Technician II	000368	10011535	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Systems Analyst II	000353	10010374	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
Clerk II	000104	10010645	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Clerk II	000104	10024667	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Specialist III	000334	10024647	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
Specialist III	000334	10024658	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
Clerk II	000104	10010517	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Technician I	000367	10010421	HCT	51500	51550100	DEFAULT	F	40	19.68	N	10024507	1000	51550100				
Clerk II	000104	10024675	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
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Specialist III	000334	10024650	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
Clerk II	000104	10024678	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Clerk I	000103	10024664	HCT	51500	51550100	DEFAULT	F	40	19.68	N	10024507	1000	51550100				
Clerk II	000104	10024670	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Assistant Administrator I	000505	10024324	HCT	51500	51550100	DEFAULT	F	40	54.46	1	10024507	1000	51550100				
Clerk II	000104	10024669	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Systems Analyst II	000353	10010380	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
Clerk III	000105	10024681	HCT	51500	51550100	DEFAULT	F	40	27.95	N	10024507	1000	51550100				
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Supervisor IV	000546	10024632	HCT	51500	51550100	DEFAULT	F	40	47.10	1	10024507	1000	51550100				
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Supervisor IV	000546	10024635	HCT	51500	51550100	DEFAULT	F	40	47.10	1	10024507	1000	51550100				
Systems Analyst II	000353	10010401	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
Specialist III	000334	10024652	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
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Clerk II	000104	10024133	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Coordinator III	000138	10024134	HCT	51500	51550100	DEFAULT	F	40	36.01	N	10024507	1000	51550100				
Systems Analyst II	000353	10010394	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
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Specialist III	000334	10024653	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
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Specialist III	000334	10024659	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
Specialist III	000334	10024660	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
Clerk I	000103	10024114	HCT	51500	51550100	DEFAULT	F	40	19.68	N	10024507	1000	51550100				
Specialist III	000334	10024657	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
Technician III	000369	10010414	HCT	51500	51550100	DEFAULT	F	40	36.01	N	10024507	1000	51550100				
Clerk II	000104	10024673	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
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Specialist III	000334	10024648	HCT	51500	51550100	DEFAULT	F	40	39.95	N	10024507	1000	51550100				
Administrative Assistant II	000041	10024534	HCT	51500	51550100	DEFAULT	F	40	24.73	N	10024507	1000	51550100				
Supervisor II	000544	10010368	HCT	51500	51550100	DEFAULT	F	40	26.80	1	10024507	1000	51550100				
Technician II	000368	10010424	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
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Technician II	000368	10010423	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
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Clerk II	000104	10010629	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Coordinator III	000138	10011354	HCT	51500	51550100	DEFAULT	F	40	36.01	N	10024507	1000	51550100				
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Coordinator III	000138	10011355	HCT	51500	51550100	DEFAULT	F	40	36.01	N	10024507	1000	51550100				
Coordinator III	000138	10024135	HCT	51500	51550100	DEFAULT	F	40	36.01	N	10024507	1000	51550100				
Clerk II	000104	10010526	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				
Specialist IV	000335	10024779	HCT	51500	51550100	DEFAULT	F	40	48.20	N	10024507	1000	51550100				
Clerk III	000105	10011516	HCT	51500	51550100	DEFAULT	F	40	27.95	N	10024507	1000	51550100				
Assistant Administrator I	000505	10024323	HCT	51500	51550100	DEFAULT	F	40	54.46	1	10024507	1000	51550100				
Assistant Administrator I	000505	10024327	HCT	51500	51550100	DEFAULT	F	40	54.46	1	10024507	1000	51550100				
Director II	000526	10010323	HCT	51500	51550100	DEFAULT	F	40	47.10	1	10024507	1000	51550100				
Assistant Administrator I	000505	10024684	HCT	51500	51550100	DEFAULT	F	40	54.46	1	10024507	1000	51550100				
Systems Analyst I	000352	10010386	HCT	51500	51550100	DEFAULT	F	40	36.01	N	10024507	1000	51550100				
Supervisor III	000545	10023068	HCT	51500	51550100	DEFAULT	F	40	32.39	1	10024507	1000	51550100				
Supervisor IV	000546	10024402	HCT	51500	51550100	DEFAULT	F	40	47.10	1	10024507	1000	51550100				
Analyst IV	000054	10024957	HCT	51500	51550100	DEFAULT	F	40	0.00	N	10024507	1000	51550100	51500			
Analyst IV	000054	10024958	HCT	51500	51550100	DEFAULT	F	40	0.00	N	10024507	1000	51550100	51500			
Clerk II	000104	10024680	HCT	51500	51550100	DEFAULT	F	40	22.92	N	10024507	1000	51550100				

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Filing Description: Brief of Appellee Clifford Tatum
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