

**IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI**

ELIZABETH DE LAPEROUSE)

and)

ERIC H. BRONNER)

Plaintiff,)

v.)

Case No.:)

REPRESENTATIVE DEAN PLOCHER)

in his official capacity as)

Speaker of the House,)

201 W. Capitol Avenue, Rm. 308)

Jefferson City, MO 65101)

SENATOR CALEB ROWDEN)

in his official capacity as)

Senate President Pro Tem,)

201 W. Capitol Ave, Rm. 326)

Jefferson City, MO 65101)

SENATOR BEN BROWN)

in his official capacity as)

State Senator,)

201 W. Capitol Ave, Rm. 226)

Jefferson City, MO 65101)

and)

SECRETARY JOHN R. ASHCROFT,)

in his official capacity as)

Missouri Secretary of State)

600 W. Main St.)

Jefferson City, MO 65101)

Defendants.)

PETITION FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

On July 1, 2024, the Secretary of State certified the ballot title and fair ballot language statutes for SJR 78, a proposed constitutional amendment submitted by the General Assembly.

The General Assembly drafted the summary statement for SJR 78. That summary statement is not a true and impartial statement of the proposed measure. Among other deficiencies, the summary statement leads voters to believe that the law is being changed to prohibit non-citizens from voting, when in fact, the law in Missouri has always been (and still is) that non-citizens cannot vote in Missouri elections. In addition, the Secretary of State's fair ballot language does not fairly or accurately describe the measure. It mirrors the same unfair and inaccurate language as the summary statement.

The erroneous and biased summary statement and fair ballot language should be vacated and replaced with correct language that provides voters with true and impartial information about the amendment proposed by SJR 78.

PARTIES

1. Plaintiff Elizabeth de Laperouse is a resident of St. Louis, citizen of Missouri, and registered voter.
2. Plaintiff Eric H. Bronner is a resident of St. Louis, citizen of Missouri, and registered voter.
3. Defendant John R. Ashcroft is the Secretary of State of Missouri.
4. Defendant Dean Plocher is the State Representative for District 89 and the Speaker of the House. *See* § 116.190, RSMo.
5. Defendant Caleb Rowden is the State Senator for District 19 and the President Pro Tem of the Senate. *See* § 116.190, RSMo.
6. Defendant Ben Brown is the State Senator for District 16 and the sponsor of Senate Joint Resolution 78. *See* § 116.190, RSMo.

JURISDICTION AND VENUE

7. Any citizen of the state of Missouri may challenge an official ballot title.
8. The Circuit Court of Cole County is the exclusive venue for this action.

9. This action is brought within ten days of the certification of the official ballot title.

FACTUAL ALLEGATIONS

10. Senator Ben Brown filed Senate Joint Resolution 78 ("SJR 78") on December 1, 2023.

11. On May 17, 2024, the General Assembly truly agreed to and finally passed SJR 78.

12. A true and correct copy of SJR 78 is attached as **Exhibit A**.

13. On May 30, 2024, the Speaker of the House of Representatives and the President Pro Tem of the Senate signed SJR 78.

14. On the same day, SJR 78 was delivered to the Secretary of State.

15. The General Assembly adopted a summary statement for SJR 78, but did not draft a fiscal note.

16. The summary statement for SJR 78 is:

Shall the Missouri Constitution be amended to:

- Make the Constitution consistent with state law by only allowing citizens of the United States to vote;
- Prohibit the ranking of candidates by limiting voters to a single vote per candidate or issue; and
- Require the plurality winner of a political party primary to be the single candidate at a general election?

17. The Auditor prepared a fiscal note and fiscal note summary for SJR 78.

18. A true and correct copy of the fiscal note and fiscal note summary is attached as **Exhibit B**.

19. The Secretary of State certified the official ballot title for SJR 78 on July 1, 2024.

20. A true and correct copy of the certification of official ballot title is attached as **Exhibit C**.

21. The Secretary of State also prepared and certified Fair Ballot Language for SJR 78 as follows:

A “yes” vote will amend the Missouri Constitution to specify that only United States citizens are entitled to vote, voters shall only have a single vote for each candidate or issue, restrict any type of ranking of candidates for a particular office and require the person receiving the greatest number of votes at the primary election as a party candidate for an office shall be the only candidate for that party at the general election, and require the person receiving the greatest number of votes for each office at the general election shall be declared the winner. This provision does not apply to any nonpartisan municipal election held in a city that had an ordinance in effect as of November 5, 2024, that requires a preliminary election at which more than one candidate advances to a subsequent election.

A “no” vote will not amend the Missouri Constitution to make any changes to how voters vote in primary and general elections.

If passed, this measure will have no impact on taxes.

Count I- The First Bullet Point of the Summary Statement is Unfair and Insufficient

22. Plaintiffs incorporate the preceding paragraphs by reference.

23. The first bullet point of the summary statement claims that SJR 78 would make the Constitution consistent with state law by only allowing citizens of the United States to vote.

24. This claim is unfair and insufficient for several reasons including:

- a. it implies that SJR 78 changes the law.
- b. it misrepresents the current state of Missouri law.
- c. SJR 78 does not change the law because it is already the law that non-citizens cannot vote.

25. In addition, bullet point one is incorrect and unintelligible.

26. Bullet point one implies that the Constitution of the state of Missouri is not state law, which is incorrect.

27. Bullet point one also implies that the Constitution, which is state law, is somehow inconsistent with itself. This is unintelligible and confusing for voters.

Count II- The Second Bullet Point of the Summary Statement is Unfair and Insufficient

28. Plaintiffs incorporate by the preceding paragraphs by reference.

29. The second bullet point of the summary statement claims that SJR 78 would prohibit the ranking of candidates by limiting voters to a single vote per candidate or issue.

30. This claim is unfair and insufficient because it incorrectly summarizes what SJR 78 does.

31. SJR 78 does not prohibit ranking of candidates through limiting voters to a single vote per candidate or issue.

32. SJR 78 also does not limit voters to a single vote per candidate.

33. Voters are limited to a single vote per office.

34. This bullet point is not only incorrect, but highly confusing to voters.

35. Candidates and offices are distinct and the ballot title creates confusion for voters about what they are actually voting to approve or disapprove.

36. Further, bullet point two is incorrect because it implies that any change mandated by SJR 78 will uniformly be the law across the state of Missouri. This is not true.

37. SJR 78 exempts St. Louis City from the requirement that voters are limited to a single vote per office.

38. Finally, bullet point two is unfair and insufficient because it implies that SJR 78 changes the law, whereas, state law, as it stands now, only allows voters a single vote per candidate or issue.

Count III- The Third Bullet Point of the Summary Statement is Unfair and Insufficient

39. Plaintiffs incorporate by the preceding paragraphs by reference.

40. The third bullet point of the summary statement claims that SJR 78 would require the plurality winner of a political party primary to be the single candidate at a general election.

41. This claim is unfair and insufficient because it incorrectly describes how many candidates will stand for election a general election.

42. SJR 78 does not mandate that there be a single candidate at a general election.

43. Under SJR 78, there may be candidates from multiple political parties who stand for election at a general election.

44. Bullet point three is incorrect because it implies that SJR 78 would change the law everywhere in Missouri. SJR 78, however, exempts St. Louis City from the requirement described in bullet point three.

45. This bullet point is also unfair and insufficient because it implies that there is a change in the law, but the law now allows only one candidate per political party to stand for election at the general election.

Count IV- The General Assembly Did Not Comply with the Mandatory Requirement that it Adopt a Summary that is a True and Impartial Statement of the Purposes of the Proposed Measure

46. Plaintiffs incorporate the preceding paragraphs by reference.

47. The general assembly may draft and adopt an official summary statement for any legislative ballot measure.

48. Such summary statement must be a true and impartial statement of the purposes of the proposed measure.

49. The language of the summary statement may be neither intentionally argumentative or likely to create prejudice for or against the proposed measure.

50. This is a more exacting standard than required for summary statements of citizen-led initiative petitions.

51. The law allows the proponent of a legislatively enacted ballot measure (the general assembly) to write its own summary statement. A citizen cannot write the summary statement for his or her own ballot measure.

52. The proponent of a ballot measure is inherently biased towards their own ballot measure.

53. It only makes sense to hold a legislatively adopted summary statement to a higher standard because the general assembly presumably will write a summary statement that is biased towards the adoption of the measure.

54. The general assembly's summary statement for SJR 78 is neither true nor impartial.

55. It uses language that is intentionally argumentative and likely to create prejudice for the proposed measure.

56. The summary statement also incorrectly describes what SJR 78 does.

COUNT V- THE FAIR BALLOT LANGUAGE IS UNFAIR AND INACCURATE

57. Plaintiffs incorporate the preceding paragraphs by reference.

58. The fair ballot language claims a "yes" vote will "amend the Missouri Constitution to specify that only United States citizens are entitled to vote."

59. This statement is false and unfair because it implies that SJR 78 would change the law about non-citizens voting.

60. It is the law now (in the Missouri Constitution and state statute) that only citizens may vote in Missouri elections.

PRAYER FOR RELIEF

Plaintiffs respectfully request a different summary statement portion of the official ballot title and an Order from this Court:

- a. Vacating the summary statement adopted by the General Assembly;

- b. Certifying a different summary statement portion of the official ballot title to the Secretary of State;
- c. Vacating the fair ballot language statements drafted by the Secretary of State;
- d. Requiring different fair ballot language statements;
- e. Declaring that legislatively drafted summary statements are to be held to a higher, more exacting standard; and
- f. For any other relief the court deems just and proper.

Respectfully submitted,

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