

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

PEOPLE NOT POLITICIANS *et al.*,

Plaintiffs,

v.

MISSOURI SECRETARY OF STATE
DENNY HOSKINS,

Defendant.

Case No. 25AC-CC07128

PLAINTIFFS' TRIAL BRIEF

Plaintiffs are the proponent of a referendum petition and the campaign committee supporting that petition. Immediately after the Missouri General Assembly enacted House Bill 1 in their recent “extraordinary session,” Richard von Glahn undertook to propose a referendum on the measure. As required by Section 116.332 RSMo, von Glahn submitted a referendum petition sample sheet to the Secretary of State. That sample sheet complied with *all* requirements of Section 116.030, RSMo. Despite this, the Secretary of State, after a fifteen-day delay, rejected the form of the referendum petition sample sheet for a reason unrelated to the form of the sample sheet. He said von Glahn could not receive approval because the Governor had not signed House Bill 1. But nothing in § 116.030 requires that and the Secretary’s review is limited to the form issues of the statute. Therefore, that decision was illegal at best and capricious at worst. § 536.150 RSMo.

There can be little doubt that the Secretary’s rejection as to form interfered with and limited the amount of time Plaintiffs have to gather signatures in support of the

referendum petition—the constitution gives them only 90 days from adjournment of the session. But the Secretary’s job is purely ministerial, and he had a clear duty to approve the forms, which complied with the statutes in all respects. *See Vowell v. Kander*, 451 S.W.3d 267, 274 (Mo. App. 2014)(cleaned up)(“[T]he Missouri Supreme Court has recognized that the vast majority of the duties assumed by the Secretary of State are ministerial.”). If the Secretary does not like the substance of the referendum, he is free to campaign against it. He is not free, however, to use his office to subvert the people’s right to petition their government by shortening the 90-day window mandated by the Missouri Constitution for referenda asking to support or reject an act of the General Assembly.

Factual Background

The Missouri General Assembly truly agreed and finally passed House Bill 1 on September 12, 2025. Jt. Stip. ¶ 7. With this legislation the General Assembly redrew Missouri’s congressional districts. Jt. Stip. Ex. 2. On that same day, Richard von Glahn submitted two referendum petition sample sheets to the Secretary. Jt. Stip. ¶ 10, Ex. 4, Ex. 5. These referendums propose to refer the approval or rejection of House Bill 1 to the voters at the November 2026 general election pursuant to Article III, Sections 49 and 52(a) of the Missouri Constitution. On that same day, the Secretary of State’s Office sent a letter to Richard von Glahn regarding said sample sheets (2026-R001 and 2026-R002). Jt. Stip. ¶ 13, Ex. 6. That letter asserted that the Secretary could not accept and process the sample sheets because the Governor had not signed House Bill 1. Jt. Stip. Ex. 6. Two days later, the Secretary sent another letter purporting to supersede the September 12

letter, indicating that the Secretary would in fact follow the process outlined in Section 116.332, RSMo. Jt. Stip. ¶ 15, Ex. 7.

On September 15, 2025, von Glahn submitted a third referendum sample sheet to the Secretary of State's office to correct a possible clerical error in the Friday filings.¹ Jt. Stip. ¶ 17, Ex. 8. Following that submission the Secretary of State sent a third letter to von Glahn. Jt. Stip. ¶ 19, Ex. 9. Undersigned counsel sent a letter in response the next day. Jt. Stip. ¶ 21, Ex. 10.

On September 26, 2025, the Secretary of State rejected von Glahn's referendum petition sample sheets (2026-R001, 2026-R002, and 2026-R003) as to form. Jt. Stip. ¶ 24, Ex. 11. The Secretary identified no problems with the actual form of the sample sheets. Rather, relying on the Attorney General's analysis, stated that he could not approve the referendum sample sheets as to form because the Governor had not signed House Bill 1. Jt. Stip. Ex. 11. Two days later, on September 28, 2025, Governor Mike Kehoe signed House Bill 1. Jt. Stip. ¶ 26.

On September 29, 2025, von Glahn submitted a fourth referendum petition sample sheet (2026-R004) to the Secretary of State's Office. Jt. Stip. ¶ 27, Ex. 12. After a review of the sample sheet, on October 14, 2025, the Secretary of State approved the fourth referendum petition sample sheet as to form (2026-R004). Jt. Stip. ¶ 30, Ex. 13. In between submitting the sheets that should have been approved on September 12, 2025, and the final approval on October 14, 2025, the Plaintiffs gathered more than 90,000

¹ The Secretary is supposed to disregard "technical or merely clerical errors" in these petition sheets. §116.030, RSMo.

signatures. Jt. Stip. ¶¶ 29 and 23. The Secretary's position is that those signatures will not count—in essence pre-disproving those signatures if they are submitted. Jt. Stip. Ex. 14.

Argument

This lawsuit poses two questions: (1) whether the Secretary is authorized to reject the form of a referendum petition sample sheet because the Governor had not yet decided to sign the bill upon which the referendum is being requested at the time when the sample sheet was submitted to the Secretary; and (2) whether a proponent of a referendum petition is required to wait for an approval as to form in order to gather signatures in support of a referendum petition. The answer to both questions is “no”.

I. The Secretary of State's Review and Approval or Rejection As to Form of a Referendum Petition Sample Sheet is Limited to What is Described in Section 116.030, RSMo.

The Secretary of State purported to reject Plaintiffs' referendum sample sheets because the Governor had not signed House Bill 1 when Plaintiffs submitted the referendum sample sheets. Jt. Stip. Ex. 11. But nothing in the statute governing the form of the sample sheets even references a gubernatorial signature. § 116.030 RSMo. This is not a matter of form and the Secretary was not authorized to reject Plaintiffs' sample sheets for this reason. We've been here before. The Court of Appeals has already admonished the Secretary of State's Office for rejecting the form of referendum sample sheets for reasons other than form. *See ACLU v. Ashcroft*, 577 S.W.3d 881 (Mo.

App.2019). Secretary Hoskins ignored this precedent. The Secretary should “know his role.”² Because he doesn’t, this Court must intervene to set the matter straight.

In *ACLU v. Ashcroft*, 577 S.W.3d 881 (Mo. App.2019), the Court of Appeals addressed whether the Secretary of State was authorized to reject the form of a referendum petition sample sheet because the bill upon which the referendum was requested contained an emergency clause. The Court concluded that the Secretary’s review as to form of a referendum petition sample sheet does not extend “to matters of substance, including, constitutional compliance.” *ACLU*, 577 S.W.3d at 891. “Neither section 116.030 nor the dictionary definition of ‘form’ permits the conclusion that review of a sample sheet for ‘sufficiency as to form’ pursuant to section 116.332 extends to matters of substance, including constitutional compliance.” *Id.*

But that’s exactly what Secretary Hoskins did here. The Secretary of State rejected the form of Plaintiffs’ referendum petition sample sheet because the bill upon which the referendum was being requested had not yet been signed by the Governor. It. Stip. Ex. 11. That is a matter of substance—whether the Plaintiffs may lawfully conduct a referendum at all— not the form of their paperwork.

Although “sufficiency as to form” is not defined in statute, “section 116.030 effectively serves as the definition for the phrase, as it addresses the required form of a referendum petition sample sheet, and includes an exemplar form.” *Id.* at 890. Section

² “Know your role” was a catch phrase used extensively by Dwayne “the Rock” Johnson and later borrowed by Kansas City Chiefs’ tight end Travis Kelce and directed toward Cincinnati Mayor Aftab Pureval after the Kansas City Chiefs defeated the Cincinnati Bengals in the 2023 AFC championship.

116.030 “provides an exemplar form that uses a prescribed and set order of words, with blank spaces for insertion of required or requested information; and that directs that a submitted sample sheet shall be sufficient if its form is substantially in compliance with the exemplar.” *Id.* at 891 (cleaned up).

It was. Plaintiffs’ referendum petition sample sheets comply with the form as outlined in Section 116.030. In fact, the Secretary admitted as much. On September 15, 2025, von Glahn submitted a referendum sample sheet. Jt. Stip. ¶ 17, Ex. 8. This was rejected “as to form” on September 26, 2025. Jt. Stip. ¶ 24, Ex. 11. After Governor Kehoe signed House Bill 1, Plaintiff von Glahn submitted the *identical* referendum petition sample sheet on September 29, 2025. Jt. Stip. ¶ 27, Ex. 12. Thereafter, the Secretary approved that referendum petition sample sheet as to form. Jt. Stip. ¶ 30, Ex. 13. It is the same form. There was never a form issue with the September 12 or September 15 referendum petition sample sheets, and the Secretary impermissibly and unlawfully rejected those sample sheets as to form.

II. A Referendum Petition Sample Sheet Can Be Submitted to the Secretary of State Prior to the Governor Signing the Bill.

Although it is not an issue for the Secretary at this stage, the Secretary is wrong on the substantive law. The Secretary purported to reject Plaintiffs’ referendum petition sample sheet because the Governor had not signed House Bill 1 prior to Plaintiffs’ submitting the referendum petition sample sheet. That’s wrong.

The people of the state of Missouri reserved to themselves the “power to approve or reject by referendum *any act of the general assembly.*” Mo. Const. Art. III, § 49

(emphasis added). This is in contrast to the power to “propose and enact or reject *laws and amendments* to the constitution by the initiative, independent of the general assembly[.]” *Id.* (emphasis added). Since the Constitution uses different words to describe what voters consider with initiatives and referendums, it is the case that the framers of the Constitution “intended the terms to have different meaning and effect.” *ACLU*, 577 S.W.3d at 892.

This is reinforced when looking at the other provision governing referenda—Article III, Section 52(a). That section authorizes a referendum to be had on a “bill,” which is another word for “act of the general assembly.” See Mo. Const. Art. III, § 52(a)(“Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the general assembly which passed the bill on which the referendum is demanded.”). In fact, if you look at the top of House Bill 1, it says “act of the general assembly.” Jt. Stip. Ex. 2. The Constitution authorizes and allows the people to begin to exercise their referendum rights prior to the governor signing legislation.

Any other conclusion is antithetical to how to interpret the Constitution.

“Constitutional provisions are read in harmony with all related provisions.” *Committee for Educational Equality v. State*, 294 S.W. 3d 477, 488 (Mo. banc 2009)(cleaned up). Article III, Section 52(a) guarantees at least 90 days for a referendum proponent to gather signatures. Article III, Section 31, depending on the circumstance, gives the governor either forty-five or fifteen days to sign or veto legislation. These two provisions must be construed together to get to the inevitable conclusion that the timing of when the

Governor signs a bill (if he signs at all) does not impact the 90 days to gather signatures for a referendum petition. If not harmonized, Article III, Section 31 allows the governor (as was attempted here) to interfere with up to half of the time a proponent is constitutionally guaranteed for signature gathering. That can't be the case.

III. The Constitution and State Statutes Do Not Require A Referendum Sample Sheet Be Approved as to Form Prior to Gathering Signatures.

Once the Secretary finally approved Plaintiffs' referendum petition sample sheet as to form, he put out a press release making clear that his position is that no signature gathered prior to his approval as to form is valid. *Jt. Stip. Ex. 14* ("Under Missouri law, no signatures gathered before this approval date are valid, and doing so constitutes a misdemeanor election offense."). That is not what the law says. Citizens do not require the approval of the Secretary of State to exercise their referendum right. Nothing in the Constitution nor statute requires a proponent to wait for approval as to form to gather signatures and there is nothing that deems any signature collected prior to approval as to form invalid. *See United Labor Committee of Missouri v. Kirkpatrick*, 572 S.W.2d 449, 456 (Mo. banc 1978)(cleaned up)("Genuine signatures of legal voters constitute the vitalizing element of a petition, and all else is mere form and evidence.").

Instead, the statutes lay out the form and "if this form is followed substantially and the requirements of section 116.050 [mandating a page size and that the measure be attached] and section 116.080 [related to a circulator oath] are met, it shall be sufficient, disregarding clerical and merely technical errors." § 116.030 RSMo.

A. The Constitution requires that proponents of a referendum have *at least* ninety days to qualify the referendum for the ballot.

The plain language of the statutes answers any questions here. But a review of the Constitution, and application of the doctrine of “constitutional avoidance, reinforces that answer. “It is a well accepted canon of statutory construction that if one interpretation of a statute results in the statute being constitutional while another interpretation would cause it to be unconstitutional, the constitutional interpretation is presumed to have been intended.” *Blaske v. Smith & Entzeroth, Inc.*, 821 S.W.2d 822, 833-39 (Mo. banc 1991).

The Constitution requires that “[r]eferendum petitions [are] filed with the secretary of state not more than ninety days after the final adjournment of the session of the general assembly which passed the bill on which the referendum is demanded.” Mo. Const. Art. III, §52(a). This is easy enough to understand. The General Assembly is free to pass legislation at any time during a legislative session. Depending on when the General Assembly passes the legislation, a proponent of a referendum may have more than ninety days to gather signatures. This is what happened when the General Assembly passed so called “Right to Work” legislation in 2018. The General Assembly passed that legislation in February of the regular session and did not adjourn until May.³ Therefore, the proponents of the referendum petition on “Right-to-Work” had the entire time during

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https://www.senate.mo.gov/17info/BTS_Web/Actions.aspx?SessionType=R&BillID=57095277; Mo. Const. art. III, §20(a).

the legislative session *and* ninety days after the adjournment of the session to collect signatures.

The situation is different here. The General Assembly passed House Bill 1 during a special session. That session was adjourned on the same day the legislature truly agreed and finally passed House Bill 1. Therefore, any prospective referendum proponent only has 90 days to gather signatures on House Bill 1, counting from the day the general assembly adjourned. Because the Constitution guarantees at least ninety days to gather signatures, this time cannot be otherwise shortened. If a statute does so, it is unconstitutional. *See No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 492 (Mo. banc 2022)(“Sections 116.180 and 116.334.2's prohibition on collecting...signatures prior to...certification of the official ballot title interferes with and impedes the constitutional right of referendum reserved to the people by unreasonably shortening the timeframe for petition circulation.”).

Regardless of whether the General Assembly passes legislation at the beginning of the legislative session or on the day of adjournment, the plain language of Section 52(a) entitles proponents of a referendum petition *at least* ninety days to gather signatures to qualify the referendum for the ballot.

B. The Statute Only Requires that A Sample Sheet Be Submitted Before

Signature Gathering Can Commence

There is no reason to find a statute unconstitutional here. Section 116.332, RSMo requires that “[b]efore a...referendum petition may be circulated for signatures, a sample sheet must be submitted to the secretary of state in the form in which it will be

circulated.” Plaintiff did just that, completing the constitutional and statutory requirements to begin signature collection.

The plain language of Section 116.332 directs a referendum petition proponent to submit a sample sheet to the Secretary, but there is no concomitant direction to wait to gather signatures until the Secretary issues his approval as to form of the sample sheet.

“Words used in constitutional provisions are interpreted to give effect to their plain, ordinary, and natural meaning.” *See Faatz v. Ashcroft*, 685 S.W.3d 388, 400 (Mo. banc 2024). Interpreting Section 116.332 to require more than turning in a sample sheet prior to circulation is contrary to the plain, ordinary, and natural meaning of the words in that section. That reading of the statute requires adding words to the statute, but courts may not “add to a statute words the legislature chose to omit.” *See Treasurer of State v. Penney*, 710 S.W.3d 498, 500 (Mo banc. 2025).

Even if the Secretary’s position were found in the language of the statute (it’s not), the Constitution does not allow an interpretation of 116.332 that would let the Secretary delay signature gathering by up to 15 days (a sixth of the total time to gather signatures). *See ACLU*, 577 S.W.3d at 890 (“[D]elays in the State’s performance of its obligations in the pre-signature collection stage of the referendum process can have the practical effect of foreclosing meaningful exercise of the power of referendum.” To the extent that 116.332 is ambiguous (it is not), the Court should interpret 116.332 as consistent with the Constitution’s mandate that proponents of a referendum have *at least* 90 days to gather signatures. *See State ex rel. Parson v. Walker*, 690 S.W.3d 477, 485 (Mo. banc

2024)(cleaned up) (“This court avoids interpreting a statute in a way that would call into question its constitutional validity.”).

IV. Conclusion

The Secretary impermissibly and unlawfully rejected Plaintiffs’ referendum sample sheets. Pursuant to its authority under § 536.150, the Court should deem the sample sheet approved as to form as of September 15, 2025 and prohibit the Secretary from refusing to count any signatures collected on the forms von Glahn submitted on September 15 based solely on the date on which the signature was collected.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed electronically via the Missouri Case.net e-filing system, which notified all counsel of record on this 30th day of October, 2025.

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