

IN THE
SUPREME COURT OF VIRGINIA

RECORD NO. 260127

DON SCOTT, in his official capacity as
Speaker of the House of Delegates, *et al.*,

Appellants,

v.

RYAN T. McDOUGLE, Virginia State Senator and Legislative
Commissioner for the Virginia Redistricting Commission, *et al.*,

Appellees.

OPENING BRIEF OF APPELLANTS DON SCOTT,
SCOTT SUROVELL, AND L. LOUISE LUCAS

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INTRODUCTION

This case concerns the process by which the people of Virginia amend the Commonwealth's Constitution. The circuit court halted that process by blocking a proposed amendment that has twice passed the General Assembly and has been submitted to the voters for ratification. That decision was flawed at every step.

The Virginia Constitution prescribes a straightforward rule. Article XII first requires that the General Assembly approve a proposed amendment; and then it requires that it approve the amendment again after a general election of members of the House of Delegates; and finally it requires that the voters of the Commonwealth give their approval. The General Assembly complied with those steps. The General Assembly approved the proposal in October 2025, a general election intervened in November 2025, and a newly constituted General Assembly approved the proposal again in January 2026. The proposed amendment now rests with the people of the Commonwealth. That is all the Virginia Constitution requires.

The circuit court nevertheless invalidated the amendment by imposing requirements the Constitution does not contain. It enforced

internal legislative rules as though they were constitutional limits, it incorrectly treated the beginning of early voting as the constitutional “election,” and it elevated a repealed statutory publication provision into a prerequisite for constitutional validity. Each ruling rests on the same error: each assumes a judicial power the Virginia Constitution does not confer.

The Virginia Constitution assigns the amendment process to the political branches and, ultimately, to the people. Courts may enforce the Virginia Constitution’s requirements, but they may not revise them or add new ones. Because the General Assembly complied with Article XII, the proposed amendment was validly advanced, and the judgment below should be reversed.

STATEMENT OF THE CASE

A. Constitutional Framework.

Article XII, Section 1 of the Virginia Constitution establishes the procedural framework for proposing and adopting an amendment. Va. Const., art. XII, § 1. That framework proceeds in four steps.

1. *First approval by the General Assembly.* Section 1 provides that “[a]ny amendment or amendments to this Constitution may be proposed in the Senate or House of Delegates” and must “be agreed to by a majority of the members elected to each of the two houses.” *Id.*

2. *Intervening General Election.* If the proposed amendment passes both houses, then “such proposed amendment or amendments shall be . . . referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates.” *Id.*
3. *Second approval by the General Assembly.* After the next general election, “at such regular session or any subsequent special session of that General Assembly the proposed amendment or amendments [must] be agreed to by a majority of all the members elected to each house.” *Id.*
4. *Submission to the voters.* If the proposed amendment passes both houses a second time, then the General Assembly must “submit such proposed amendment or amendments to the voters . . . in such manner as it shall prescribe and not sooner than ninety days after final passage by the General Assembly.” *Id.*

B. Legislative Proceedings.

On April 17, 2024, the General Assembly unanimously passed House Joint Resolution 428, which requested that the Governor convene the legislature into special session pursuant to Article IV, section 6 of the Virginia Constitution. H.J.R. 428 (2024 Sess.). The special session began on May 13, 2024, and the General Assembly unanimously adopted House Joint Resolution 6001 to set an initial agenda for the special session. H.J.R. 6001 (2024 Spec. Sess. I). That initial agenda included various budgetary and nonbudgetary matters and provided that the agenda would expand upon unanimous consent. *Id.*

The General Assembly met again in the special session beginning in February of 2025. On February 22, 2025, the House of Delegates passed House Joint Resolution 6004 by a majority vote to expand the scope of the special session’s agenda “notwithstanding the limitations established by [H.J.R.] 6001” to include legislation to address layoffs by the federal government. H.J.R. 6004 (2024 Spec. Sess. I). On April 2, 2025, the Senate passed H.J.R. 6004 unanimously. *Id.*

On October 23, 2025, the General Assembly again expanded the agenda for the special session by adopting House Joint Resolution 6006. H.J.R. 6006 provided that “notwithstanding the limitations established by [H.J.R.] 6001,” a “joint resolution proposing an amendment to the Constitution of Virginia related to reapportionment or redistricting may be offered and considered during the 2024 Special Session 1 of the General Assembly.” H.J.R. 6006 (2024 Spec. Sess. I). Both the House of Delegates and the Senate passed H.J.R. 6006 by majority vote. *Id.*

On October 31, 2025, the General Assembly passed House Joint Resolution 6007, which proposed a constitutional amendment to authorize the General Assembly to modify Virginia’s congressional districts in response to mid-decade redistricting in other states. H.J.R.

6007 (2024 Spec. Sess. I). On November 4, 2025, the House of Delegates was “elected biennially by the voters of the several house districts on the Tuesday succeeding the first Monday in November.” Va. Const., art. IV, § 3.

The General Assembly convened for its next regular session on January 14, 2026. The General Assembly approved the proposed constitutional amendment a second time on January 16, 2026. H.J.R. 4 (2026 Sess.). Consistent with its obligations under Article XII, the General Assembly then scheduled a referendum for April 21, 2026. H.B. 1384 (2026 Sess.).

C. Proceedings Below.

On October 28, 2025, before the General Assembly had considered or passed any constitutional amendment, three state legislators and a commissioner of the Virginia Redistricting Commission—State Senator Ryan McDougle, State Senator William Stanley, Delegate Terry Kilgore, and Citizen Commissioner Virginia Trost-Thornton—sued in the Circuit Court of Tazewell County to challenge the amendment process. The suit named as defendants G. Paul Nardo, the Clerk of the Virginia House of Delegates; Susan Clarke Schaar, the Clerk of the Virginia Senate; Tara

Perkinson, Chief Deputy Clerk of the Virginia Senate; and Charity D. Hurst, the Clerk of Court of the Tazewell Circuit Court. R1. The plaintiffs sought to temporarily restrain and preliminarily enjoin the Clerk of the Virginia Senate and the Clerk of the Virginia House of Delegates “from taking any action to advance any resolution or proposed constitutional amendment initiated under HJR 6006.” R17. At a hearing the next day, the circuit court denied the plaintiffs’ request to interfere with the ongoing legislative process. R41-42. Don Scott, the Speaker of the Virginia House of Delegates, intervened. R30-34.

On December 16, 2025, the plaintiffs amended their complaint and moved to preliminarily enjoin the Clerk of the House and the Clerk of the Senate from “transmitting” or “posting” the proposed amendment before the start of the General Assembly’s 2026 regular session on January 14, 2026. Am. Compl., R125-157, Mot. Prelim. Inj., R278-296. The plaintiffs filed an emergency motion for a temporary restraining order on January 6, 2026, seeking to prevent the clerks “from taking any action to publish, introduce, or further legislation pertaining to the proposed redistricting amendment until the Court resolves the preliminary injunction motion.” R353-360. The circuit court denied on January 13, 2026, rejecting the

plaintiffs’ “request [to] the Court to invade the province of the Legislature prior to the final actions of the Legislature.” R481-482.

On January 27, 2026, the circuit court issued the order at issue in this appeal. R596-601. The order addressed four challenges to the General Assembly’s passage of the proposed constitutional amendment. First, the circuit court correctly rejected the plaintiffs’ argument that the 2024 special session of the General Assembly terminated prior to the passage of H.J.R. 6007 on October 31, 2025. R596.

Second, the circuit court addressed whether “the 2024 Special Session’s passage of the proposed Constitutional Amendment” involved a “failure of the General Assembly to follow its own Resolutions in adding the proposed Constitutional Amendment to the scope of business that may come before the 2024 Special Session.” R597. The court acknowledged that the General Assembly had already once before expanded the agenda of the Special Session “[i]rrespective of their own rule as set forth in House Joint Resolution 6001.” *Id.* Nonetheless, according to the circuit court, “both houses of the Commonwealth’s legislature are required to follow their own rules and resolutions.” R598. In its view, “the legislators required to reach the two-thirds super

majority in order to demand a Special Session under Article IV, Section 6, have the right to depend on the accompanying rule which limit [sic] the subject matter of the items they agree can be considered in the Special Session.” *Id.* The court further reasoned that “the minority members of the Virginia House of Delegates and the Senate of Virginia are afforded the same civil rights of any citizen of the Commonwealth who enters into an agreement upon valid consideration.” *Id.* The court thus transformed internal legislative procedures into enforceable private rights, treating legislative rules as if they created contractual entitlements among legislators. The circuit court then enforced its view of that purported legislative bargain, holding that H.J.R. 6007 “violated House Joint Resolution 428 and House Joint Resolution 6001, and any action taken thereon is an invalid expansion of the General Assembly’s own call to the Governor for the 2024 Special Session, and the Court ORDER[ED] that any such action is void, ab initio.” R598-599.

Third, the circuit court addressed whether “the proposed Constitutional Amendment . . . is being submitted to the voters of the Commonwealth of Virginia” in violation of Article XII, Section 1 of the Virginia Constitution. R599. That section requires that after its first

passage, the proposed amendment be “referred to the General Assembly and its first regular session held after the next general election of the members of the General Assembly.” Va. Const., art. XII, § 1. The circuit court acknowledged that the Attorney General opined “that the Constitution defines the date of the General Election of the House of Delegates [as] ‘the Tuesday succeeding the first Monday in November.’” *Id.* (quoting Va. Const., art. IV, § 3). Nonetheless, the circuit court noted that “[early] voting began pursuant to Virginia law on September 19, 2025.” *Id.* In the court’s view, because some voters had already cast their ballots before the General Assembly passed H.J.R. 6007, the only “rational conclusion” was that “the ELECTION began on the first day of voting (September 19, 2025) and ended on November 4, 2025.” *Id.* Accordingly, despite the Constitution’s text and based on that policy rationale, the circuit court concluded that “following the October 31, 2025 vote and passage of House Joint Resolution 6007 there HAS NOT BEEN an ensuing general election of the House of Delegates, and such ensuing general election CANNOT occur until 2027.” *Id.*

Finally, the circuit court considered whether Virginia Code Section 30-13 “was not satisfied since . . . the proposed Constitutional

Amendment was neither published by the Clerk of the House of Delegates, nor was it posted at the front door of every Courthouse, ‘not later than three months prior to the next ensuing general election of the members of the House of Delegates.’” R600 (quoting Va. Code § 30-13). The court noted that Article XII of the Constitution provides that “after the proposed amendment has been passed for the second time, then it shall be the duty of the General Assembly to submit such proposed amendment . . . to the voters . . . **in such manner as it shall prescribe** and not sooner than ninety days after the final passage by the General Assembly” *Id.* (quoting Va. Const., art. XII, § 1, emphasis in original). Even though Article XII indicates that the General Assembly shall prescribe the manner in which the amendment is submitted to the people after the General Assembly passes the amendment for a second time, the circuit court nonetheless concluded that Section 30-13—which purports to impose a duty on the clerk prior to the second passage by the General Assembly, not after—“prescribes how the vote can take place.” *Id.* Based on that reasoning, the circuit court concluded that “the provisions of Section 30-13 of the Code of Virginia have not been complied with, and therefore all votes on the proposed Constitutional Amendment taken

during the 2026 Regular Session of the General Assembly are ineffective as being a ‘SECOND’ VOTE OF THE General Assembly under Article XII, Section 1 of the Constitution.” *Id.*

Speaker Scott appealed. R622-623.¹ The Court of Appeals moved this Court to certify the case to this Court pursuant to Virginia Code Section 17.1-409(B)(1). R965-968. This Court stayed the circuit court’s order and granted the Court of Appeals’ motion. R1673-1676.

ASSIGNMENTS OF ERROR

1. The circuit court erred in holding that H.J.R. 6007 was “void, ab initio” on the ground that the General Assembly allegedly failed to comply with its own internal rules of procedure. Preserved at R557-566; R940-945; R1908-1935; and R1994-2002.
2. The circuit court erred in holding that the general election held on November 4, 2025, was not the “next general election” after the General Assembly passed H.J.R. 6007 on October 31, 2025, within the meaning of Article XII. Preserved at R557-566; R940-945; R1908-1935; and R1994-2002.
3. The circuit court erred in holding that the General Assembly’s passage of the proposed constitutional amendment on January 16, 2026, was “ineffective . . . under Article XII, section I of the Constitution” because Virginia Code § 30-13 imposed a mandatory prerequisite to constitutional amendment not required by Article XII. Preserved at R557-566; R940-945; R1908-1935; and R1994-2002.

¹ This Court granted the motion to intervene by Virginia Senate Majority Leader Scott Surovell and Virginia Senate President Pro Tempore L. Louise Lucas. *See* Order of March 17, 2026.

SUMMARY OF ARGUMENT

The circuit court's order invalidating a proposed constitutional amendment rests on three fundamental errors of law. Each of those errors rests on the same flawed premise: it assumes a judicial power the Virginia Constitution does not confer.

First, the court exceeded its constitutional authority by invalidating legislative action based on alleged noncompliance with internal legislative rules. The Virginia Constitution commits to each house of the General Assembly the exclusive authority to determine its own rules of proceedings. Under settled separation-of-powers principles, courts do not enforce internal legislative procedures or adjudicate disputes over parliamentary compliance. By treating legislative rules as judicially enforceable constraints and voiding duly enacted legislation on that basis, the circuit court improperly intruded into the legislative sphere.

In any event, the General Assembly complied with its rules. The Virginia Constitution does not authorize the General Assembly to entrench procedural limitations or impose supermajority requirements on future legislative action. Legislative rules remain subject to amendment at any time by the body that adopted them. Here, the

General Assembly twice exercised that authority to expand the agenda of the special session, and it validly considered and passed H.J.R. 6007.

Second, the circuit court erred in redefining the constitutional term “general election” to include the period of early voting. The Constitution’s text, structure, and history establish that a “general election” is the legally operative event that occurs on a single day in November—not the period preceding it during which ballots may be cast. Virginia statutes and federal law confirm that understanding, consistently distinguishing between an “election” and antecedent procedures such as early absentee voting. The circuit court’s contrary interpretation not only conflicts with these authorities but would impermissibly allow the General Assembly to alter constitutional meaning through ordinary legislation.

Third, the court erred in relying on Virginia Code § 30-13 to invalidate the amendment process. That statute implemented a publication requirement contained in the Constitution of 1902 that was deliberately eliminated in the 1971 Constitution. The statute was therefore inoperative as a constraint on the amendment process. Even when in force, Section 30-13 imposed only directory duties on public officials and did not condition the validity of a constitutional amendment

on compliance. Any contrary interpretation would be unconstitutional: the General Assembly cannot impose additional requirements on the constitutional amendment process by statute. Article XII provides an exclusive framework, and courts may not supplement it with extra-textual, extra-constitutional conditions.

STANDARD OF REVIEW

Questions of constitutional and statutory interpretation present pure questions of law that this Court reviews *de novo*. *Gallagher v. Commonwealth*, 284 Va. 444, 449 (2012). A circuit court's decision to grant injunctive relief is reviewed for abuse of discretion, and a court abuses its discretion when it makes an error of law or misapplies governing legal principles. *May v. R.A. Yancey Lumber Corp.*, 297 Va. 1, 18 (2019).

The circuit court's order was based on its legal interpretation of the Virginia Constitution, the General Assembly's rules and resolutions, and Virginia statutes. This Court reviews those interpretations *de novo* and without deference. To the extent the circuit court's ruling rests on separation-of-powers principles or justiciability, those determinations likewise present questions of law reviewed *de novo*.

ARGUMENT

I. The General Assembly Properly Considered and Passed the Proposed Constitutional Amendment in the 2024 Special Session.

The circuit court's holding that H.J.R. 6007 was "void, ab initio" on the ground that the General Assembly allegedly failed to follow its own rules is incorrect for two reasons. First, courts lack the power to enforce legislative procedure. Second, even if the courts had that power, the General Assembly complied with its own rules of procedure because it lawfully expanded the agenda of the special session to include consideration of H.J.R. 6007.

A. Courts Lack the Power to Enforce Internal Legislative Rules of Procedure.

The Virginia Constitution commits to each house of the General Assembly the exclusive authority to determine its rules of proceedings. A court therefore has no authority to invalidate legislative action based on alleged noncompliance with those internal rules. The circuit court thus exceeded its authority in invalidating H.J.R. 6007 based on an alleged failure of the General Assembly to comply with its own internal rules.

The Virginia Constitution grants to each house of the General Assembly the sole authority to determine its own rules of procedure. Va.

Const., art. IV, § 7 (“Each house shall determine the rules of its own proceedings.”). That authority is exclusive. Article I, Section 5 provides that “the legislative, executive, and judicial departments of the Commonwealth should be separate and distinct.” Va. Const., art. I, § 5. For that reason, “no one branch may exercise the functions or powers of another except as specifically authorized by the Constitution.” *Taylor v. Worrell Enters., Inc.*, 242 Va. 219, 221 (1991). A court therefore cannot invalidate legislative action based on alleged noncompliance with those rules without exercising a power the Virginia Constitution does not confer. To hold otherwise would permit the judiciary to supervise the internal deliberations of a coequal branch—a role the Virginia Constitution does not assign to the courts.

Consistent with those principles, this Court has long recognized that the judiciary may not second-guess the legislature’s compliance with its own procedures. “While the courts can pass upon the constitutionality of legislative enactments, they cannot overthrow legislative determination of the existence of conditions with respect to its own procedure.” *Albemarle Oil & Gas Co. v. Morris*, 138 Va. 1, 11 (1924). For that reason, “[w]hen an act has been duly published by authority of the

state as a valid law, there is at least a prima facie presumption that all requirements as to the validity of its enactment, constitutional or otherwise, have been complied with.” *Town of Narrows v. Bd. of Sup’rs of Giles Cnty.*, 128 Va. 572, 586 (1920).

That rule reflects a broader and deeply rooted principle of American law: courts do not enforce internal legislative rules. The Supreme Court has repeatedly reaffirmed that principle. In *United States v. Ballin*, the Court explained that the Constitution “empowers each house to determine its rules of proceedings,” and within constitutional limits that authority is “absolute and beyond the challenge of any other body or tribunal.” 144 U.S. 1, 5 (1892). Accordingly, courts do not review a legislative body’s internal rules. The Supreme Court then elaborated that because “the respect due to coequal and independent departments” forbids judicial intrusion into legislative procedure, courts must treat authentication by the legislature’s presiding officers and approval by the executive as “complete and unimpeachable” evidence of valid enactment. *Field v. Clark*, 143 U.S. 649, 672 (1892). And in *Leser v. Garnett*, the Court applied that principle in the context of a constitutional amendment by refusing to invalidate the ratification of the Nineteenth Amendment

on the alleged ground that it was “adopted in violation of the rules of legislative procedure prevailing in the respective states” because proclamation by Secretary of State was “conclusive upon the courts.” 258 U.S. 130, 137 (1922).

In accord with these principles, state court “decisions are nearly unanimous in holding that an act cannot be declared invalid for failure of the house to observe its own rules.” *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 365 (1983) (quoting 1 SUTHERLAND, STATUTORY CONSTRUCTION (4th ed.) sec. 7.04, p. 264). *See also, e.g., Puente v. Arizona State Legislature*, 254 Ariz. 265, 269 (2022) (“[T]he judiciary cannot compel the legislature to follow its own procedural rules.”) (citing *Pirtle v. Legis. Council Comm. of N.M. Legislature*, 492 P.3d 586, 596–97 (N.M. 2021)); *Baines v. New Hampshire Senate President*, 152 N.H. 124, 130 (2005) (“[B]ecause the State Constitution grants the legislature the authority to establish such procedures, the question of whether the legislature violated these statutes is nonjusticiable.”); *Bd. of Trs. of Jud. Form Ret. Sys. v. Att’y Gen. of Com.*, 132 S.W.3d 770, 777 (Ky. 2003) (“[T]he legislature has complete control and discretion whether it shall observe, enforce, waive, suspend, or disregard its own rules of procedure,

and violations of such rules are not grounds for the voiding of legislation.”) (quoting *Des Moines Register & Tribune Co. v. Dwyer*, 542 N.W.2d 491, 496 (Iowa 1996)); *State v. Gray*, 221 La. 868, 874 (1952) (“[I]t is well settled that an act of the Legislature will not be declared void or invalid for failure of the legislative body to observe its own rules of procedure.”); *Schweizer v. Territory*, 47 P. 1094, 1094 (Okla. 1897) (“The courts cannot declare an act of the legislature void on account of noncompliance with rules of procedure made by itself to govern its deliberations.”) (citations omitted).

These authorities establish a clear and controlling rule: compliance with internal legislative procedures is a matter committed to the legislature itself and is not subject to judicial review. Accordingly, alleged violations of internal legislative rules are not justiciable and cannot serve as a basis to invalidate legislative action. Judicial enforcement of internal legislative rules would fundamentally alter the constitutional structure. If courts could invalidate legislation based on alleged violations of internal legislative rules, every enactment would be subject to collateral attack based on disputes over parliamentary procedure. It would authorize courts to supervise legislative deliberations, adjudicate

disputes among legislators, and invalidate enacted measures based on legislators' disagreements about internal procedure. The Virginia Constitution assigns none of those functions to the judiciary.

The circuit court's sole ground for holding that the General Assembly could not properly consider H.J.R. 6007 during the 2024 Special Session was that it failed "to follow [its] own Rules and Resolutions." R600. The Virginia Constitution assigns no role to the judiciary in policing the legislature's internal procedures. Because its holding exceeded the circuit court's powers, this Court should reverse.

B. The General Assembly Lawfully Expanded the Agenda of the Special Session to Include Consideration of H.J.R. 6007.

Even if the circuit court had the power to police the General Assembly's compliance with its own internal procedural rules, the court erred in concluding that the General Assembly failed to comply with those rules by considering the proposed constitutional amendment. The Virginia Constitution does not authorize the General Assembly to limit its own future legislative authority or to alter the procedures by which future legislation may be enacted. Accordingly, it can adjust its rules—including the agenda for the special session—at any time.

The Virginia Constitution vests broad legislative power to the General Assembly, providing that “[t]he authority of the General Assembly shall extend to all subjects of legislation not herein forbidden or restricted” by the Constitution. Va. Const., art. IV, § 14. Article XII, in turn, authorizes the General Assembly to consider proposed constitutional amendments. Va. Const., art. XII, § 1. The Constitution thus expressly authorized the General Assembly to consider H.J.R. 6007.

Nothing in the constitutional provisions governing special legislative sessions changes that foundational fact. The Virginia Constitution empowers the General Assembly to initiate a special session by a two-thirds majority vote: “The Governor may convene a special session of the General Assembly when, in his opinion, the interest of the Commonwealth may require and shall convene a special session upon the application of two-thirds of the members elected to each house.” Va. Const., art. IV, § 6. As the text of the Constitution makes clear, the power to “convene” does not include the power to set or limit the agenda at the special session. Section 6 also provides that the “General Assembly shall reconvene” to consider bills the Governor vetoes and expressly limits the agenda at that session: “[n]o other business shall be considered at the

reconvened session.” *Id.* The drafters of the Constitution thus knew how to limit the matters the General Assembly could consider in a legislative session, and they declined to impose such a limitation on special sessions. *See, e.g., Jordan v. Commonwealth*, 295 Va. 70, 75 (2018) (“When the General Assembly employs a specific word in one section of a statute, and chooses a different term in another section of the statute, we must presume the difference in language was intentional.”).² The omission is

² In the proceedings below, Appellees cited several states which, at the time of the ratification of the Virginia Constitution in 1971, recognized a gubernatorial power to limit the agenda of a special session. R289. Every one of those states’ constitutions expressly granted the governor that power, in contrast with the absence of such a textual provision in the Virginia Constitution. *See Arrow Club v. Neb. Liquor Control Comm’n*, 131 N.W.2d 134, 137 (Neb. 1964) (“The Governor may, on extraordinary occasions, convene the legislature by proclamation, stating therein the purpose for which they are convened, and the legislature shall enter upon no business except that for which they were called together.” (quoting Neb. Const. art. IV, § 8)); *State ex rel. Conway v. Versluis*, 120 P.2d 410, 413 (Ariz. 1941) (“In calling such special session, the governor shall specify the subjects to be considered at such session, and at such session no laws shall be enacted except such as relate to the subjects mentioned in such call.” (quoting Ariz. Const. art. 4, pt. 2, § 3)); *Com. ex rel. Schnader v. Liveright*, 161 A. 697, 703 (Pa. 1932) (“[T]here shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such [special] session.” (quoting Pa. Const. art. 3, § 25)); *State v. Woollen*, 161 S.W. 1006, 1009 (Tenn. 1913) (“The Governor may, on extraordinary occasions, convene the General Assembly by proclamation, and shall state to them when assembled the purposes for which they shall have been convened, but they shall enter on no legislative business, except that for which they were especially called

dispositive: the Virginia Constitution does not authorize any limitation on the subject matter of a special session. Accordingly, neither the governor's discretionary authority nor the General Assembly's authority to compel the governor to call a special session includes the additional power to limit the agenda of that special session.

An opinion of the Attorney General confirms that conclusion. In 1982, Attorney General J. Marshall Coleman explained:

The Virginia Constitution does not grant authority to the Governor to limit or restrict the powers of the legislature at a special session. Neither does it limit the General Assembly to

together.” (quoting Tenn. Const. art. III, § 9)); *In re Ops. of Justs.*, 166 So. 710, 712 (Ala. 1936) (referencing Ala. Const. art. IV, § 76 (providing that, during a special session, “there shall be no legislation upon subjects other than those designated in the proclamation of the governor calling such session, except by a vote of two-thirds of each house.”)); *Jones v. State*, 107 S.E. 765, 766 (Ga. 1921) (“[N]o law shall be enacted at a called session of the General Assembly except such as shall relate to the object stated in [the Governor’s] proclamation convening them.” (quoting Ga. Const. art. 5, § 1, ¶ 13)); *State ex rel. Bond v. Beightler*, 21 N.E. 123, 123–24 (Ohio 1939) (citing Ohio Const. art. III, § 8 (providing that the Governor “shall state in the proclamation [for a special session] the purpose for which such special session is called, and no other business shall be transacted at such special session except that named in the proclamation, or in a subsequent public proclamation or message to the general assembly issued by the governor during said special session.”)); *People v. Larkin*, 517 P.2d 389, 390 (Colo. 1973) (stating that at “sessions convening in even numbered years, the general assembly shall not enact any bills except those raising revenue, those making appropriations, and those pertaining to subjects designated in writing by the governor during the first 10 days of the session” (quoting Colo. Const. art. V, § 7)).

the subject matter specified in the Governor's proclamation which convenes the special session. The Virginia Constitution is not a grant of powers to the General Assembly, but a statement of limitations on its otherwise plenary powers. In the absence of such restrictive provisions, the legislative power of the General Assembly, when convened in special session, is as broad as its powers in its regular sessions.

1981-82 Va. Op. Att'y Gen. 188 (1982) (citations omitted). *See also Cosner v. Robb*, 541 F. Supp. 613, 618 (E.D. Va. 1982) (following Coleman opinion).

The Virginia Constitution gives the Governor the power to “convene” a special session, either on his own initiative or on the application of the General Assembly, and nothing else. By the text of Article IV, Section 6, the Attorney General’s conclusion that the Governor lacks the power to constrain the agenda of the special session means that the General Assembly’s power is similarly limited. H.J.R. 6001’s purported limitations on the special session’s agenda, and the purported supermajority requirement for altering that agenda, are therefore not exercises of the General Assembly’s convening power under Article IV, Section 6.

The purported limitations in H.J.R. 6001 are instead legislative rules governing the General Assembly’s internal procedures. Article IV,

Section 7 provides that “[e]ach house shall select its officers and settle its rules of procedure.” Va. Const., art. IV, § 7. The General Assembly’s power to set its rules of procedure is plenary, subject only to constitutional constraints. *See United States v. Smith*, 286 U.S. 6, 33 (1932). Within those limits, “all matters of method are open to the determination” of the legislature. *Smith*, 286 U.S. at 33 (quoting *Ballin*, 144 U.S. at 5).

The General Assembly retains the authority to alter its rules at any time. A fundamental principle of legislative power is that one legislature may not bind itself or its successors by imposing supermajority requirements or subject-matter limitations not found in the Constitution. Legislative rules, like statutes, are always subject to revision by the body that adopted them. Consistent with that principle, each house’s rules establish procedures for amending or suspending its rules. *See Rules of the House of Delegates*, Rule 81 (2024); *Rules of the Senate of Virginia*, Rules 49, 56 (2024). As the Supreme Court explained, “[t]he power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the house.” *Ballin*, 144 U.S. at 5. For that reason, “[i]t is no objection to the validity of a rule

that a different one has been prescribed and in force for a length of time.”
Id. See also Reichelderfer v. Quinn, 287 U.S. 315, 318 (1932) (“[T]he will of a particular Congress . . . does not impose itself upon those to follow.”); 1 W. BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND 90 (1765) (“Acts of parliament derogatory from the power of subsequent parliaments bind not Because the legislature, being in truth the sovereign power, is always of equal, always of absolute authority: it acknowledges no superior upon earth, which the prior legislature must have been, if [its] ordinances could bind the present parliament.”).

The General Assembly exercised its authority to set the initial agenda of the special session in H.J.R. 6001 pursuant to its power under Article IV, Section 7 to set the rules of its proceedings. The General Assembly then twice exercised its continuing authority to adjust that agenda in light of new developments. In H.J.R. 6004, it expanded the agenda to include legislation to address federal layoffs. In H.J.R. 6006, it again expanded the agenda to include the proposed constitutional amendment. Because neither the initial agenda nor the supermajority requirement in H.J.R. 6001 can constrain the General Assembly’s continuing exercise of its legislative powers, both H.J.R. 6004 and H.J.R.

6006 validly amended the legislature’s rules of procedure. Accordingly, the General Assembly’s consideration and passage of H.J.R. 6007 complied with both the Virginia Constitution and the legislature’s own procedures. The circuit court’s contrary conclusion rests on a fundamental misunderstanding of legislative power and the separation of powers established by the Virginia Constitution.

II. The General Assembly Complied With Article XII’s Requirement to Refer the Proposed Amendment to the Session After the “Next General Election.”

Article XII of the Virginia Constitution requires that after first passing a proposed constitutional amendment, the General Assembly “refer[]” the proposed amendment to “its first regular session held after the next general election of members of the House of Delegates.” Va. Const., art. XII, § 1. The General Assembly considered and passed H.J.R. 6007, the proposed redistricting amendment, on October 31, 2025, during its 2024 special session. H.J.R. 6007 (2024 Spec. Sess. I). Pursuant to Article IV, Section 3, Virginia held a general election on “the Tuesday succeeding the first Monday in November,” which fell on November 4, 2025. The General Assembly then considered and passed the proposed redistricting amendment a second time on January 16, 2026, during its

2026 general session. H.J.R. 4 (2026 Sess.). In accord with its obligations under Article XII, the General Assembly then submitted the proposed amendment to Virginia’s voters for their approval. The General Assembly thus satisfied every requirement imposed by Article XII.

The circuit court reached a contrary conclusion based on a policy-driven redefinition of the constitutional term “general election” to include the period of early voting beginning on September 19, 2025. That conclusion is contrary to the text of the Virginia Constitution, conflicts with longstanding Virginia statutes implementing early absentee voting and voter registration, cannot be reconciled with federal law, and would impermissibly empower the General Assembly to amend the Virginia Constitution by statute.

The text of the Virginia Constitution establishes that a “general election” is the legally operative event on a particular day on which a result is determined—not the entire period during which ballots may be cast. The Constitution uses the phrase “general election” across multiple provisions. Article II, Section 6—the provision that governs apportionment of congressional districts and which the proposed redistricting amendment seeks to amend—provides that “[t]he districts

delineated in the decennial reapportionment law shall be implemented for the November general election.” Va. Const., art. II, § 6. This provision unmistakably indicates that, as a matter of ordinary English usage, the “general election” takes place in “November.” This usage is ubiquitous: a “Monday meeting” is a meeting held on Monday. The same logic applies here.

Similarly, two additional sections of Article IV provide that the members of the General Assembly “shall be elected . . . on the Tuesday succeeding the first Monday in November.” Va. Const., art. IV, §§ 2, 3. *See also id.* at art. VII, § 4 (“Regular elections for such officers shall be held on Tuesday after the first Monday in November.”). In ordinary usage, an event is said to occur “on” a particular day when it falls within that day. As a leading grammatical authority explains, in a sentence such as “I arrived on Monday,” the day denotes a temporal interval within which the event occurs. RODNEY HUDDLESTON & GEOFFREY K. PULLUM, *THE CAMBRIDGE GRAMMAR OF THE ENGLISH LANGUAGE* 700 (2002). *Cf. United States v. Locke*, 471 U.S. 84, 93, 96 (1985) (holding that statutory filing requirement “prior to December 31” means filing by December 30, not December 31, because Congress knew how to say “on or before” when

it meant to include the deadline date). “[I]t is a general rule that the words of a Constitution are to be understood in the sense in which they are popularly employed, unless the context or the very nature of the subject indicates otherwise.” *Howell v. McAuliffe*, 292 Va. 320 (2016). Thus, an event occurring “on” a given date is one that takes place within that date—not one encompassing activity occurring beforehand. Accordingly, the election of the members of the General Assembly takes place on a single date in November.

The Virginia Constitution’s use of “November general election” and “elected on” a particular date in November refute the circuit court’s expansive interpretation of “general election.” This Court interprets the Virginia Constitution as a coherent whole, and identical terms are presumed to carry the same meaning throughout. *See, e.g., Carlisle v. Hassan*, 199 Va. 771, 777 (1958) (“[T]he constitution must be viewed and construed as a whole, and every section, phrase and word given effect and harmonized if possible.”) (citations omitted); *Pine v. Commonwealth*, 121 Va. 812, 825 (1917) (“The presumption is that the same meaning attaches to a given word or phrase which is repeated in a Constitution, unless the contrary is made to appear, and hence the whole instrument should be

examined to ascertain what that meaning is.”) (citation omitted). Thus, the “general election” referenced in Article XII must be the same event that appears elsewhere in Article II and Article IV. These constitutional provisions together make clear that the “general election” referenced in Article XII occurs on the Tuesday succeeding the first Monday in November and excludes any earlier period of time.

The Virginia Constitution has defined “election” to refer to a single day for more than 150 years, long before the General Assembly established early absentee voting. *See* Va. Const., art. IV, §§ 41-42 (1902) (members of the General Assembly “shall be elected . . . on the Tuesday succeeding the first Monday in November”); Va. Const., art. V, §§ 2-3 (1870) (members of the General Assembly “shall be elected . . . on the Tuesday succeeding the first Monday in November”). And the Virginia Constitution has long required that the General Assembly refer amendments to the next session after a “general election.” *See* Va. Const., art. XV, § 1 (1902) (“such proposed amendment shall be . . . referred to the General Assembly at its first regular session held after the next general election”); Va. Const., art. XII, § 1 (1870) (“such proposed amendment shall be . . . referred to the general assembly to be chosen at

the next general election”). The Virginia Constitution’s meaning has remained constant. “[T]he word [election] now has the same general significance as it did when the Constitution came into existence—final choice of an officer by the duly qualified electors.” *Newberry v. United States*, 256 U.S. 232, 250 (1921). See also NOAH WEBSTER, AN AMERICAN DICTIONARY OF THE ENGLISH LANGUAGE (1830) (defining “election” as “[t]he day of a public choice of officers”). “When a constitutional provision has remained unchanged throughout Virginia constitutional history, we apply the original meaning of the provision when first adopted.” *Vlaming v. W. Point Sch. Bd.*, 302 Va. 504, 532 (2023) (citing *Howell v. McAuliffe*, 292 Va. 320, 345-47 (2016)). That original meaning establishes that the “general election” in Article XII refers to the single date on which the election is conducted.

Virginia’s statutes governing elections confirm this interpretation. The Code defines “general election” to mean “an election held in the Commonwealth on the Tuesday after the first Monday in November or on the first Tuesday in May.” Code § 24.2-101. See also *id.* § 24.2-603 (setting polling place hours “on the day of the election”). The Code further provides that voter “registration records shall be closed during the 10

days before a primary or general election.” Code § 24.2-416. No court has ever held that the deadline to register to vote is set by the first date of early voting rather than by the date of the election. Finally, the Code provides that “[a]bsentee voting in person shall be available on the forty-fifth day *prior to any election.*” Code § 24.2-701.1(A) (emphasis added). Virginia law thus defines early absentee voting as taking place prior to an election, not composing part of the election. Absentee ballots cast before Election Day are then counted “on the day of the election.” Code § 24.2-712(D). These statutory provisions uniformly distinguish between the “election” that occurs on a date in November and preceding steps like early absentee voting and registration. *See Moore v. Pullem*, 150 Va. 174, 189–90 (1928) (upholding Virginia’s absentee voting statute by distinguishing “the period of residence before the election which is required of the voter” and “[t]he method of voting upon the day of election”).

Federal law and Virginia law are in accord. The Elections Clause of the United States Constitution provides that Congress may regulate “[t]he Times, Places and Manner of holding Elections for Senators and Representatives.” U.S. Const., art. I, § 4, cl. 1. Federal law in turn

establishes “[t]he Tuesday next after the 1st Monday in November, in every even numbered year . . . as the day for the election.” 2 U.S.C. § 7. See also Act Feb. 2, 1872, ch. 11, § 3, 17 Stat. 28 (“[T]he tuesday next after the first Monday in November . . . is hereby fixed and established as the day for the election.”). If an “election” included any time at which a ballot may be cast, then every state—including Virginia—that permits early absentee voting would violate the federal “mandate[] [to] hold[] all elections for Congress and the Presidency on a single day throughout the Union.” *Foster v. Love*, 522 U.S. 67, 70 (1997). Every court to consider the question has rejected that radical conclusion. See, e.g., *Voting Integrity Proj., Inc. v. Keisling*, 259 F.3d 1169, 1175 (9th Cir. 2001); *Millsaps v. Thompson*, 259 F.3d 535, 546 (6th Cir. 2001); *Voting Integrity Proj., Inc. v. Bomer*, 199 F.3d 773, 774 (5th Cir. 2000). Accordingly, under both Virginia and federal law, the “election” refers to an event that takes place on a single day.

The circuit court’s contrary rule would empower the General Assembly to amend the Constitution by statute. Its inverted approach would mean the General Assembly had redefined the constitutional term “election” by establishing early absentee voting. It would also mean that

the General Assembly had redefined the constitutional eligibility requirements for members of the Senate and the House of Delegates. *See* Va. Const., art. IV, § 4 (setting age of eligibility for members as “person . . . who, at the time of the election, is twenty-one years of age”). And it would amend by statute the Virginia Constitution’s procedures for constitutional amendment by changing the time by which the General Assembly must pass a proposed amendment. The General Assembly lacks that power. *See, e.g., Staples v. Gilmer*, 183 Va. 613, 631–32 (1945) (Holt, J., concurring) (“The Legislature, of course, cannot change the Constitution; the people can.”); *Pine*, 121 Va. at 824 (“When the Constitution has fully dealt with a subject and covered the entire ground, the Legislature would be powerless to make any change in it, unless specially authorized to do so.”).

The circuit court’s holding is predicated upon a policy rationale: that voters who cast their ballots before Election Day should have more notice of proposed constitutional amendments than the Virginia Constitution provides. But the Virginia Constitution already answers that question by fixing the date on which delegates are “elected.” The circuit court’s approach thus substitutes judicial policy preferences for

the constitutional text. Courts do not have the power to replace the constitutional rule with a policy-driven redefinition of when an “election” begins.

III. Virginia Code Section 30-13 Did Not Invalidate the Proposed Constitutional Amendment.

The circuit court’s final ground for invalidating the proposed constitutional amendment was alleged non-compliance with Section 30-13 of the Virginia Code. That holding is incorrect for three reasons. First, the now-repealed Section 30-13 implemented a provision in the 1902 Virginia Constitution that was itself repealed in 1971, and so the statute no longer had legal effect. Second, even when Section 30-13 was in force, it was a directory rather than a mandatory statute, the non-compliance with which could not invalidate a constitutional amendment. Third, Section 30-13 could not constitutionally impose a mandatory requirement on the process for amending the Virginia Constitution because the procedures in Article XII are exhaustive. This Court should therefore reject the circuit court’s reliance on Section 30-13 to interfere with the democratic process. It should instead permit the people of Virginia to have the final word on the amendment.

A. Section 30-13 Implemented a Repealed Constitutional Requirement and Is Now Repealed and Inoperative.

Section 30-13 was a vestige of an earlier constitutional regime. The Constitution of 1902 required that, after initial approval by the General Assembly, a proposed amendment “shall be published for three months previous to the time of such election.” Va. Const. § 196 (1902). The predecessor to Section 30-13 was enacted to implement that requirement by directing the Clerk of the House of Delegates and local officials to publish and post a proposed amendment prior to the intervening election.

The adoption of the 1971 Constitution eliminated the constitutional basis for Section 30-13. During the revision process, the General Assembly deliberately removed the prior publication requirement and replaced it with a different procedural safeguard: a mandatory ninety-day interval between final approval by the General Assembly and submission of the amendment to the voters. *See* Va. Const. art. XII, § 1. The purpose of the prior publication requirement in the 1902 Virginia Constitution had been to ensure public awareness, and that purpose would now be served in the new Virginia Constitution by requiring at least ninety days’ time between the final action of the General Assembly

and the submission of the proposed amendment to the people. *See* Del. D. French Slaughter, Jr., *Proceedings and Debates of the House of Delegates Pertaining to Amendment of the Constitution* 496 (1969). *See also* 1 A.E. DICK HOWARD, COMMENTARIES ON THE CONSTITUTION OF VIRGINIA 1175 (1974) (Article XII “does not require publication of amendments, only a delay of ninety days,” and therefore “an amendment cannot be challenged on the ground that publication was insufficient”). That conclusion follows directly from the constitutional revision: when the Virginia Constitution removes a requirement, a statute implementing that requirement cannot survive. Once the Virginia Constitution eliminated the publication requirement, the statute enacted to implement that requirement could not impose an independent constraint on the amendment process defined by Article XII. A statute cannot outlive the constitutional provision it was enacted to implement. Section 30-13 was thus rendered inoperative as a condition governing constitutional amendments.

The circuit court’s ruling rests on the opposite premise: that a statute enacted to implement a repealed constitutional requirement could itself supply a continuing condition on the constitutional process for amendment. That premise is incompatible with the structure of

Article XII. Because Article XII no longer requires pre-passage publication, a proposed amendment cannot be invalidated on the ground that publication was insufficient.

Underscoring that conclusion, the General Assembly has now passed and the Governor has signed legislation repealing Section 30-13. 2026 Va. Laws ch. 6 (H.B. 1384). Non-compliance with a repealed statute cannot support Appellees' claims. *See, e.g., Kremens v. Bartley*, 431 U.S. 119, 128-29 (1977) ("There must be a live case or controversy before this Court, and we apply the law as it is now, not as it stood below. Thus the enactment of the new statute clearly moots the claims.") (citations omitted); *Diffenderfer v. Central Baptist Church*, 404 U.S. 412, 414 (1972) (due to repeal of challenged statute, "[t]he case has therefore lost its character as a present, live controversy of the kind that must exist if we are to avoid advisory opinions on abstract propositions of law"). And even if the case were not moot on that ground, such a purely procedural statute may retroactively repeal its requirements. *See Sargent Elec. Co. v. Woodall*, 228 Va. 419, 424 (1984) ("A legislative enactment, if purely procedural in nature, may be given retroactive effect.") (citation omitted).

The Court should therefore reject the circuit court’s invalidation of the proposed constitutional amendment grounded in alleged non-compliance with a now-repealed and long-defunct procedural statute.

B. Section 30-13 was Directory, Not Mandatory.

Even if Section 30-13 continued to have legal force, it could not support the invalidation of the proposed constitutional amendment. Virginia law draws a settled distinction between mandatory provisions that affect the validity of legal acts and directory provisions that govern the conduct of public officials without impacting the validity of their acts. *See, e.g., Bland-Henderson v. Commonwealth*, 303 Va. 211, 220 (2024) (“[S]hall’ commands addressed to public officers are typically deemed to be directory instead of mandatory, unless otherwise provided by the statute.”) (citation omitted). That distinction grounds a difference in legal consequences. Absent a clear statement that noncompliance entails invalidation, courts do not treat directory statutes as limiting governmental authority or voiding official acts. *See, e.g., Huffman v. Kite*, 198 Va. 196, 199 (1956); *Nelms v. Vaughan*, 84 Va. 696, 699 (1888) (absent explicit text to the contrary, a statute that “direct[s] the mode of proceeding by public officers is to be deemed directory, and a precise

compliance is not to be deemed essential to the validity of the proceedings”); *Redd v. Supervisors of Henry County*, 72 Va. (31 Gratt.) 695, 700 (1879) (“distinguish[ing] between provisions that are mandatory and such as are directory merely; by which latter is meant those provisions that are to be considered as giving directions which ought to be followed, but not as so limiting the power in respect to which the directions are given that it cannot effectually be exercised without observing them”) (citation omitted).

Section 30-13 squarely qualified as a directory statute. The statute directed the Clerk of the House of Delegates to publish proposed amendments and directed circuit court clerks to post copies and certify that posting. Those were ministerial duties assigned to public officials—the classic subject of directory legislation. Nothing in the statute provided that a failure to comply with those posting requirements invalidated legislative action, nullified a proposed amendment, or prevented submission to the voters. That silence is dispositive under Virginia law. *Bland-Henderson*, 303 Va. at 220. Section 30-13 therefore did not—and could not—be transformed into a condition of constitutional validity.

Virginia cases on election law reinforce that point. This Court has repeatedly refused to treat statutory timing or procedural requirements as grounds for invalidating an election or disenfranchising voters absent a clear legislative command. *See, e.g., Huffman*, 198 Va. at 203-204; *Gregory v. Hubbard*, 123 Va. 510, 512-13 (1918) (“The statute requiring the commissioners of election to canvass the returns on the second day after the election is only directory as to the time of canvass, and if they let the time elapse without making the canvass, the mayor was not thereby deprived of the benefit of the election.”). Section 30-13 contained no mandatory command, nor did it explicitly state that a proposed amendment would be invalid if public officials failed to comply with its publication requirements. On the contrary, Section 30-13 regulated the conduct of officials “preliminary to, and in aid of, the election,” and did not impact the validity of the election or the underlying proposed amendment. *Scott v. James*, 114 Va. 297, 305–06 (1912).

The circuit court’s contrary approach cannot be reconciled with these longstanding principles. By treating alleged noncompliance with Section 30-13 as grounds to invalidate the amendment process, the court transformed a repealed statute governing a public official’s publication

duties into a condition of constitutional validity. Virginia law does not permit that transformation, which would convert ministerial non-compliance into invalidation of a democratically ratified constitutional amendment.

C. Section 30-13 Could Not Constitutionally Be Construed to Impose Additional Requirements on the Constitutional Amendment Process.

The circuit court's order transgresses an even more fundamental constitutional principle. Article XII sets forth the exclusive requirements for amending the Constitution of Virginia. It specifies the sequence by which an amendment is proposed, approved by successive General Assemblies, and submitted to the people. *See* Va. Const. art. XII, § 1; *Coleman v. Pross*, 219 Va. 143, 154 (1978) (requiring "strict compliance" with Article XII's procedures). Nothing in Article XII requires publication of a proposed amendment, and nothing in its text incorporates or depends upon statutory publication requirements. The Virginia Constitution's framework is exclusive.

Because Article XII provides an exclusive framework for constitutional amendment, the General Assembly cannot add to or alter those requirements by statute. *See, e.g., City of Richmond v. Lynch &*

Duke, 106 Va. 324, 325–26 (1907) (rejecting General Assembly’s attempt to “superadd” statutory requirement for office beyond Virginia Constitution); *Black v. Trower*, 79 Va. 123, 125 (1884). See also *Powell v. McCormack*, 395 U.S. 486, 543 (1969) (“Congress, by the Federal Constitution . . . must be governed by the rules prescribed by the Federal Constitution, and by them only.”) (quoting 17 Annals of Cong. 872 (1807)). A statute that purports to condition the validity of a constitutional amendment on compliance with requirements not found in Article XII would invert the constitutional hierarchy, making the amendment process depend on ordinary legislation rather than on the Virginia Constitution itself.

The circuit court’s ruling rests on precisely that impermissible premise. By treating compliance with Section 30-13 as a prerequisite to the validity of the amendment process, the court effectively inserted an additional step into Article XII—one that the Virginia Constitution does not contain. That is not a permissible construction of the statute. The General Assembly could not, for example, require a supermajority vote by the people on a proposed constitutional amendment or require multiple referenda beyond those specified in Article XII. Section 30-13, if

treated as mandatory, would have operated in the same way: as an extra-constitutional condition on the validity of an amendment. This Court construes statutes to avoid such grave constitutional conflicts. See *Virginia Soc. for Hum. Life, Inc. v. Caldwell*, 256 Va. 151, 157 (1998) (this Court “narrowly construe[s] a statute where such a construction is reasonable and avoids a constitutional infirmity”). If Section 30-13 were interpreted to impose a mandatory condition on the amendment process, it would have conflicted with Article XII and would therefore have been invalid. The Court should instead adopt the only permissible construction: that Section 30-13 imposed a directory duty on public officials that did not affect the constitutional validity of a proposed amendment.

The circuit court’s contrary ruling would allow a repealed, non-mandatory, and long-defunct statute to override the constitutional amendment process. That result is incompatible with Article XII and the basic hierarchy of Virginia law. It would be particularly contrary to the constitutional design of the Virginia Constitution’s amendment process to rely on such a statute to block a constitutional amendment twice passed by the General Assembly and ratified by the people.

CONCLUSION

For the foregoing reasons, the judgment of the circuit court should be reversed.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION AND SERVICE

I certify that on March 23, 2026, this document was electronically filed with the Court via VACES. This brief complies with Rule 5:26 because it does not exceed 50 pages, excluding the cover page, table of contents, table of authorities, signature blocks, and certificate. A copy was transmitted by email to:

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