

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

JAKE MAGGARD et al.,)

Plaintiffs,)

v.)

STATE OF MISSOURI et al.,)

Defendants.)

Case No. 25AC-CC09120

**PLAINTIFFS' SUGGESTIONS IN SUPPORT OF
MOTION FOR PRELIMINARY INJUNCTION AND
CONSOLIDATION WITH HEARING ON MERITS**

Pursuant to Rule 92.02(c), Mo. S. Ct. R., Plaintiffs Jake Maggard and Gregg Lombardi move for a preliminary injunction. Additionally, pursuant to Rule 92.02(c)(3), Plaintiffs request that the Court order that trial on the merits be advanced and consolidated with the preliminary-injunction hearing.

INTRODUCTION

“The voters of Missouri first adopted a constitutional amendment establishing the right of referendum more than 100 years ago,” “reserv[ing] a share of the legislative power for themselves” and “ensur[ing] that ‘those who have no access to or influence with elected representatives may take their cause directly to the people.’” *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 486, 489 (Mo. banc 2022) (quoting *Missourians to Protect Initiative Process v. Blunt*, 799 S.W.2d 824, 827 (Mo. banc 1990)). Because the People’s referendum power is meant “to serve as a check on the legislature,” *id.* at 489, referred legislation is necessarily suspended until a referendum vote occurs. This *must* be the rule; otherwise,

referred legislation could take effect before the People have their say, vitiating the referendum process and rendering these constitutional provisions decidedly hollow.

Logic and precedent notwithstanding, Defendants have taken the position that House Bill 1 (“HB1”)—an act creating new congressional districts in Missouri that has been referred to the People for approval or rejection—is currently in effect, and they intend to use its new map in the upcoming midterm elections. Defendants are wrong: Upon the submission of 691 boxes of signed referendum petitions to the Secretary of State’s office on December 9, 2025, HB1 was suspended as an operation of law, and it remains so until either the referendum vote occurs or the referendum is deemed insufficient or otherwise invalid. In the meantime, HB1’s new congressional map cannot be used without violating the referendum provisions of the Missouri Constitution. Immediate relief is therefore required to vindicate the People’s referendum rights and prevent the imposition of irreparable injury on Plaintiffs and all Missouri voters.

This case ultimately presents a narrow legal question and rests on only a few undisputed, judicially noticeable facts. The issue is *not* how, whether, or when Secretary of State Denny Hoskins verifies the 300,000-plus submitted signatures under the referendum statutes; those decisions are up to him. Instead, the dispositive question before the Court is straightforward: What is the status of HB1 in the meantime, while the signatures are being verified? Longstanding Missouri

Supreme Court precedent and logic compel the same result. HB1 *must* be suspended to preserve Missourians' constitutional referendum powers.

BACKGROUND

On September 12, 2025, the General Assembly truly agreed to and finally passed HB1, an act "to enact . . . twelve new sections relating to the composition of congressional districts." Ex. 3 (HB1, 103d Gen. Assemb., 1st Reg. Sess., 2d Extraordinary Sess. (Mo. 2025)). HB1 redrew Missouri's congressional map, with the new districts to be "[e]ffective with the election of the 120th Congress." *Id.* HB1 did *not* include an emergency clause affecting the People's referendum rights. *See id.*

Secretary Hoskins received a petition for referendum asking to refer HB1 to voters for approval or rejection, which he denominated 2026-RO04. Ex. 3 (*Referendum for House Bill 1, 2026-RO04*, Mo. Sec'y of State, <https://bit.ly/49pbtD6> (last visited Jan. 13, 2025)).¹ Secretary Hoskins certified the official ballot title on November 13, 2025. *Id.* Because the special session that enacted HB1 adjourned on September 12, *see* Ex. 5 (*Journal of the House*, Mo. House of Reps. (Sept. 12, 2025), <https://bit.ly/45yvYek>); Ex. 6 (*Journal of the Senate*, Mo. Sen. (Sept. 12, 2025), <https://bit.ly/4qKzBG2>), supporters of 2026-RO04 had 90 days—

¹ Missouri courts can take judicial notice of government documents. *See, e.g., Schweich v. Nixon*, 408 S.W.3d 769, 778 & n.11 (Mo. banc 2013) (per curiam); *Gershman Inv. Corp. v. Danforth*, 475 S.W.2d 36, 37–38 & n.2 (Mo. banc 1971); *Brown v. Morris*, 290 S.W.2d 160, 167–68 (Mo. banc 1956).

until December 11—to submit approximately 107,000 signatures from 6 of Missouri’s 8 congressional districts, *see* Mo. Const. art. III, § 52(a).

On December 9, 2025, the Secretary of State’s office received 691 boxes of referendum petitions for HB1, *e.g.*, Ex. 7 (128.345. Definitions., Revisor of Mo., <https://bit.ly/451HbUG> (last visited Jan. 13, 2026)); Ex. 8 (2026-RO04 box receipt); Ex. 9 (2026-RO04 receipt form), which reportedly contained more than 300,000 signatures, *e.g.*, Ex. 10 (David A. Lieb & Hannah Schoenbaum, *Opponents of Trump-Backed Redistricting in Missouri Submit a Petition to Force a Public Vote*, PBS News (Dec. 10, 2025), <https://bit.ly/491AIKs>). Secretary Hoskins has not issued a certificate of insufficiency for 2026-RO04 under Section 116.150(2), RSMo. *See* Ex. 3. Nevertheless, HB1 purportedly took effect on December 11, 2025. *See* Ex. 11 (*Chapter 128 Election of Electors and Electoral Districts—Congressional Districts*, Revisor of Mo., <https://bit.ly/4qKzTg6> (last visited Jan. 13, 2026)).

Plaintiffs are Jackson County residents and qualified Missouri voters. Ex. 1 ¶ 3 (declaration of Jake Maggard); Ex. 2 ¶ 3 (declaration of Gregg Lombardi). They are both residents of the Fifth Congressional District under Missouri’s 2022 redistricting map and, under HB1, would be relocated to the Fourth Congressional District. Ex. 1 ¶ 4; Ex. 2 ¶ 4. And both signed the petition to refer HB1 to voters for approval or rejection. Ex. 1 ¶ 5; Ex. 2 ¶ 5.

ARGUMENT

Courts evaluating whether to grant preliminary relief consider “(1) the threat of irreparable harm to the moving party; (2) balancing this harm with any injury an injunction would inflict on other interested parties; (3) the moving party is likely to prevail on the merits; and (4) the effect on the public interest.” *Comprehensive Health of Planned Parenthood Great Plains v. State*, No. SC 101176, 2025 WL 2346611, at *2 (Mo. banc Aug. 12, 2025) (citation modified).

Here, each of these factors weighs in favor of immediate injunctive relief.

I. Plaintiffs are likely to succeed on the merits.

Under longstanding and well-settled authority, HB1 was suspended on December 9, 2025, when Secretary Hoskins received 691 boxes of signed referendum petitions. Plaintiffs are therefore likely to succeed on their claim that HB1’s new congressional map is suspended and its use prior to the referendum vote (or a final ruling that the referendum is invalid) violates the Missouri Constitution.

A. It has long been the law that referred legislation is suspended upon the submission of signed petitions.

Article III, Section 49 of the Missouri Constitution provides that “[t]he people . . . reserve power to approve or reject by referendum any act of the general assembly.” The referendum process is as follows:

A referendum may be ordered . . . by petitions signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state 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.

Mo. Const. art. III, § 52(a). Significantly, “[a]ny measure referred to the people shall take effect when approved by a majority of the votes cast thereon, *and not otherwise.*” *Id.* art. III, § 52(b) (emphasis added). In practice, this means that,

once a referendum petition has received sufficient signatures to be placed on the general election ballot, the referred measure is placed before the people for their consideration as an original proposition; the prior action by the General Assembly and the Governor on the referred measure is suspended or annulled, and has no further legal effect or consequence.

Stickler v. Ashcroft, 539 S.W.3d 702, 713 n.9 (Mo. App. W.D. 2017) (citation modified). This rule ensures that referred legislation is not made effective before the People exercise their right to approve or reject it, reflecting that the referendum power is meant “to serve as a check on the legislature.” *No Bans*, 638 S.W.3d at 489 (citing *State ex rel. Drain v. Becker*, 240 S.W. 229, 230–31 (Mo. banc 1922)).

This principle is not new: For more than a century, the Missouri Supreme Court has *repeatedly* emphasized that referred legislation is suspended—and cannot go into effect—until voters give their approval. After all, if “the Legislature may postpone the effective date of a law by an analogy of reasoning it must also follow that the operation of a statute may be deferred by the invocation of the referendum, for the exercise of legislative power by the people through the referendum is simply a reservation to themselves of a share of the legislature power.” *State ex rel. Barrett v. Dallmeyer*, 245 S.W. 1066, 1068 (Mo. banc 1922). Accordingly—and, until now, uncontroversially—“the mere lodging of a timely,

legal, and sufficient referendum petition with the Secretary of State is all that” must be done to “halt[]” the “law affected”—“regardless of any affirmative act on the part of the Secretary of State or the Attorney General.” *State ex rel. Kemper v. Carter*, 165 S.W. 773, 779 (Mo. banc 1914). The Supreme Court has emphasized that this position is logical to the point of obviousness:

When we consider the primary object of the adoption of the referendum and have regard to the evils which its friends had in mind to correct by it, any view other than that it suspends the taking effect of the act against which it is invoked till a vote be had is illogical and well-nigh unthinkable.

Id. at 778.

Consistent with this authority, prior Secretaries of State and Attorneys General have concluded that the suspension of referred legislation does not require the issuance of a certificate of sufficiency by the Secretary of State. For example, in 2017, the office of then-Secretary Jay Ashcroft announced that Missouri’s right-to-work law was suspended upon the submission of more than 300,000 signatures—even though the office still needed to conduct verification and issue a certificate. *See* Ex. 12 (Jo Mannies & Marshall Griffin, *Missouri’s Right-to-Work Law Suspended After Unions Turn in 300K Signatures for Statewide Vote*, St. Louis Pub. Radio (Aug. 18, 2017), <https://bit.ly/4jDHEIU>). In support of this position, “[t]he secretary of state’s office provided . . . an electronic image of a 1982 newspaper story which reported that then Secretary of State James Kirkpatrick had determined [a] truck law was suspended after petition signatures were filed.”

Ex. 13 (Ashley Byrd, *Right to Work Law Appears Headed to a Public Votes as PR Efforts Start to Appear*, Missouri.net (Aug. 29, 2017), <https://bit.ly/3MQs3mD>).

More than a century of consistent authority and practice notwithstanding, Defendants now suggest that suspension of referred legislation occurs only when the Secretary of State certifies a referendum petition as legally sufficient. *See, e.g.*, Defs.’ Suggestions in Supp. of Mot. to Dismiss (“MTD”) 13–14. Their motion to dismiss cites no authority for this proposition, and little wonder—it risks the vitiation of the People’s referendum rights.

The referendum process is carefully designed to ensure that referred legislation *does not go into effect* until the People have their say. Consider the timing of the process: “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.” Mo. Const. art. III, § 52(a). This ninety-day clock mirrors the effective date of legislation. *See id.* art III, § 29 (“No law passed by the general assembly . . . shall take effect until *ninety days* after the adjournment of the session . . . at which it was enacted.” (emphasis added)). The interplay of these constitutional provisions is apparent: Legislation goes into effect after ninety days *unless* a referendum petition is timely submitted suspending its effectiveness.

This conclusion has the support not only of the constitutional text but also intuition; simply put, it would make no sense for legislation to take effect only to be later suspended pending a referendum. The Missouri Supreme Court held as

much more than a half-century ago in a case *involving a referred congressional map*, explaining that, if Section 52(a) allowed effective legislation to later be suspended upon the submission of a referendum petition,

then great confusion will result and much mischief may ensue. . . .

To hold that § 52(a) has this effect would destroy the concept of the referendum. [The p]urpose of referendum is to suspend or annul a law which *has not gone into effect* and to provide the people a means of giving expression to a legislative proposition, and require their approval *before it become operative as a law*; and its purpose does not intend to invalidate a law already operative. . . .

It seems clear that the intendment of the framers of the Constitution was that all laws, except those declared non-referable, should be subject to referendum if petitions to refer them were duly filed before their effective date[.]

Moore, 250 S.W.2d at 706 (emphasis added) (citation modified). Referred legislation *must* be suspended before it goes into effect; otherwise, the purpose of the referendum process would be undermined (if not destroyed altogether).

Defendants' position must therefore be rejected. The referendum statutes—which, of course, *cannot* trump the constitutional right to referendum, *see No Bans*, 638 S.W.3d at 492 (“The legislature must not be permitted to use procedural formalities to interfere with or impede this constitutional right that is so integral to Missouri’s democratic system of government.”)—give the Secretary of State until “the thirteenth Tuesday prior to the general election or two weeks after the date the election authority certifies the results of a petition verification . . . , whichever is later,” to issue a certificate of sufficiency, § 116.150(3), RSMo. Applied here, Secretary Hoskins has until August 4, 2026—*primary day*—to issue a certificate

for the HB1 referendum. See MTD 13 & n.8. Section 116.150, RSMo, thus allows the Secretary of State to certify a referendum long after the ninety-day default for legislative effectiveness. And since legislation *cannot* be subject to referendum if it has already gone into effect, suspension *must* occur before the deadline for the issuance of a certificate of sufficiency—specifically, at the time a referendum petition is submitted by the ninety-day constitutional deadline.²

This Court reached the same conclusion decades ago in a case involving the aforementioned 1980s trucking legislation. The plaintiffs in *Kaw Transport Co. v. Whitmer*, No. CV181-778CC (Cole Cnty. Cir. Ct. Sept. 29, 1981), argued that “a certification process by the Secretary of State [was required] before the staying effect of a referendum petition takes effect.” Ex. 14. The Court rejected the claim, explaining in part that “[t]he right of the people of this State . . . by use of the referendum process to stay the operation of legislative upon the happening of certain events, and to submit that legislation to a vote of all the people is superior to any right possessed by the plaintiffs.” *Id.* The *Kaw Transport* case was no outlier: Missouri’s judiciary, including the Supreme Court, has repeatedly rejected attempts to limit the People’s referendum power by manipulating timing and process. See, e.g., *No Bans*, 638 S.W.3d at 492 (statutory prohibition on collecting

² To the extent Section 116.150 or 116.130, RSMo, permits the Secretary of State to delay suspension of a referred law until the issuance of a certificate of sufficiency—and thus allows a referred law to go into effect—those statutes conflict with Article III, Sections 49, 52(a), and 52(b) of the Missouri Constitution, at least as applied to the facts here, and are unconstitutional.

referendum-petition signatures prior to Secretary of State's certification of official ballot title was unconstitutional because it "interferes with and impedes" constitutional right of referendum by unreasonably shortening timeframe for petition circulation); *Moore*, 250 S.W.2d at 706 ("To construe § 52(a) to prohibit referendum of laws made effective by § 29 would enable the general assembly to defeat the purpose of 52(a) by passing bills and then recessing for thirty days or more after prescribing by joint resolution that they should take effect ninety days after the beginning of the recess.").

None of this is to say that Secretary Hoskins has no recourse to *unsuspend* HB1 (or any other referred legislation) if the submitted petitions are legally insufficient. At the outset, his office could have "rejected [the petitions] as insufficient" as soon as they were submitted if they were not "submitted in accordance with this section, disregarding clerical and merely technical errors." § 116.100, RSMo. He remains empowered to "examine the petition to determine whether it complies with the Constitution of Missouri and with" the referendum statutes, including by "verify[ing] the signatures on the petition by use of random sampling of five percent of the signatures"; "[i]f the random sample verification establishes that the number of valid signatures is less than ninety percent of the number of qualified voters needed to find the petition sufficient in a congressional district, the petition shall be deemed to have failed to qualify in that district." § 116.120(1)–(2), RSMo. He "may send copies of petition pages to election authorities to verify that the persons whose names are listed as signers to the

petition are registered voters. Such verification may either be of each signature or by random sampling[.]” § 116.130(1), RSMo. He retains “authority not to count signatures on initiative or referendum petitions which are, in his opinion, forged or fraudulent signatures.” § 116.140, RSMo. And, *at any time*, “[i]f the secretary of state finds the petition insufficient, the secretary of state shall issue a certificate stating the reason for the insufficiency.” § 116.150(2), RSMo. The occurrence and timing of these safeguards are left to the Secretary of State’s discretion, and they serve as a check on the automatic suspension of referred legislation.³ But until they are invoked (and, of course, the process for judicial review is allowed to take its course, *see* MTD 18–19), referred legislation is suspended.

B. HB1 is now suspended as an operation of law.

Given this precedent, and the importance of preserving the People’s referendum power, HB1 is now suspended—full stop. As the Revisor reports, the Secretary of State’s office received 691 boxes of referendum petitions for HB1 on December 9, 2025. Ex. 7. Upon that submission, HB1 was “halted” as a matter of law. *Kemper*, 165 S.W. at 779. Nothing further is required to effectuate HB1’s

³ The Legislature also has a check: A referendum may *not* be ordered “as to laws necessary for the immediate preservation of the public peace, health or safety, and laws making appropriations for the current expenses of the state government, for the maintenance of state institutions and for the support of public schools.” Mo. Const. art. III, § 52(a); *see also id.* art. III, § 29 (provision that laws cannot take effect fewer than ninety days after legislative adjournment does not apply to appropriation acts or emergency legislation). HB1, for its part, does not implicate any of these exceptions.

suspension—not the Secretary of State’s issuance of a certificate of sufficiency under Section 116.150, RSMo, or anything else.

Notably, Attorney General Catherine Hanaway initially adopted this longstanding, commonsense position. In a federal-court complaint challenging the constitutionality of the HB1 referendum, she cited Article III, Section 52(b) of the Missouri Constitution to explain that, “[i]f a referendum petition gains enough signatures to qualify for a vote before the people, the challenged law is frozen pending the public vote. Thus, the General Assembly loses its authority over redistricting pending that public vote.” Complaint ¶ 48, *Mo. Gen. Assembly v. Von Glahn*, No. 4:25-cv-01535-ZMB (E.D. Mo. Oct. 15, 2025), ECF No. 1 (citation modified). The Missouri Director of Elections agreed in a sworn declaration. *See* Declaration of Chrissy Peters in Support of Plaintiffs’ Motion for a Preliminary Injunction ¶ 20, *Mo. Gen. Assembly*, No. 4:25-cv-01535-ZMB (E.D. Mo. Oct. 15, 2025), ECF No. 3-1 (“[I]f [referendum organizers] succeed in collecting the necessary signatures, the Missouri Constitution will prevent the new map from taking effect until a referendum occurs.”).

Although Secretary Hoskins has myriad tools to review the HB1 petitions for sufficiency and may find the referendum invalid at any time, *see supra* pp.11–12, this has not occurred. No certificate of insufficiency has issued; nor has 2026-R004 been otherwise deemed noncompliant. HB1 is therefore suspended.⁴

⁴ Plaintiffs’ underlying petition requested that use of HB1’s congressional map be enjoined “until voters approve or reject it through the constitutional

Defendants, however, are nevertheless treating HB1 as though it is in effect. *See, e.g.*, Ex. 11 (listing effective date of December 11, 2025, for statutes created and amended by HB1). This position is wrong as a matter of law, and Plaintiffs are therefore likely to succeed on their claim that Defendants are currently violating the Missouri Constitution.

II. Plaintiffs will suffer irreparable harm absent injunctive relief.

The equities further support Plaintiffs' request for injunctive relief.

Plaintiffs (and all Missouri voters) will suffer irreparable harm absent immediate judicial intervention because "being subject to an unconstitutional statute, for even minimal periods of time, unquestionably constitutes irreparable injury." *Rebman v. Parson*, 576 S.W.3d 605, 612 (Mo. banc 2019) (citation modified). Here, both Plaintiffs signed the petition to refer HB1 to the People for approval or rejection. Ex. 1 ¶5; Ex. 2 ¶5. Allowing HB1 to take effect notwithstanding this referral would "serve[] as an end run around the constitutionally protected right of the people of Missouri" to approve or reject legislation, denying them their constitutional prerogative and imposing a clear and

referendum process." Pet. for Declaratory J. & Injunctive Relief 9. Their use of the phrase "constitutional referendum process" naturally presupposed a *legally compliant* referendum process; Plaintiffs do not seek to enjoin HB1 indefinitely even if the 2026-RO04 vote is foreclosed as a matter of law. Nor do they seek to prevent Secretary Hoskins from making a decision about certification. But since Defendants have misconstrued this nuance, *see* MTD 17–21, Plaintiffs offer this clarification and have amended their requested relief to reflect it, *see infra* p. 19.

irreparable injury. *Earth Island Inst. v. Union Elec. Co.*, 456 S.W.3d 27, 34 (Mo. banc 2015).

Moreover, HB1 has been prematurely codified, *see* Ex. 11, and Defendants have indicated their intent to use HB1's new congressional map in the upcoming elections, *see, e.g.*, Ex. 10 ("Republican Attorney General Catherine Hanaway issued a statement saying the new House districts took effect Tuesday and will remain in place unless Hoskins determines the referendum petition is constitutional and contains sufficient signatures."). Although this statement from Attorney General Hanaway left open the possibility that HB1 could be suspended after Secretary Hoskins issues a certificate of sufficiency, Secretary Hoskins has until *August* to do so, *see* § 116.150(1), RSMo, and has stated publicly that the certification process will likely take "a significant amount of time," Ex. 15 (Alisa Nelson, *When Does Missouri's New Congressional Map Take Effect? That Depends on Who You Ask*, MissouriNet (Dec. 10, 2025), <https://bit.ly/4apTGwH>).⁵

⁵ Defendants suggest that "Plaintiffs never explain why delay would affect their ability to vote on a referendum of HB1 before the HB1 maps govern a congressional election." MTD 17. Here is an explanation: Secretary Hoskins has until August 4, 2026, to complete the sufficiency-review process under § 116.150, RSMo—the *same day* as the 2026 primary election. *See* MTD 13 & n.8. A prolonged verification process is hardly unthinkable, as Secretary Hoskins has "promised a 'slow and steady' review of the signatures" and told the Associated Press he would "do everything [he] can to protect . . . the map the General Assembly passed." Ex. 10. And just one week ago Attorney General Hanaway echoed this sentiment while relying on her (erroneous) opinion that HB1 is currently in effect: "As long as the status quo is the new map[], delay works in our favor." *Missouri Attorney General, Catherine Hanaway - Live at the Capitol*, at 07:20, NewsTalkSTL (Jan. 7, 2026), <https://bit.ly/4qU6ws7>.

But time is of the essence: The filing period for congressional candidates begins on February 24, 2026, *see* § 115.349(2), RSMo, meaning the contours of Missouri’s operative congressional map must be clarified—and Defendants’ erroneous interpretation of the referendum laws must be corrected—as soon as possible. Otherwise, the People’s referendum rights will be subject to another legal impediment: “the *Purcell* principle,” which “requires courts to favor the status quo in a legal dispute during the lead-up to an election.” MTD 17 (footnote omitted) (citing *Purcell v. Gonazalez*, 549 U.S. 1 (2006) (per curiam)).

Simply put, by the time Secretary Hoskins finishes his review, it could be too late to revert to Missouri’s prior 2022 congressional map—meaning that HB1’s new map will be used in the 2026 midterms. And given that HB1 is suspended pursuant to the People’s referendum rights, use of the HB1 map before a valid referendum vote occurs would violate the Missouri Constitution. As soon as an election occurs under HB1’s (legally suspended) congressional map, irreparable harm will be imposed because “there can be no do-over and no redress. The injury to [] voters is real and completely irreparable if nothing is done to enjoin” an unconstitutional map. *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014).

Clearly, no “monetary remedies can[] provide adequate compensation for [such] improper conduct.” *Glenn v. City of Grant City*, 69 S.W.3d 126, 130 (Mo. App. W.D. 2002) (citation modified). Plaintiffs will therefore be irreparably harmed absent immediate injunctive relief. And because Plaintiffs have “shown a

likely violation” of fundamental rights, “the other requirements for obtaining a preliminary injunction are generally deemed to have been satisfied.” *Willson v. City of Bel-Nor*, 924 F.3d 995, 999 (8th Cir. 2019) (citation modified).⁶

III. The balance of harms and public interest support injunctive relief.

The balance of harms and public interest merge when the government is the nonmoving party, see *Ass’n for Accessible Meds. v. Ellison*, 140 F.4th 957, 961 (8th Cir. 2025), and here, both factors weigh strongly in favor of immediate relief.

The government has charted an unconstitutional course: implementing HB1’s new congressional map for the upcoming midterm elections notwithstanding the legislation’s suspension. Enjoining this unlawful conduct will impose no injury on Defendants because “a state is in no way harmed by issuance of a preliminary injunction which prevents the state from enforcing [laws] likely to be found unconstitutional.” *Giovani Carandola, Ltd. v. Bason*, 303 F.3d 507, 521 (4th Cir. 2002) (citation modified); see also, e.g., *United States v. Alabama*, 691 F.3d 1269, 1301 (11th Cir. 2012) (“[W]e discern no harm from the state’s nonenforcement of invalid legislation.”). In contrast, it is “always in the public interest to protect constitutional rights,” *Ass’n for Accessible Meds.*, 140 F.4th at 961 (citation modified), and, given that Plaintiffs are likely to succeed on the merits, injunctive relief will preserve Plaintiffs’ and all Missourians’ referendum

⁶ Missouri courts “rel[y] on federal law . . . in setting forth the standard for issuing preliminary injunctive relief.” *Comprehensive Health*, 2025 WL 2346611, at *2.

and voting rights, see *Phelps-Roper v. Nixon*, 545 F.3d 685, 690 (8th Cir. 2008) (where constitutional rights are concerned, “the determination of where the public interest lies [] is dependent on the determination of the likelihood of success on the merits”), *overruled on other grounds, Phelps-Roper v. City of Manchester*, 697 F.3d 678 (8th Cir. 2012).

IV. The Court should advance and consolidate trial on the merits with the preliminary-injunction hearing.

Finally, the Court should advance and consolidate trial on the merits with the preliminary-injunction hearing under Rule 92.02(c)(3), Mo. S. Ct. R., which provides that “[a]t any time the Court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application for a preliminary injunction.”

The Court may order consolidation “for whatever reason the judge may find suitable.” *Est. of Hutchison v. Massood*, 494 S.W.3d 595, 605 (Mo. App. W.D. 2016) (quoting *State ex rel. Cohen v. Riley*, 994 S.W.2d 546, 550 (Mo. banc 1999) (Wolff, J., concurring)). “An order accelerating the trial on the merits and consolidating it with the preliminary injunction hearing must be clear and unambiguous,” *Cohen*, 994 S.W.2d at 548, and “must be given in sufficient time to afford a litigant a reasonable opportunity to marshal, and present, its evidence,” *Hutchison*, 494 S.W.3d at 602 (citation modified). “Such a ruling may occur before or, conceivably, after the beginning of, the preliminary hearing,” but it must be “made *explicitly*.” *Id.* at 605 (citation modified).

Here, expedited resolution on the merits is readily justified. This case presents a purely legal question that can be fully adjudicated using judicially noticeable facts.⁷ No further factual determination is required—meaning no discovery, evidentiary development, or delay is needed to facilitate a merits ruling. Advancing and consolidating trial on the merits with the preliminary-injunction hearing will thus promote judicial economy by resolving the predicate legal question of HB1’s suspension in one stroke. Final resolution of this legal question in an expedited manner will also allow the Court to enter permanent injunctive relief and judgment quickly, which is necessary given the time-sensitive nature of this proceeding (the upcoming candidate-filing period in particular, *see supra* pp.15–16) and the potential for appellate review.

CONCLUSION

For these reasons, Plaintiffs are entitled to a preliminary injunction. They respectfully request that the Court grant this motion and issue an order preliminarily enjoining Defendants, including their officers, agents, servants, employees, attorneys, and all those persons in active concert or participation with them, from using HB1’s congressional map until voters approve or reject it through the constitutional referendum process (or the referendum is finally ruled noncompliant or otherwise invalid).

⁷ While this motion cites news articles for context and to satisfy the equitable factors for preliminary injunctive relief, the merits of Plaintiffs’ sole claim can be adjudicated using only caselaw and government documents—all amenable to judicial notice. *See supra* note 1.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 14, 2026, a true and correct copy of the above was filed with the Court's electronic filing system to be served by electronic methods on counsel for all parties entered in the case.

s/ Tori Schafer
Attorney for Plaintiffs

