IN THE SUPREME COURT OF MISSOURI

No. SC101581

JAKE MAGGARD, *ET AL.*,
PLAINTIFFS-APPELLANTS,

VS.

STATE OF MISSOURI, *ET AL.*,
DEFENDANTS-RESPONDENTS.

Appeal from the Circuit Court of Cole County, Missouri
The Honorable Brian K. Stumpe, Circuit Judge

BRIEF OF AMICUS PEOPLE NOT POLITICIANS IN SUPPORT OF PLAINTIFFS-APPELLANTS

filed with consent of all parties

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INTEREST OF AMICUS AND AUTHORITY TO FILE

People Not Politicians ("PNP") files this amicus brief with the consent of all parties. *See* Rule 84.05(f)(2).

PNP is a not-for-profit corporation and campaign committee organized under Missouri law. *See* § 130.011(8), RSMo. PNP is the committee supporting the campaign for the referendum petition at issue in this litigation. PNP's Executive Director, Richard von Glahn, filed that referendum petition with the Secretary of State.

Submitting this amicus brief is consistent with PNP's mission, which is to ensure the referendum is placed on the ballot, so Missourians can vote on it. PNP expended significant resources gathering signatures to place the referendum on the ballot. The entire goal of the campaign is to ensure House Bill 1 "take[s] effect when approved by a majority of the votes cast thereon and not otherwise." Mo. Const. art. III, § 52(b). The issues in this appeal go to the heart of PNP's purpose.

INTRODUCTION

For all the reasons explained by Plaintiffs, the trial court's judgment is erroneous. The Constitution's language and structure are clear: the filing of a referendum petition suspends the effectiveness of the measure referred. Such measures "shall take effect when approved by a majority of the votes cast thereon, and not otherwise." Mo. Const. art. III, § 52(b). Any other rule "is illogical and well-nigh unthinkable." *State ex rel. Kemper v. Carter*, 165 S.W. 773, 778 (Mo. banc 1914). The only logical interpretation of the words "and not otherwise" is that submission of a referendum suspends the bill referred.

PNP submits this brief principally to (1) address the presumption of sufficiency created by the statutory scheme in Chapter 116, which requires signed and notarized circulator affidavits, and (2) provide the Court with the context in which this case arose, from the perspective of the campaign supporting the referendum.

The statutory requirements of Chapter 116 must be interpreted to give effect to the people's constitutional reservation of the referendum right. The entire constitutional and statutory scheme is contrary to the State's position and the judgment below. The Constitution secures the people's right to a referendum and specifies how to request one. The statutes, in turn, support the people's reservation of power by, for example, requiring signers to be registered voters and circulators to sign affidavits. This creates a "presumption of validity" for the signatures submitted in support of a referendum. *Ketcham v. Blunt*, 847 S.W.2d

824, 832 (Mo. App. 1992) (citing *United Labor Comm. of Missouri v. Kirkpatrick*, 572 S.W.2d 449, 453 (Mo. banc 1973)).

When this presumption of validity is considered, and added to the clear, binding authority discussed by Plaintiffs, there can be no conclusion, but that House Bill 1 was suspended when PNP turned in over 300,000 signatures on December 9, 2025. *See* D13; D14. Those signatures are, as a matter of law, presumptively valid. But the Secretary effectively claims *he* gets to decide whether and when House Bill 1 can go into effect. No legal authority allows the Secretary to decide, by *ipse dixit*, what acts of the General Assembly are in effect and when. That is a matter for the people and the courts.

The statutes, Constitution, and common sense all fit neatly together. Bills generally take effect 90 days after the end of session. Mo. Const. art. III, § 29. Referenda on such bills must be filed within that 90-day window—before the bill goes into effect as an operative law—and must be signed by five percent of the legal voters in each of two-thirds of Missouri's congressional districts. Mo. Const. art. III, § 52(a). When that happens, the referred measure does not take effect unless and until approved by voters. Mo. Const. art. III, § 52(b). Indeed, the fundamental purpose of the referendum is to "suspend or annul a law which has not gone into effect." *State ex rel. Moore v. Toberman*, 250 S.W.2d 701, 706 (Mo. banc 1952).

At every turn, the Secretary has ignored these clear constitutional and statutory directives. Rather than ensure the people's right to the referendum is

effectuated, the Secretary has used every tool (legitimate or not) to obfuscate and avoid the inevitable conclusion that the referendum on House Bill 1 is timely, legal, and sufficient and that bill is suspended. Consistent with a wealth of caselaw, the Court should protect the people's right to the referendum against this interference.

ARGUMENT

I. The people reserved the power to decide whether bills ever become law.

The Missouri Constitution begins by declaring that "all political power is vested in and derived from the people" and "all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole." Mo. Const. art. I, § 1. The people "have the inherent, sole and exclusive right to regulate the internal government." Mo. Const. art. I, § 2. From that fundamental premise, the people chose to delegate day-to-day responsibility for legislating to the General Assembly but reserved for themselves the "power to approve or reject by referendum any act of the general assembly, except as hereinafter provided." Mo. Const. art. III, § 49.

"[T]he 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) (legislative act suspended by *filing* of referendum petition); *State ex rel. Drain v. Becker*, 240 S.W. 229 (Mo. banc 1922) (same). The "purpose 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 to require their approval before it becomes operative as a law." *Stickler v. Ashcroft*, 539 S.W.3d 702, 713 (Mo. App. 2017) (quoting *Moore*, 250 S.W. 2d at 706). Through the referendum, "those who have no access to or influence with elected representatives may take

their cause directly to the people." *Missourians to Protect the Initiative Process v. Blunt* (*MPIP*), 799 S.W.2d 824, 827 (Mo. banc 1990) (citations omitted).

In more practical terms, the people reserved the ability to substitute themselves for the Governor in the legislative process. This means the power to approve or reject a bill passed by the General Assembly. Indeed, Article III, Section 49 does not refer to "laws"; it refers to "any ***act*** of the general assembly." Mo. Const. art. III, § 49 (emphasis added). Likewise, Section 52(a) sets the deadline for submission of a referendum petition based on "adjournment of the session of the general assembly which passed the ***bill on which the referendum is demanded***." Mo. Const. art. III, § 52(a) (emphasis added).

Thus, the people get the final say on whether the referred bill *ever* becomes a law.[1] *See* Mo. Const. art. III, § 31 ("If the bill be approved by the governor it shall become a law."); *Brown v. Morris*, 290 S.W.2d 160, 166-67 (Mo. banc 1956) ("Section 31 clearly provides that constitutional requirements for action by the legislative body have been met when a bill has 'passed both houses of the general assembly. The bill is then ready for consideration by the executive ***or the voters***

[1] This is also the case when the General Assembly refers a measure to the people via a referendum clause. *See* Mo. Const. art. III, § 52(b) ("The veto power of the governor shall not extend to measures referred to the people."). So, if *those* bills never become law before the referendum vote, a bill referred to the people by their fellow citizens must similarly be suspended until voters have had an opportunity to have their say.

on referendum." (emphasis added)). A bill, of course, is not a law. Unless and until the people vote to approve it, it cannot be a law and cannot go into effect.[2]

[2] The Constitution's referendum provisions were adapted from provisions previously adopted by voters in 1908. *See Stickler*, 539 S.W.3d at 712 n.8. The language of Article IV, Section 57 of the 1875 Constitution makes abundantly clear the effect of submitting a referendum: "Any measure referred to the people shall take effect ***and become the law*** when it is approved by a majority of the votes cast thereon, and not otherwise." *Id.* (emphasis added).

II. Courts jealously guard the people's reservation of the referendum power against interference.

As this Court recently observed: "[W]hen the right to referendum is employed, voters are more often than not inclined to exercise the power reserved for them; 24 of the 26 referenda put before the voters between 1914 and 2008 have resulted in the rejection of bills enacted by the General Assembly. Voters also struck down the General Assembly's 'right to work' bill in the only referendum put on the ballot since 2008." *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 489 n.8 (Mo. banc 2022) (citations omitted). This is a remarkable track record. It undoubtedly explains the lengths to which State officials have gone to try to interfere with the referendum under consideration.[3]

The significance of the people reserving the referendum power for themselves cannot be overstated. As the font of all political power, the people's reservation of legislative power is not to be interfered with.[4] This Court described the matter in stark terms more than a century ago:

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[3] State officials took the unprecedented approach of suing PNP and its Executive Director in federal court to try to prevent them from even *turning in* this referendum. *See Mo. General Assembly v. von Glahn*, 2025 WL 3514277 (E.D. Mo. Dec. 8, 2025). Those efforts failed. *Id.*

[4] This reservation of power also has implications under the U.S. Constitution. "[W]here the people reserve the initiative or referendum power, the exercise of that power is protected by the First Amendment applied to the States through the Fourteenth Amendment" and the State may not impermissibly burden the exercise of that power. *Stone v. City of Prescott*, 173 F.3d 1172, 1175 (9th Cir. 1999) (citing *Meyer v. Grant,* 486 U.S. 414, 420 (1988)).

> Under our system, that intangible thing we call "government," the existence of which is least felt when best administered, has its origin in and draws its life and inspiration from the people. They frame and adopt the organic law, which defines the limits of legislative action; they incorporate therein whatever provisions they may deem proper. Thus empowered, as are the people in all governments organized as is ours, the inevitable conclusion follows that if they determine, as they have in the adoption of the initiative and referendum, to limit the province or modify the purview of the Legislature in the adoption or rejection of laws, ***there is no power that can say them nay***.

Drain, 240 S.W. at 230 (emphasis added).

While the times may have changed, the Constitution has not. This Court reaffirmed the validity of *Drain*'s wisdom just ten years ago. *Earth Island Inst. v. Union Elec. Co.*, 456 S.W.3d 27, 35 (Mo. banc 2015). "This Court properly rejected [an] attempt at an end run around the referendum" by "h[olding] that, once the right of referendum has been invoked, the legislature 'is divested of all power in regard to the matter referred until the action of the people has been exercised by a vote upon same.'" *Id.* (quoting *Drain*, 240 S.W. at 232).

Consistent with this protective approach, "[c]onstitutional and statutory provisions relative to initiative are liberally construed to make effective the people's reservation of that power." *MPIP*, 799 S.W.2d at 827. "Statutes that place impediments on the initiative power that are inconsistent with the reservation found in the language of the constitution will be declared unconstitutional." *Id.* These rules also apply to the referendum. *United Labor*,

572 S.W.2d at 454-55. Cases applying these rules to safeguard the initiative and referendum are legion.

"[P]rocedures designed to effectuate these democratic concepts should be liberally construed to avail the voters with every opportunity to exercise these rights. The ability of the voters to get before their fellow voters issues they deem significant should not be thwarted in preference for technical formalities." *Id.* at 454. The initiative and referendum are "too akin to our basic democratic ideals to have this process made unduly burdensome." *Id.* at 455. The legislature does not have authority to "'interfere with and impede' the right of referendum" by taking steps to "make any referendum effort untenable." *No Bans on Choice*, 638 S.W.3d at 491.

Nor do executive branch officials. "The constitutional right of the people to the initiative . . . cannot be made to depend upon the arithmetic aptitude of the public official." *Ketcham*, 847 S.W.2d at 831. If this fundamental right cannot be thwarted by the inability of an official to do basic math, it surely cannot be thwarted by an official's lawless declaration that a referred bill is "in effect," notwithstanding the unambiguous provisions of the Constitution and more than a century of unbroken judicial determinations. "To place the seal of judicial approval upon such [] action would, in effect, render the constitutional provision concerning the . . . referendum nugatory and, as a consequence, its adoption a vain and foolish thing." *Drain*, 240 S.W. at 231-32.

III. The General Assembly set up a statutory scheme to effectuate the people's right to referendum and the constitutional command that a measure is suspended upon the filing of a signed referendum petition.

Swimming upstream against this legal tidal wave, the trial court's reasoning on the substantive issue seems to hinge on the Secretary's role in reviewing signatures after a referendum has been filed. But *nothing in the Constitution* gives the Secretary that authority, much less the authority to prevent a referendum from suspending the effectiveness of a bill pending a vote of the people.

While "[r]eferendum petitions shall be filed with the secretary of state," that is the extent of his constitutional role. Mo. Const. art. III, § 52(a). A constitutional provision establishing an office of Secretary of State designates that office as the custodian of records and allows the Secretary to perform duties "in relation to elections" as provided by law. Mo. Const. art. IV, § 14. That does not include the authority to decide when and whether a bill shall take effect and become a law. "[W]hether [an act of the legislature] be a law or not a law is a judicial question, to be settled and determined by the courts and judges." *State v. Moore*, 145 S.W. 199, 201 (Ark. 1912) (quotations omitted) ("It was not intended that an act passed by the Legislature should take effect conditionally and subject to the referendum, and continue in force from its passage, if the referendum was

not ordered, or that an act once in force should be suspended by the referendum till its approval by the people.").

No doubt *statutes* discuss the Secretary's role. And no doubt the General Assembly can "enact 'reasonable implementations' of the referendum process." *No Bans on Choice,* 638 S.W.3d at 487 (citing *State ex rel. Upchurch v. Blunt*, 810 S.W.2d 515, 516 (Mo. banc 1991)). The "framework for exercising the right of referendum was enacted by the legislature in chapter 116." *Id.* Chapter 116 must be read to effectuate the referendum right, not inhibit it. *Id.* at 489.

A. The Statutory Scheme Creates a Presumption of Validity

A review of the provisions in Chapter 116 makes plain the statutes are meant to support the people's right to referendum by creating a presumption of validity that is part of the constitutional scheme. They are certainly not for State officials to use in a manner that thwarts the rights of the people.

As this Court has explained, "[t]he law presumes right conduct rather than otherwise. It presumes that men will not deliberately commit criminal acts." *Kaesser v. Becker*, 243 S.W. 346, 350 (Mo. banc 1922). Chapter 116 relies on that presumption.[5] It prescribes a form for referendum petitions, which must be "substantially" followed. § 116.030, RSMo. The statutes start with the premise that every signer must be a registered voter, otherwise it is a crime to sign.

[5] The basic statutory structure has remained the same for more than a century. *Union Elec. Co. v. Kirkpatrick*, 678 S.W.2d 402, 407-408 (Mo. banc 1984). In fact, there may be no subject the statutes and this Court have addressed with more consistency and clarity than the sanctity of the referendum right.

§ 116.090, RSMo. Prospective signers must be (and are) clearly advised they will commit a crime if they sign without being registered. § 116.030, RSMo. These requirements ensure every signer understands the gravity of the act, discouraging participation by those who know they are not actually registered voters and creating a strong indication that all signers are, in fact, qualified.

The form also contains a statutorily mandated circulator's affidavit, which must be signed under penalty of perjury and notarized. § 116.030, RSMo. It is also a crime to falsely swear a circulator's affidavit. § 116.090, RSMo. When a circulator signs, they attest "UNDER PENALTY OF PERJURY" that each person on the referendum sheet signed in the circulator's presence. § 116.030, RSMo. The circulator further affirms their belief that "each signer is a registered voter of the state of Missouri and [the] County [listed elsewhere on the page]." *Id.*

Signing a referendum petition or a circulator's affidavit is a serious matter. As explained below, the affidavit is good enough to prove a motion for summary judgment that the referendum is sufficient in a court of law. The mere completion of the affidavit shifts the burden to a party desiring to prevent the referendum from being placed on the ballot.

In light of these requirements and the solemn act of submitting signatures, "the [circulator] affidavit creates a presumption of validity" for signatures on the page to which it is attached. *Ketcham*, 847 S.W.2d at 832. It "is prima facie proof of the genuineness of such signatures, that the persons whose signatures appear thereon live at the address given, and that such persons are legal voters."

Kaesser, 243 S.W. at 350. That presumption of validity governs until the Secretary, or an opponent, submits proof to the contrary. *Id.*

The Secretary must "accept facially sufficient signed and notarized circulator affidavits in determining whether to certify [a petition] as sufficient." *Bradshaw v. Ashcroft*, 559 S.W.3d 79, 91 (Mo. App. 2018).[6] This statutory scheme effectuates the constitutional framework that allows the people to step into the Governor's shoes to approve or reject a bill passed by the General Assembly. By submitting those signatures, wherein the signers affirm they are registered voters and the circulators sign affidavits to the same effect, those individuals refer the matter to a vote and the measure "shall take effect when approved by a majority of the votes cast thereon, and not otherwise." Mo. Const. art. III, § 52(b).

The State's argument, and the judgment below, rely heavily on the idea that the Secretary has a role in reviewing signatures filed in support of a referendum. They place no value whatsoever on the statutory protections discussed above and proceed as if there are no presumptions in place before the Secretary's formal certification. That is simply not the case.[7] Nor do those statutes mean the

[6] The regulations governing the signature verification process confirm this. *See* 15 CSR 30-15. The regulations make no mention of the affidavits, as the presumption is the Secretary has done an initial review to determine whether the affidavit is appropriately completed and notarized. Only on those pages with completed and correct affidavits will signature validation occur.

[7] In dismissing the State's lawsuit against PNP, the federal court observed the Secretary has the "authority to ***decertify*** a [referendum] petition." *Mo. General*

Secretary has no role. Nothing in the statutes prohibits the Secretary from looking at the initial submission and determining immediately if it is insufficient. For example, if none of the pages had affidavits, or the referendum contained only five signature pages, the Secretary could immediately declare the petition insufficient (and a citizen could challenge that decision at that time). *See* § 116.150, RSMo. But that did not happen here.

Following the statutory requirement to use circulator affidavits, combined with the admonition to every signer that they must be a registered voter, allows the referendum to enjoy a presumption of sufficiency, which in turn justifies immediate suspension of the referred measure "regardless of any affirmative act on the part of the Secretary of State or the Attorney General." *Kemper*, 165 S.W. at 779.

B. PNP Filed Enough Presumptively Valid Signatures

On December 9, 2025, PNP filed 691 boxes containing nearly 50,000 pages of signatures with the Secretary. D54-55. As the State's *own* filings with the trial court reflect, that submission included more than 300,000 signatures. *See, e.g.*, D13; D14. Every one of those pages, by law, contained a warning to signers that it was a crime to sign unless they were registered voters. And every one of those pages, by law, included a sworn circulator affidavit. § 116.080.2, RSMo. The Secretary *can automatically reject* any signatures gathered by a circulator who

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Assembly, 2025 WL 3514277 at *5. While the Secretary has criticized that language in post-judgment filings, the federal court's nomenclature fully comports with the statutory scheme.

has not timely delivered to his office the required circulator's affidavit. §§ 116.080.1 and 116.120.1, RSMo.

The Secretary did not do that either. He *never* issued PNP any correspondence claiming the signatures submitted lacked the required affidavits. Instead, he verified the number of signature pages submitted, accepted the referendum, and issued PNP a receipt for its filing. D54-55. According to the State, the Secretary then "promptly referred the referendum to officials in 116 local election jurisdictions" and those "election officials are [going] through the painstaking process of reviewing PNP's signatures." D211:P13-14.

Had the affidavits been missing, the Secretary would not have asked local election authorities to expend resources to review hundreds of thousands of signatures. When PNP filed its signatures, the Secretary was legally obligated to "examine the petition to determine whether it complies with the Constitution and [Chapter 116]." § 116.120.1, RSMo. If the Secretary believes the referendum does ***not*** comply, he can immediately issue a certificate of insufficiency, thus obviating the need to count signatures (subject to a legal challenge within 10 days). §§ 116.150 and 116.200, RSMo. While he can wait until August to do that (§ 116.150.3, RSMo), nothing requires him to wait.

In November, the Secretary (and others) sued PNP in federal court seeking "a declaratory judgment that PNP's referendum is unlawful under both the United States and Missouri Constitutions" based on his contention that it would violate the Elections Clause for a state to allow citizens to demand a referendum

on a redistricting bill.[8] *Mo. General Assembly*, 2025 WL 3514277 at *2, 5. He claimed he would be grievously injured by having to process signatures. *Id.* at *4. The federal court dismissed the case, observing—among other things—the Secretary had a "unique self-help remedy" since he was free to reject the referendum (subject to a court challenge) without counting a single signature. *Id.* at *4 & n.4.

The court further observed: "There is no doubt that the Secretary of State has both the authority ***and duty*** to assess the constitutionality of the final petition." *Id.* (emphasis added). And, "[g]iven the State's position that PNP's referendum violates the Missouri Constitution itself, that finding alone is sufficient for decertification." *Id.* (citations omitted). In fact, "the Secretary of State has an ***independent obligation*** flowing from his oath of office" to enforce the Constitution. *Id.* (emphasis added).

Despite the federal court providing this road map and choosing to abstain because the questions at issue could be adjudicated in state court, *id.* at *6, the Secretary did *not* issue an immediate certificate of insufficiency (based on either unconstitutionality or noncompliance with Chapter 116). Instead, he accepted the referendum for filing and proceeded to send signatures to local election authorities. Here, again, the presumption of regularity applies. Thus, the

[8] *But see State of Ohio ex rel. Davis v. Hildebrant*, 241 U.S. 565, 569 (1916) (concluding Elections Clause challenge to referendum on congressional plan was "plainly without substance); *Moore v. Harper*, 600 U.S. 1, 25-26 (2023) (reaffirming "the core principle espoused in *Hildebrandt*").

Secretary must believe the referendum is facially sufficient. Because, if he did not believe that, he has abdicated his "duty" and "obligation," has voluntarily chosen to incur the very "harm" he complained to the federal court about, and ignored this Court's admonition that there is no "justification for delaying to the very end of the [statutory] process claims" that could be conclusively resolved early in the process. *Coleman v. Ashcroft*, 696 S.W.3d 347, 353 (Mo. banc 2024).

And, as this lawsuit worked its way through the trial court, the local election authorities were hard at work confirming what was already presumed. The Secretary posts reports on the status of that work on his website every few days. *See* Missouri Secretary of State, *Preliminary Petition Signature County Reports*, at https://www.sos.mo.gov/petitions/PreliminaryReports. As of April 6, 2026, local election authorities had *already* confirmed the validity of tens of thousands of signatures beyond what is needed. *See* Missouri Secretary of State, *April 6, 2026 Preliminary Petition Signature County Reports*, at https://www.sos.mo.gov/CMSImages/Elections/Petitions/2026PreliminaryCounts/2026-R004/4-6-26SignatureTotalsByCounty.pdf; People Not Politicians, *Road to Qualifying*, at https://peoplenotpoliticiansmo.org/road-to-qualifying/. The Secretary is publicly reporting this information for the world to see. This referendum has more than enough signatures, by any metric.

All of this is to say, the Secretary's own actions are consistent with the fact that PNP submitted the affidavits in accordance with statutory requirements and

the referendum is facially sufficient. The Secretary has not argued otherwise. Consequently, the signatures are presumed valid.

C. The Authority Cited by the Trial Court Supports Plaintiffs, Not the State

The trial court adopted Intervenor's proposed judgment. *Compare* D115, *with* D116. On the merits of the parties' dispute, the trial court relied almost entirely on this Court's decision in *Kaesser v. Becker*, 243 S.W. 346 (Mo. banc 1922). *See* D116:P11-17. But that decision does not remotely support the judgment. To the contrary, it overwhelmingly shows the referendum at issue is presumed sufficient and suspended House Bill 1's effectiveness.

Kaesser involved a post-certification signature challenge (which ultimately succeeded due to the minimal number of signatures collected in one congressional district). 243 S.W. at 347.[9] This Court rejected the notion that the Secretary gets the final say on the validity of signatures and whether a referendum goes on the ballot. "That the preliminary approval of the secretary of state is in no sense final and the courts are not bound by his decision could hardly

[9] In *Kaesser*, the Secretary certified a mere 31 signatures over the constitutional minimum in the Fourth Congressional District. *Id.* For this referendum, the "closest call" is the Seventh Congressional District, where local election authorities have already confirmed the validity of 1,500 more signatures than needed, with over 5,000 left to review. People Not Politicians, *Road to Qualifying*, at https://peoplenotpoliticiansmo.org/road-to-qualifying/.

be expressed in clearer language" in the statutes. *Id.* at 351. That is still the law today. *See* § 116.200, RSMo.

Kaesser also discussed, at length, the effect of circulator affidavits. "[I]t is the duty of the secretary of state to accept and file petitions which are ***on their face*** legal and sufficient." 243 S.W. at 351 (emphasis added). When a circulator affidavit is presented, "prima facie proof is made of the facts stated therein." *Id.* at 352. As discussed above, "[t]he law presumes right conduct rather than otherwise. It presumes that men will not deliberately commit criminal acts. Applying such presumption concretely, when the circulator of a referendum petition makes the statutory affidavit thereto, the law accepts as true the statements made therein ***until the contrary is shown***." *Id.* at 350 (emphasis added). "Such evidence as in judgment of law is sufficient to establish the fact, and if not rebutted remains sufficient for the purpose." *Id.*

Put simply, the State has the burden of proof on sufficiency exactly backwards. PNP filed hundreds of thousands of signatures (accompanied by circulator affidavits) beyond what is needed to qualify this referendum for the ballot. Those signatures are presumed valid. "[W]hen any of the facts stated in such affidavit are questioned in court proceedings, those questioning the truth of such statements must produce testimony to overcome such prima facie case." *Id.*

Ultimately, the State's position seems to be that the Secretary gets to decide whether a referred bill is suspended. He does not. Indeed, there is no statutory or constitutional support for such proposition. The Secretary does not

even get the final say on sufficiency. § 116.200, RSMo. And no statute purports to give the Secretary authority, at the time of signature submission, to simply declare a bill in effect.

The Secretary *could* have declared the referendum facially insufficient—§ 116.150, RSMo—but he did not. Once signatures are filed, a certificate of insufficiency is the Secretary's only avenue to "unsuspend" the referred bill (or to "decertify" the referendum) and have it go into effect. Having made his choice, the sufficiency of the signatures and the referendum is presumed until referendum opponents prove otherwise. House Bill 1 is suspended.

IV. Allowing a measure to take effect when a referendum petition has been filed would undoubtedly interfere with the people's reservation of the referendum power and sow chaos.

Besides the clear constitutional and statutory directive that submission of referendum signatures stays the implementation of the measure on which a referendum is requested, common sense also supports this conclusion. One need not even imagine hypotheticals to consider the consequences of the State's position. Missouri's recent history provides a vivid, real-world illustration of how the referendum process has always worked – and precisely why the State's novel theory would upend it.

A. Allowing a Referred Measure to Take Immediate Effect Would Create Chaos and Render the Vote Meaningless

On February 6, 2017, the Governor signed so-called "right to work" legislation (Senate Bill 19). *Stickler*, 539 S.W.3d at 706. Thereafter, in August, a referendum campaign filed more than 300,000 signatures with the Secretary. D227. Then-Secretary Jay Ashcroft's office, with apparent fealty to the law outlined above, publicly acknowledged Senate Bill 19 was suspended upon the filing of those signatures. D227; D228. In fact, the law was so well settled that then-Secretary Ashcroft proactively educated the public on the suspension, citing prior practice by then-Secretary Kirkpatrick in 1982. D228.

The measure, which would have fundamentally changed unionization in Missouri, never went into effect. At the August 2018 election, voters exercised their citizens' veto to reject "right to work."[10] This is how the referendum process is supposed to work, and how it has always worked. But consider what would have happened under the State and Intervenor's theory. After proponents filed signatures in August 2017, Senate Bill 19 would have gone into effect anyway – forcing unions and businesses to fundamentally restructure their operations during the months the Secretary spent verifying signatures. And then, once the Secretary formally certified the petition as sufficient, the measure would have been suspended, requiring everyone to unwind those changes.

That would have been unworkable. Senate Bill 19 was fiercely contested – unions vigorously opposed it while business interests were equally committed to its implementation. Had the measure gone into effect following submission of signatures, employers and unions would have been forced to make immediate changes, with parties on both sides unlikely to treat the subsequent suspension as a clean reset. The confusion and disruption that would have resulted are precisely what the referendum process is designed to prevent.

Allowing a referred measure to go into effect before the people's vote would "'interfere with and impede' the right of referendum" and "make [the]

[10] *See* Missouri Secretary of State, *Election Results*, at https://www.sos.mo.gov/CMSImages/ElectionResultsStatistics/2018PrimaryElection.pdf.

referendum effort untenable." *No Bans on Choice*, 638 S.W.3d at 491. It would render the "referendum nugatory and . . . its adoption a vain and foolish thing." *Drain*, 240 S.W. at 231-32. Referenda are not meant to create interim chaos for the industries, workers, and businesses affected by contested legislation. Yet that is precisely what the State and Intervenor's theory demands: every referendum put before Missouri voters must first subject affected parties to a period of legal uncertainty, with the measure in effect one moment and suspended the next, depending entirely on the pace of the Secretary's signature review.[11]

B. State Officials' Interference Has Been Intentional, Not Negligent

As discussed below, the State now erroneously asserts that—regardless of whether State officials were correct in their pronouncements concerning House Bill 1's effectiveness—this Court can do nothing to stop them. *See* Apr. 3, 2026 Resp. to Mot. to Expedite. State officials have sought to engineer such outcome from the very beginning.

First, they tried to prevent submission of the referendum altogether. *See Mo. General Assembly*, 2025 WL 3514277; *see also, generally*, D132. When that failed, the Attorney General publicly declared House Bill 1 was in effect *immediately* after signature submission and claimed it would remain in effect until the Secretary certified the referendum. D225. The Secretary promised to slow walk a certification decision until July or August 2026 and "to do everything

[11] State officials' deliberate inaction cannot undermine or completely obviate the people's right to referendum. *See No Bans on Choice*, 638 S.W.3d at 491-492.

[he] can to protect" House Bill 1. D225. The Attorney General publicly acknowledged this delay strategy favored the State so long as the "status quo" was House Bill 1.[12] Meanwhile, the Secretary proceeded to implement House Bill 1.

Referendum supporters have fought tooth and nail against these lawless actions. At present, the Secretary is actively refusing to even *process* approximately 100,000 signatures filed in support of the referendum after declaring them invalid based on when they were collected. *See People Not Politicians v. Hoskins,* No. 25AC-CC07128 (Cole County). That case was tried on stipulated facts in December, but the trial court has elected to hold it in "abeyance" and wait to see whether the Secretary decides there are enough signatures *while not processing nearly one-third of the signatures gathered. Id.* (Dec. 12, 2025 Order).

A second case, pending with the Court of Appeals, concerns the ballot title for the referendum, wherein the Secretary prepared a summary statement he now *admits* was insufficient and unfair. That summary statement asserted a "yes" vote would replace a "gerrymandered" map that "protects incumbents." *People Not*

[12] *Is Missouri GOP Dragging Out Redistricting Cases? 'Delay Works in Our Favor'*, Kansas City Star (Jan. 8, 2026), https://www.kansascity.com/news/politics-government/article314249251.html; *see also* NewsTalkSTL, *Missouri Attorney General, Catherine Hanway – Live at the Capitol*, at https://omny.fm/shows/newstalk-stl/missouri-attorney-general-catherine-hanaway.

Politicians v. Hoskins, No. WD88795, Mar. 25, 2026 Notice of Appeal and Judgment.[13]

Similarly, Plaintiffs filed the underlying case on December 23, 2025. The case was tried largely on stipulated facts on February 9, 2026. Yet, the trial court did not enter judgment until March 27, 2026. Now, the State contends it should be rewarded for this foot dragging and intentional interference because it is "too late" for the Court to order—consistent with *all* legal authority—that House Bill 1 is suspended and cannot be used. The State is wrong about that. This case undoubtedly presents the most egregious form of intentional interference with the people's reservation of the referendum right this Court has ever been asked to consider. These tactics must not be condoned.

[13] In his original ballot title, the Secretary accurately described the 2022 map as the "existing" congressional plan and framed the question as whether voters want to "repeal" that existing plan and "replace" it with House Bill 1. *See* Missouri Secretary of State, *2026 Referendum Petitions Approved for Circulation in Missouri*, https://www.sos.mo.gov/petitions/2026refcirculation. That ballot title language is accurate only if House Bill 1 is not in effect and has never been in effect. If House Bill 1 were already in effect, as the State now claims, the ballot title would be false. The fact that the Secretary himself drafted a ballot title premised on the 2022 map being the "existing" map is a tacit admission that House Bill 1 was suspended upon submission of the referendum petition and remains suspended until the people have had their say.

V. The State's *Purcell* argument fundamentally misunderstands the posture of House Bill 1; it is not a law and it cannot be used to conduct the 2026 congressional election.

In its April 3, 2026 Response to Appellants' Motion to Expedite, the State asserted "it is already too late for a judicial order changing Missouri's congressional map before the 2026 elections." The State and Secretary have been singing this tired refrain for months. The undersigned previously addressed why the *Purcell* Principle has zero relevance or application to state courts deciding matters of state law in *Luther v. Hoskins*, No. SC101412. PNP directs the Court to Appellants' Reply Brief in that case for further reading on that subject.

PNP does wish to reemphasize, however, the State's decision to continue ignoring recent history (in addition to ancient history). The State makes much of the fact that candidate filing has closed. State's Opp. to Mot. to Expedite at 2. *But that happened in 2022 as well*. The legislature did not deliver the 2022 redistricting plan to the Governor until *May 18*. *See* House Bill 2909 (2022). Thus, candidates in 2022 filed to run in congressional districts that later changed. Yet, the election went just fine.

The issue here is one of general applicability – does submission of a referendum prevent a referred bill from going into effect? It has *nothing* to do with "election law." It is not about who can vote, which votes count, or the conduct of the elections. The question for the Court would be the same regardless of House Bill 1's *subject*. House Bill 1 happens to draw new congressional

boundaries, but it could just as well contain right-to-work or minimum-wage legislation. Thus, the issue here does not uniquely concern an "election law," which might come within the ambit of *Purcell*.

But there is an even more fundamental issue with the State's *Purcell* argument. *House Bill 1 is not a law at all*. It is—as its name indicates—a bill. It may never become a law. For all the reasons discussed above, it is clear beyond dispute that House Bill 1 is not, and has never been, operative. If Missourians do what they have done in response to 92.5% of the referenda in this State's history, House Bill 1 will *never be* a law.[14] *No Bans on Choice*, 638 S.W.3d at 489 n.8.

The principles in play here could not be more existential. The people reserved the right to decide whether bills become laws. The Secretary and Attorney General seek to arrogate unto themselves that power by simply declaring—via public statements—that House Bill 1 is in effect and then proceeding to implement it. This brazen course of action cannot override the Constitution and this Court's numerous prior rulings on this subject.

"It is emphatically the province and duty of the judicial department to say what the law is." *Rebman v. Parson*, 576 S.W.3d 605, 609 (Mo. banc 2019)

[14] That statistic includes a 1922 referendum (contemporaneous with this Court's holdings in *Kemper* and *Kaesser*) that rejected new congressional districts. *See* Ballotpedia, *Missouri Proposition 17, Congressional Redistricting Referendum (1922)*, https://ballotpedia.org/Missouri_Proposition_17,_Congressional_Redistricting_Referendum_(1922). There was a second attempt to subject congressional redistricting to the referendum in the 1950s, which foundered due to the campaign not gathering enough signatures in time. *See Moore*, 250 S.W.2d 701.

(quotations omitted). Whether an act of the legislature is an operative law is a legal question for the courts to decide. *Moore*, 145 S.W. at 201. It is this Court's province and duty to declare—consistent with the people's reservation of power and more than a century of caselaw—that House Bill 1 is not in effect and shall not be used to conduct the 2026 elections.

Ultimately, the *Purcell* Principle is a proposition that "federal courts ordinarily should not enjoin a state's election laws in the period close to an election." *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Mem.) (Kavanaugh, J., concurring). Setting aside that this case is not in federal court, House Bill 1 is simply not a law. It is a bill. The Constitution allows that bill to be referred to the people for adoption or rejection if a petition is filed with the Secretary within 90 days. Mo. Const. art. III, § 52(a). That happened. So, the present situation is that the "bill is [] ready for consideration by . . . the voters on referendum." *Brown*, 290 S.W.2d at 166-67. As House Bill 1 is not, and may never be, a law, there is no law to "enjoin." *Purcell* is irrelevant.

CONCLUSION

The judgment below is contrary to *all* legal authority and common sense. The Court settled this precise issue over a century ago. The statutory scheme—which effectuates the referendum right by creating a presumption of validity—is functionally the same now as when this Court rendered those decisions. The Court should do what it has always done, and protect the people's referendum right. It should reverse.

Respectfully submitted,

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CERTIFICATE OF SERVICE AND COMPLIANCE

I hereby certify that a true and correct copy of the foregoing was served electronically via the Court's electronic filing system on April 10, 2026, to all counsel of record.

I also certify that the foregoing brief complies with the requirements in Rule 84.06(b) and contains 6,844 words.

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