IN THE SUPREME COURT OF FLORIDA

Elizabeth Pines and Eugene Pettis, Petitioners, v. RONALD DESANTIS, in his official capacity as Governor of Florida, CORD BYRD, in his official capacity as Florida Secretary of State, Respondents.	Case No.: _____

PETITION FOR WRIT OF QUO WARRANTO

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Under Article V, section 3(b)(8) of the Florida Constitution and Rule 9.100 of the Florida Rules of Appellate Procedure, Petitioners Elizabeth Pines and Eugene Pettis, respectfully petition this Court for a Writ of Quo Warranto directing Governor RONALD DESANTIS to demonstrate the authority for his Proclamation declaring 2026 as "a year in which the Legislature will apportion the State," issued on January 7, 2026. *See* Fla. Procl. (Jan 7, 2026) (the "Proclamation") (App. A). Petitioners also request the issuance of a Writ of Quo Warranto directing Secretary of State CORD BYRD to demonstrate the authority for Directive 2026-01, issued on January 7, 2026. *See* Cord Byrd, Sec'y of State, Directive 2026-01—Congressional Candidate Qualifying; Year of Apportionment (Jan 7, 2026) (the "Directive") (App. B).

PRELIMINARY STATEMENT

On January 7, 2026, after trying for months to convince the Legislature to undergo mid-decade redistricting on his preferred timeline, the Governor issued a proclamation calling a special session for the "purpose of considering legislation relating to the drawing of congressional districts for the State of Florida" and designating 2026 as "a year in which the Legislature will apportion the State for

purposes" of Florida's candidate-qualification laws. App. A. The same day, Secretary of State Byrd issued a directive to all supervisors of elections to implement statutory rules that apply only in a "year in which the Legislature apportions the state." § 99.061(9), Fla. Stat.

Both actions violate Florida's "strict separation of powers doctrine." *Fla. House of Representatives v. Crist*, 999 So. 2d 601, 611 (Fla. 2008) (citation omitted). That doctrine expressly prohibits "[any] person belonging to one branch [from] exercis[ing] any powers appertaining to either of the other branches unless expressly provided herein." *Id.* at 610–11 (quoting Art. II, § 3, Fla. Const.). The decision over whether and when to reapportion Florida's congressional districts belongs to the Legislature. *See* § 8.0001 *et seq.*, Fla. Stat. While the Governor is entitled to call for a special session, he has no power to bind the Legislature into carrying out his preferred policy objectives by undergoing a legally unnecessary reapportionment. Nor can his policy aspiration serve as a basis for preemptively triggering certain Florida statutes designed only to apply in a "year in which the Legislature apportions the state"—a determination belonging exclusively to the Legislature. § 99.061(9), Fla. Stat. To the extent those statutes confer any discretion on the

Executive to decide when year-of-apportionment rules apply, those laws violate the Constitution's non-delegation doctrine. *See Fla. Dep't of State, Div. of Elections v. Martin*, 916 So. 2d 763 (Fla. 2005).

BASIS FOR INVOKING JURISDICTION

This Court has authority to issue a writ of quo warranto under Article V, section 3(b)(8), of the Florida Constitution, and Rule 9.030(a)(3) of the Florida Rules of Appellate Procedure. This Petition is properly filed as a petition for quo warranto because Respondents are state officers exercising powers beyond the limits of their constitutional authority. *See Whiley v. Scott*, 79 So. 3d 702, 707 (Fla. 2011) (per curiam) ("The Governor is a state officer."); § 20.10(1), Fla. Stat. ("The head of the Department of State is the Secretary of State."). Petitioner Elizabeth Pines resides within the territorial jurisdiction of Miami-Dade County. Petitioner Eugene Pettis resides within the territorial jurisdiction of Broward County. Petitioners are citizens, taxpayers, and "members of the general public seeking enforcement of a public right," who, pursuant to this Court's decisions, "may obtain relief through quo warranto." *Chiles v. Phelps*, 714 So. 2d 453, 456 (Fla. 1998); *see also Martinez v. Martinez*, 545 So. 2d 1338, 1339 n.3 (Fla. 1989) (defining the "public right" in quo

warranto proceedings as "the right to have the governor perform his duties and exercise his powers in a constitutional manner").

This Petition is properly filed as an original action. An original jurisdiction proceeding is appropriate where (1) "the functions of government would be adversely affected absent an immediate determination by this Court"; (2) there are no material facts at issue; and (3) the constitutional issue would ultimately reach this Court in due course. *See Whiley*, 79 So. 3d at 707 (citation omitted). Petitioners satisfy each element of that standard. The challenged actions by the Governor and Secretary triggering apportionment-year statutes commandeer the Legislature's authority to decide whether and when to re-draw Florida's congressional boundaries. Their actions have already disrupted Florida's impending elections by casting significant uncertainty on the future of Florida's congressional map and the relevant candidate filing deadlines. These consequences demand swift resolution by this Court because they "raise[] a serious constitutional question relating to the authority" of both the Governor and Secretary to preordain legislative action. *Whiley*, 79 So. 3d at 708. Respondents' actions "substantially affect[] the fundamental functions of state government," *id.*, indicating that

"this case would in all likelihood ultimately be decided by this Court" in any event. *Chiles*, 714 So. 2d at 457 n.6. There are no issues of material fact, and the questions before this Court are purely legal: whether the Governor and Secretary have "overstepped [their] constitutional authority" in unilaterally declaring 2026 an apportionment year and acting upon that speculative assertion to change the rules and filing deadlines around the upcoming congressional elections. *Whiley*, 79 So. 3d at 708.

The criteria for an original quo warranto action are met; this Court should exercise jurisdiction.

NATURE OF THE RELIEF SOUGHT

Petitioners request a writ of quo warranto directing the Governor to demonstrate the authority for his proclamation declaring 2026 "a year in which the Legislature will apportion the State." App. A. Petitioners likewise ask this Court for issuance of a writ of quo warranto directing Secretary Byrd to demonstrate the authority for Directive 2026-01, which implements the Proclamation by directing supervisors of elections to follow candidate-qualifying rules reserved only for apportionment years.

If the Court determines that these actions are without authority, Petitioners request the Court to issue any order necessary to clarify that neither the Proclamation's declaration that 2026 is "a year in which the Legislature will apportion the State," nor the Directive are binding or enforceable unless and until the Legislature passes a reapportionment plan or otherwise enacts legislation triggering the apportionment year statutes.

STATEMENT OF FACTS

I. Governor DeSantis pressures the Legislature to undergo mid-decade redistricting on his preferred timeline.

In April 2022, after certification of the 2020 Census and consistent with the Legislature's constitutional obligation, Florida enacted into law SB 2C (the "2022 Congressional Map"), reapportioning the State's congressional districts. A group of voters and non-profit organizations subsequently challenged the plan as a violation of the non-diminishment provision of the Florida Constitution. On July 17, 2025, this Court issued a decision upholding Florida's 2022 Congressional Map. *Black Voters Matter Capacity Bldg. Inst., Inc. v. Sec'y, Fla. Dep't of State*, 415 So. 3d 180 (Fla. 2025).

One week later, Governor DeSantis announced his desire for Florida to engage in an unprecedented mid-decade congressional redistricting. The Governor first floated the idea at an event in Bradenton on July 24, just as Texas Republicans began the process of redrawing their own congressional districts at the urging of President Trump and the Department of Justice.[1] According to the Governor, it would be "appropriate to do a redistricting here in the mid-decade," including because, in his view, this Court's decision in *Black Voters Matter* revealed "more defects that need to be remedied."[2] The Governor went on to state that mid-decade redistricting was something he would "look favorably upon."[3] On July 30 in Tampa, the Governor questioned the integrity of the 2020 census, saying he was privately "told at the tail end of the [first] Trump administration" that Florida would be receiving "at least two

[1] WKMG News 6 ClickOrlando, *Gov. Ron DeSantis to Hold News Conference in Bradenton*, at 36:10 (YouTube, July 24, 2025), youtube.com/watch?time_continue=2180&v=tiHbwF2bVU0&embeds_referring_euri=https%3A%2F%2Fwww.google.com%2Fsearch%3Fsca_esv%3D8b26332a4a3db4ef%26rlz%3D1C1GCEA_enUS1180US1182%26sxsrf%3DANbL-n7anQLr7qZu09qDq5V3pgYmjOvZsA%3A17697&source_ve_path=MTM5MTE3LDEzOTExNywzNjg0MiwyODY2Ng.

[2] *Id.* at 35:59

[3] *Id.* at 37:50.

[House] seats" and was "shocked" when the officially published census did not align with the Governor's closed-door expectations.[4]

The Governor acknowledged that he had yet to personally discuss redistricting ideas with leaders of the Florida Legislature before proposing the idea.[5] Republican leaders in the Legislature did not express any immediate support for mid-decade redistricting,[6] while House Minority Leader Fentrice Driskell criticized the Governor's idea as a "dangerous abuse of power."[7]

What started as a suggestion from the State's executive quickly began sounding more like a directive. By August, the Governor stated unequivocally: "We are going to have to do a mid-decade

[4] Fox 35 Orlando, *LIVE:Gov. DeSantis Holds Education Roundtable in Tampa*, at 1:14:38 (YouTube, July 30, 2025), https://www.youtube.com/watch?v=Pp5titR81aM&t=4403s.
[5] Fox 13 Tampa Bay, *DeSantis Holds Roundtable in Tampa*, at 53:52 (YouTube July 30, 2025), https://www.youtube.com/watch?v=_xOK2PsOFQk; *see also* Gary Fineout, *DeSantis Says a Census Redo Could Be in Works Amid State Redistricting Wars*, Politico (July 30, 2025, at 5:45 PM), https://www.politico.com/news/2025/07/30/desantis-census-redo-florida-00485304.
[6] Fineout, *supra* note 5.
[7] Jim Turner, *Gov. Ron DeSantis May Seek to Redraw Congressional Districts Before 2030*, WLRN Pub. Media (July 24, 2025, at 7:56 PM), https://www.wlrn.org/government-politics/2025-07-24/gov-ron-desantis-may-seek-to-redraw-congressional-districts-before-2030

redistricting"[8] even without "a new census."[9] House Speaker Daniel Perez authorized the creation of a redistricting committee that same month,[10] but months went by without further legislative action. On December 3, Senate President Ben Albritton weighed in for the first time on the issue, stating that the Governor had "expressed a desire" to address congressional redistricting in a special session sometime in spring 2026, but that there was "no ongoing work regarding potential mid-decade redistricting taking place in the Senate." App. C. In fact, legislators did not hold a formal meeting to discuss redistricting until December 2025.[11] And by that point it was clear that legislators were not aligned with the Governor's plans. Even among those legislators who agreed the Legislature should undertake

[8] Fox 35 Orlando, *LIVE: Gov. DeSantis Speaks in Melbourne*, at 18:23 (YouTube, Aug. 11, 2025), https://www.youtube.com/watch?v=ZzPlU7zQaNQ&t=1s.
[9] *Id.* at 21:14.
[10] Jim Turner, *Florida House Speaker Daniel Perez Calls for State Lawmakers to Explore Congressional Redistricting*, WLRN Pub. Media (Aug. 7, 2025, at 5:12 PM), https://www.wlrn.org/government-politics/2025-08-07/florida-house-speaker-daniel-perez-calls-for-state-lawmakers-to-explore-congressional-redistricting.
[11] *Select Committee on Congressional Redistricting*, Fla. House of Representatives, https://www.flhouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3364 (last visited Jan. 30, 2026).

a mid-decade redistricting, many disagreed with the Governor's preferred timeline. House Speaker Daniel Perez asserted it would be "irresponsible" to engage in redistricting on the Governor's timeline and that any such effort should take place earlier in the year.[12] The subcommittee's chair, Republican Mike Redondo, stated that the committee may or may not "ultimately decide" to propose a new congressional map in 2026, while noting that in any event "it would be irresponsible" to "any who are called to civil service" and "to the citizens of Florida" to "delay the creation and passage of a new map . . . until after the [regular] session."[13]

II. Governor DeSantis calls a special session and designates 2026 as a "year in which the Legislature will apportion the State."

Despite pushback from House leadership, on January 7, 2026, Governor DeSantis issued a proclamation to "convene[]" the

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[12] Gary Fineout, *DeSantis Calls April Special Legislative Session on Florida Congressional Redistricting*, Politico (Jan. 7, 2026, 12:00 PM), https://www.politico.com/news/2026/01/07/desantis-florida-redistricting-special-session-00713882.

[13] *Florida House of Representatives Select Committee Considers Congressional Redistricting* at 4:03, CSPAN (Dec. 4, 2025), https://www.c-span.org/program/state-legislature/florida-house-of-representatives-select-committee-considers-congressional-redistricting/669865.

Legislature "in Special Session for the sole and exclusive purpose of considering legislation relating to the drawing of congressional districts." App. A. Contrary to the wishes of legislators who favored immediate action, the Governor announced that the special session "will take place after the regular legislative session,"[14] and that lawmakers would "convene in Tallahassee commencing at 12:00 p.m., Monday, April 20, 2026, and extending no later than 11:59 p.m., Friday, April 24, 2026." App. A.

The Governor's proclamation not only dictated the time and subject matter of the special session, it also expressed the Governor's views as to when and how congressional districts should be redrawn. Specifically, the Governor's Proclamation stated that "the Legislature *should* redraw Florida's congressional district boundaries . . . in the interest of making further improvements" to the 2022 Congressional Map "based upon traditional redistricting principles." App. A (emphasis added). It further advised that "the Legislature *should* wait as long as is feasible for conducting the 2026 elections before

[14] *Governor Ron DeSantis Announces Special Legislative Session on Congressional Redistricting*, FLGOV (Jan. 7, 2026), https://www.flgov.com/eog/news/press/2026/governor-ron-desantis-announces-special-legislative-session-congressional.

redrawing Florida's congressional district boundaries in order to take advantage of any further guidance from the United States Supreme Court." App. A (emphasis added).

The Proclamation went further still. Based on the Governor's expressed desire for a mid-decade reapportionment of Florida's congressional districts, the Governor declared "that 2026 is a year in which the Legislature *will* apportion the State for purposes of Sections 99.061, 99.095, 99.09651, Florida Statutes, and any other relevant Florida laws." App. A (emphasis added). These statutes alter the rules regarding the timing and contents of candidate qualifying petitions in "a year of apportionment."

Hours later, Secretary Byrd issued Directive 2026-01. App B. Citing the Governor's Proclamation, which "convenes the Legislature to redraw the state's congressional districts," the Secretary "conclude[d] that the provisions in the Election Code referring to procedures to be followed in a 'year of apportionment' apply to congressional candidates for the purpose of qualifying in such races in Florida during the regular 2026 election cycle." App. B.

As the Secretary's Directive noted, "[i]n an apportionment year, the qualification requirements for a congressional candidate change in three significant ways[:]

> **1.** First, such a candidate may obtain signatures from electors who reside anywhere in the state (rather than from only those who reside within the district). *See* § 99.09651(3), Fla. Stat.
>
> **2.** Second, there is a different formula for calculating the minimum number of signatures required to qualify by petition. *See* § 99.09651(1), (2), Fla. Stat.
>
> **3.** Third, the qualifying dates for congressional candidates change. *See* § 99.061(9), Fla. Stat." App. B (numbering added).

Consistent with those changes, Secretary Byrd directed that "[a]ny congressional candidate in Florida seeking ballot placement for the 2026 election who seeks to qualify by the petition process may obtain signatures 'from any registered voter in Florida regardless of party affiliation or district boundaries,'" and set the number of required signatures at 2,564—lower than the threshold that would have otherwise applied. App. B. The Secretary's Directive also set the qualifying dates for "noon on June 8, 2026, to noon on June 12, 2026," App. B, consistent with the Governor's Proclamation that the qualifying period "shall be between noon of the 71st day prior to the primary election, but not later than noon of the 67th day prior to the

primary election." App. A. Absent the Secretary's Directive, the qualification period would open Monday, April 20, 2026—the day the special session is set to begin, and close on Friday, April 24, 2026—the final day of the special session. *See* § 99.061(1), Fla. Stat.; App. A.

ARGUMENT

Governor DeSantis's January 7, 2026 Proclamation designating 2026 as "a year in which the Legislature will apportion the State" and the Secretary's directive implementing that proclamation to alter candidate qualification rules plainly usurp the legislative power granted solely to the Florida Legislature by Article III, section 1 of the Florida Constitution, and thus violate the doctrine of separation of powers set forth in Article II, section 3 of the Florida Constitution.

III. Florida's Constitution expressly prohibits one branch's encroachment of another branch's powers.

Article II, section 3 of the Florida Constitution divides the powers of government into three branches: legislative, executive, and judicial. *Whiley*, 79 So. 3d at 708. Article III, section 1 vests "[t]he legislative power of the state" solely with the Legislature, making "lawmaking" the Legislature's "chief legislative power." *State v.*

Barquet, 262 So. 2d 431, 433 (Fla. 1972). That legislative power "is limited only by the express and clearly implied provisions of the federal and state Constitutions." *State ex rel. West v. Butler*, 69 So. 771, 777 (1915).

The Governor, on the other hand, makes no law and is instead tasked with ensuring that "the laws be faithfully executed." Art. IV, § 1(a), Fla. Const. The Governor's powers are defined by Florida's Constitution—which does not confer unilateral authority to bind the Legislature into passing legislation. *See id.* art. IV, § 1 (listing Governor's powers); *Cawthon v. Town of De Funiak Springs*, 102 So. 250, 251 (1924) (noting Florida's constitution affords "limitations upon the powers" of the executive).

Article II, section 3 expressly prohibits "[any] person belonging to one branch [from] exercis[ing] any powers appertaining to either of the other branches unless expressly provided herein." In construing Florida's Constitution, this Court has "traditionally applied a strict separation of powers doctrine." *Crist*, 999 So. 2d at 611 (citation omitted). Indeed, the Florida Constitution's separation of powers is more stringent than that of the United States Constitution and of many other states. *See Askew v. Cross Keys Waterways*, 372 So. 2d

913, 924–25 (Fla. 1978); *cf. State v. Cotton*, 769 So. 2d 345, 353 (Fla. 2000). It "encompasses two fundamental prohibitions": (1) "no branch may encroach upon the powers of another," and (2) "no branch may delegate to another branch its constitutionally assigned power." *Whiley*, 79 So. 3d at 708 (quoting *Bush v. Schiavo*, 885 So.2d 321, 329 (Fla. 2004)).

In recognition of these strict boundaries, this Court has routinely granted relief to prevent one branch's encroachment upon the power of another. *See, e.g.*, *id.* at 716 (granting quo warranto where executive orders "encroach[ed] upon the legislative delegations of rulemaking authority"); *Crist*, 999 So. 2d at 616 (same where governor "lacked authority to bind the State to a compact that violates Florida law"); *Fla. House of Representatives v. Martinez*, 555 So. 2d 839, 846 (Fla. 1990) (granting mandamus where governor's selective use of veto would "seriously erode the legislature's power to decide the level of appropriations").

Even where the Legislature purported to transfer its power, this Court has "ruled unconstitutional laws that delegated legislative authority with insufficient standards guiding the exercise of this authority by the executive branch." *Martin*, 916 So. 2d at 769–70

(describing the nondelegation doctrine as requiring "fundamental and primary policy decisions . . . be made by members of the legislature who are elected to perform those tasks" (alteration in original) (citation omitted)). Working in tandem, the constitutional prohibitions against both the usurpation of one branch's power by another and the unlawful delegation of such power from one branch to another are instrumental in enforcing the Florida Constitution's "strong policy" of the separation of powers. *Martinez*, 555 So. 2d at 845.

IV. The Governor and Secretary usurped the Legislature's lawmaking power.

In violation of "the first" and "fundamental prohibition" of separation of powers, the Governor and Secretary usurped the power of the Legislature by (1) preemptively designating 2026 as "a year in which the Legislature will apportion the State," and (2) implementing numerous statutory provisions altering candidate qualification rules well *before* the Legislature decided for itself that reapportionment would occur. Without the Legislature having introduced, let alone passed, a new congressional reapportionment plan, the Governor's proclamation reflects nothing more than the Governor's personal

policy preferences. That wishful thinking alone cannot trigger special provisions of Florida's election code reserved exclusively for when "the Legislature apportions the state." § 99.061(9), Fla. Stat.

This Court has identified "two considerations" informing whether executive action has "encroache[d] upon a function of the legislative branch of government." *Whiley*, 79 So. 3d at 709. The first is identifying "the governmental function implicated by th[e] orders." *Id.* Here, the answer to that question is clear: the express terms of the Proclamation and Directive "unequivocally reflect that the governmental function at issue" is reapportionment of the State's congressional districts, *id.* at 710; *see* App. A ("I hereby acknowledge that 2026 is a year in which the Legislature will apportion the State."); App. B (describing 2026 as "an apportionment year").

The second step requires the Court to determine, based on "[c]onstitutional, statutory, and decisional law," "whether the branch responsible for that function is the Legislature," or instead "whether that function is within the executive branch." *Whiley*, 79 So. 3d at 709–10. The answer to that question is equally clear: congressional redistricting is a core legislative responsibility, *see* Art. 1, § 4, U.S. Const.; *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399,

415 (2006) (plurality opinion) ("[T]he legislative branch plays the primary role in congressional redistricting . . . ."), and the power to pass redistricting legislation in the first instance rests solely with the Legislature. *See* Art. III, § 20, Fla. Const.; § 8.0001 *et seq.*, Fla. Stat.; *Advisory Op. to Att'y Gen. re Standards For Establishing Legis. Dist. Boundaries*, 2 So. 3d 161, 165 (Fla. 2009) ("It is undisputed that the Legislature currently has a duty to draw legislative and congressional districts every ten years."). Although the Governor has veto power over the State's congressional maps, his veto can be overridden by the Legislature, *see* Art. III, § 8(c), Fla. Const., and it does not transfer the Legislature's lawmaking power to the Governor, *cf. Martinez*, 555 So. 2d at 843 ("[T]he veto power is . . . not designed to alter or amend legislative intent.") (citation omitted).

The Governor has no constitutional or statutory authority to bind the Legislature into reapportioning the state's congressional districts. While Article III, Section 3(c)(l) of the Florida Constitution entitles the Governor to convene the Legislature in special session through proclamation, he can neither force the Legislature to act nor proceed as though it already has. *Crist*, 999 So. 2d 616 ("The Governor has no authority to change or amend state law."); *cf. Fla.*

Senate v. Graham, 412 So. 2d 360, 365 (Fla. 1982) (Ehrlich, J., concurring) (noting Governor's authority over timing of special session "does not really empower the governor to influence or otherwise control the enactment of legislation").

Nor do Florida's candidate-qualification statutes confer the Governor with discretion to decide for himself when the Legislature will reapportion the state's congressional districts. Florida sets forth two different sets of statutory requirements for candidates seeking to qualify for the ballot: one in "nonapportionment" years, § 99.09651(5), Fla. Stat., and another when "the Legislature apportions the state," *id.* § 99.061(9). The latter rules apply "[w]hen the decennial census numbers are released" because that marks the point when States "*must* redistrict to account for any changes or shifts in population." *Georgia v. Ashcroft*, 539 U.S. 461, 489 n.2 (2003) (emphasis added), *superseded by statute on other grounds*, 52 U.S.C. § 10304; *cf.* § 99.09651(2), Fla. Stat. (referring to apportionment based on "the most recent decennial census"); *see also* Art. I, § 2, U.S. Const. But Florida already complied with its decennial duty to reapportion its congressional map in 2022. There is no constitutional provision, statute, or legal precedent that would

require the Legislature to adopt another congressional map before the next decennial census, let alone do so at the Governor's behest.

For similar reasons, the Secretary's Directive triggering apportionment-year statutes independently usurped the Legislature's power. A writ of quo warranto is the means for determining "whether a state officer or agency has improperly exercised a power or right derived from the State," *Crist*, 999 So. 2d at 607, and the Secretary of State is a state officer, § 20.10(1), Fla. Stat. ("The head of the Department of State is the Secretary of State."). And it is "Florida Statutes, not the Florida Constitution," that "establish the Secretary of State as 'the chief election officer of the state.'" *Advisory Op. to Att'y Gen. re Term Limits Pledge*, 718 So. 2d 798, 802 (Fla. 1998). The lone statute cited by the Directive for the Secretary's "authority" to trigger apportionment-year statutes provides no such thing. *See* App. B (citing § 97.012(1), (16), Fla. Stat.). While the Secretary has statutory authority to "maintain uniformity in the interpretation and implementation of the election laws" and "[p]rovide written direction and opinions to the supervisors of elections," § 97.012(1), (16), Fla. Stat., nothing in those broadly worded statutes purport to—or even could—supersede the plain

language of the apportionment-qualification statutes, or be read to delegate the Legislature's "chief legislative power," *Barquet*, 262 So. 2d at 433, to the head of a state agency in the executive branch. *See infra* Section III.

The executive's preemptive designation of an apportionment year not only poses a constitutional problem, it also poses a practical problem for Florida election administration. By unilaterally decreeing that 2026 "is a year in which the Legislature *will* apportion" the State's congressional districts before any redistricting bill has even been introduced, the Governor has set in motion real-world changes to the statutory election framework that the Legislature has already set, forcing downstream consequences on, for example, candidate qualifying and ballot access. Case in point: Should the Legislature decline to pass a new map during the special session, 2026 will *not* be an apportionment year, and the Governor and Secretary will have invoked apportionment statutes for candidate qualifications that, by their own terms, cannot apply. *See* § 99.061, Fla. Stat. ("prescrib[ing]" qualifying period in which candidates "shall file" qualification papers, with exception only in years "in which the Legislature apportions the state"); *id.* § 99.095 (providing that

candidates "must" obtain signatures of voters "in the geographical area represented by the office sought," with exception only "[i]n a year of apportionment"); *id.* § 99.09651 (applying lower threshold for number of signatures required in "a year of apportionment"). In reliance on the Proclamation and Directive, however, congressional candidates otherwise required to collect signatures from residents living in their district will have instead submitted signatures from residents living in *other* districts. *Compare id.* § 99.095(2)(a) (requiring signatures from "voters in the geographical area represented"), *with id.* § 99.09651(3) (allowing signatures from "any registered voter in Florida regardless of . . . district boundaries"). Other candidates will have submitted fewer signatures than would have otherwise been required. *Compare id.* § 99.09651(1), *with id.* § 99.095(2)(a). In the event 2026 is *not* "a year in which the Legislature will apportion the State," the adequacy of those candidate petitions will be called into question. Moreover, should the special session expire without a new congressional map such that the regular nonapportionment statutes snap back into effect, it is unclear whether any subsequently filed qualification papers will be considered timely.

These questions illustrate the concrete harms wrought by the executive branch's overreach into the legislative arena. Allowing the Governor and Secretary to flip a switch to activate statutory rules on the assumption of future legislative action is precisely the type of executive intrusion into legislative prerogatives the separation-of-powers doctrine forbids. *See Whiley*, 79 So. 3d at 713 (executive actions that interfere with the Legislature's exercise of its constitutionally assigned powers violate separation of powers); *Crist*, 999 So. 2d at 616 (same).

In sum, the Governor's speculative hope that the Legislature "will reapportion" Florida's congressional districts in 2026 can neither replace nor dictate the Legislature's prerogative to exercise its core constitutional authority. Without any legal basis for designating 2026 "[a] year in which the Legislature apportions the state," § 99.061(9), Fla. Stat., the Governor's proclamation—and the Secretary's directive implementing it—plainly "encroach[] upon" the lawmaking "function of the legislative branch." *Whiley*, 79 So. 3d at 709.

V. The Legislature cannot delegate its lawmaking power to the Governor and Secretary by statute.

Insofar as Florida law can be read to delegate power to the executive branch to unilaterally decide when the Legislature will reapportion the State's congressional districts, those statutes, as applied here, violate the "second" separation-of-powers principle: "no branch may delegate to another branch its constitutionally assigned power." *Id.* at 708 (quoting *Schiavo*, 885 So.2d at 329).

The Constitution permits the Legislature to "transfer subordinate functions 'to permit administration of legislative policy by an agency with the expertise and flexibility to deal with complex and fluid conditions.'" *Martin*, 916 So. 2d at 769 (quoting *Microtel, Inc. v. Fla. Pub. Serv. Comm'n*, 464 So. 2d 1189, 1191 (Fla. 1985)). But the Legislature "may not delegate the power to enact a law or the right to exercise unrestricted discretion in applying the law." *Id.* (quoting *Sims v. State*, 754 So. 2d 657, 668 (Fla. 2000) (per curiam)). "Statutes granting power to the executive branch 'must clearly announce adequate standards to guide . . . in the execution of the powers delegated'" and "must so clearly define the power delegated that the [executive] is precluded from acting through whim, showing

favoritism, or exercising unbridled discretion." *Id.* (alterations in original) (quoting *Lewis v. Bank of Pasco Cnty.*, 346 So. 2d 53, 55–56 (Fla. 1976) (per curiam)).

This Court has regularly "ruled unconstitutional laws that delegated legislative authority with insufficient standards guiding the exercise of this authority by the executive branch." *Id.* at 770; *see Lewis*, 346 So. 2d at 55 (statute allowing comptroller to publish bank records unlawfully delegated legislative authority in the absence of "restrictions, limitations, or guidelines" to "limit or regulate the action of the department in granting [or] withholding consent"); *Orr v. Trask*, 464 So. 2d 131, 134 (Fla. 1985) (proviso authorizing governor to reduce the number of deputy commissioner positions held unconstitutional because it "furnished no guidance to the Governor as to the criteria to be used in reducing the number of deputies," but rather left that selection "entirely to the unbridled discretion of the executive branch"); *Schiavo*, 885 So. 2d at 336 (similar).

Here, any reading of the relevant statutes delegating broad discretion for the executive branch to either decide when "the Legislature will apportion the State" or trigger alternative candidate qualification rules violates the nondelegation doctrine. None of the

statutes cited by the Governor's Proclamation furnish any "guidance to the Governor [or Secretary] as to the criteria to be used" in determining whether apportionment-year rules apply in a year the Legislature is not legally required to pass a reapportionment plan. *Orr*, 464 So. 2d at 134. Nor do these statutes include any "restrictions, limitations, or guidelines" to "limit or regulate" how and when the Governor and Secretary can implement apportionment-year rules in an otherwise nonapportionment year. *Lewis*, 346 So. 2d 53, 55. Indeed, the circumstances here exemplify an attempt to exert executive "whim" and policy preference over public legislation, precisely the type of "unbridled discretion" the non-delegation principle forbids. *Martin*, 916 So. 2d at 770.

This Court's decision in *Martin* squarely resolves the issue presented here. There, this Court struck down a statute purporting to give the Secretary of State discretion to grant or deny a candidate's request to withdraw from an election after a set deadline. *Id.* Relying on the same statute the Secretary's Directive cites here, the Secretary in *Martin* argued "that section 97.012 appoints the Secretary of State as the chief elections officer and obligates the Secretary to obtain and maintain uniformity in the application, operation, and interpretation

of the election laws," and that its "discretion is therefore guided by the stated goal of, and requirement for, orderly elections." *Id.* at 771–72. This Court rejected the Secretary's argument, holding that the statute in question did "not set forth adequate standards to guide the Department" under the Constitution's separation of powers principles. *Id.* at 772. Though recognizing that it would be "impossible for the Legislature to specify every circumstance under which the Department may permit a candidate to withdraw" from an election after the deadline, this Court nonetheless concluded that "the Legislature must provide adequate standards to guide the Department in making a decision." *Id.* at 773.

Likewise here, absent "adequate standards" for when an executive official can trigger apportionment-year statutes in a nonapportionment year, no statute can confer "unfettered discretion" for the executive branch to preemptively make that determination itself. *Id.* at 774. Accordingly, insofar as Florida statutes purport to confer any discretion on the Governor or Secretary, it "is an unconstitutional delegation of legislative authority in violation of the separation of powers." *Id.*

CONCLUSION AND PRAYER FOR RELIEF

The Governor and Secretary have encroached on the powers of the Legislature in proclaiming 2026 "a year in which the Legislature will apportion the State" and preemptively implementing apportionment-year rules in compliance with that Proclamation. The Governor's and Secretary's unilateral attempt to bind the Legislature into undergoing legally unnecessary redistricting violates Florida's separation of powers. Petitioners respectfully petition this Court for a Writ of Quo Warranto directing the Governor to demonstrate the authority for his Proclamation declaring 2026 as "a year in which the Legislature will apportion the State," and directing the Secretary to demonstrate the authority for the Directive. Petitioners also respectfully request the Court to issue any order necessary to clarify that the Proclamation's declaration that 2026 is "a year in which the Legislature will apportion the State" and the Secretary's Directive are not binding and enforceable unless and until the Legislature passes a reapportionment plan or otherwise enacts legislation triggering the apportionment year statutes.

Respectfully submitted this 5th day of February, 2026,

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY under Florida Rules of Appellate Procedure 9.045(b) and 9.210(a)(2)(B) that this petition has utilized 14-point Bookman Old Style, is proportionately spaced, and has a word count of 5,435.

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