

**VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF RICHMOND**

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JOHN J. MCGUIRE, *et al.*,

Plaintiffs,

v.

VIRGINIA STATE BOARD OF  
ELECTIONS, *et al.*,

Defendants.

Civil Action No. 26000938-00

Hon. Tracy Thorne-Begland

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**PROPOSED INTERVENORS' PROPOSED RESPONSE IN OPPOSITION TO  
PLAINTIFFS' EMERGENCY MOTION FOR PRELIMINARY INJUNCTION**

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**TABLE OF CONTENTS**

LEGAL STANDARD ..... 1

ARGUMENT ..... 2

    I. The Court lacks subject matter jurisdiction to hear Plaintiffs’ claims. .... 2

    II. Plaintiffs are overwhelmingly unlikely to succeed on the merits. .... 7

        A. The presumptively constitutional ballot language is not misleading or false. .... 7

        B. The General Assembly did not violate Article XII, § 1’s “Submission Clause.” ..... 10

        C. The explanation of the proposed amendment does not violate Code § 30-19.9. .... 13

        D. The ballot language does not violate the Free Elections Clause of the Constitution of Virginia. .... 14

        E. The ballot language does not violate the Due Process Clause of the Constitution of Virginia. .... 15

        F. The ballot language does not violate the Free Speech Clause of the Constitution of Virginia or the U.S. Constitution. .... 17

    III. The other preliminary injunction factors weigh sharply against an injunction. .... 19

CONCLUSION ..... 20

The Court should deny Plaintiffs' motion in its entirety because Plaintiffs fail to show that they are entitled to the "extraordinary relief" of a preliminary injunction. As a threshold matter, the Court lacks subject-matter jurisdiction to grant Plaintiffs the relief they seek. Over a century ago, Virginia's high court held that the judiciary may not interfere with the constitutional amendment process. *Scott v. James*, 114 Va. 297 (1912). That is precisely what Plaintiffs request: they ask the Court to deny Virginia's electorate the opportunity to vote on a proposed constitutional amendment that has been duly endorsed by the General Assembly. Plaintiffs' claims also fail on the merits. Each claim hinges on their theory that the ballot question language describing the proposed amendment is somehow deceptive or misleading. This is simply not true, and would not support their grab-bag of constitutional claims in any event. Finally, the remaining preliminary injunction factors strongly weigh against Plaintiffs: they have failed to identify an irreparable harm, and the equities and the public interest favor permitting the referendum to proceed.

### **LEGAL STANDARD**

To obtain a preliminary injunction, a movant must first establish that they will "suffer irreparable harm without the preliminary injunction." *Cartograf USA, Inc. v. Comerica Bank*, 85 Va. App. 1, 19 (2025) (quoting Va. Sup. Ct. R. 3:26(c)). Even if that threshold requirement has been met, the Court may not issue a preliminary injunction unless it determines "(1) the movant has asserted a legally viable claim based on credible facts that will more likely than not succeed on the merits; (2) the balance of hardships favors granting the preliminary injunction; and (3) the public interest, if any, supports the issuance of a preliminary injunction." *Id.* (citation modified) (quoting Va. Sup. Ct. R. 3:26(d)). In all cases, "an injunction is an extraordinary remedy." *Levisa Coal Co. v. Consolidation Coal Co.*, 276 Va. 44, 60 (2008).

## ARGUMENT<sup>1</sup>

The Court lacks jurisdiction because binding precedent renders Plaintiffs' claims nonjusticiable. For that reason alone, the Court should deny the Motion. Even if the Court does reach Plaintiffs' claims, it should deny relief because Plaintiffs have failed to satisfy the requirements for a preliminary injunction.

### **I. The Court lacks subject matter jurisdiction to hear Plaintiffs' claims.**

Plaintiffs ask this Court to “enter an order enjoining Defendants from conducting or administering the April 21, 2026, referendum” election on the proposed amendment until the “ballot language scheduled to be presented to the voters is corrected.” Mot. at 20; Compl. at 27 ¶¶ (4)–(5) (Requested Relief). For over a century, the Supreme Court of Virginia has prohibited such injunctions in the Commonwealth. *Scott*, 114 Va. at 304–06. That binding precedent requires this Court to deny Plaintiffs' Motion—their claims are nonjusticiable under the separation of powers.

In *Scott*, the Supreme Court expressly held that neither “a court of equity, nor any tribunal of the judiciary department of government, is authorized to interfere with the process of legislation.” *Id.* at 304. This includes *any* “interfere[nce]” with the constitutional amendment process: “[A]mending the Constitution is the making of a permanent law for the people of the state . . . the courts *cannot interfere to stop any of the proceedings while this permanent law is in process of being made.*” *Id.* (emphasis added). That process requires the “concurrent action, both of the Legislature and of the people by their vote,” because “until the final vote of the people is had thereon the amendment is still in process of evolution or of enactment.” *Id.* at 303. Therefore, any injunction that would delay, prohibit, or otherwise disrupt the referral of the proposed amendment

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<sup>1</sup> Proposed Intervenor set forth the pertinent background facts in their Motion to Intervene. *See* Mot. to Intervene at 1–4. They incorporate those facts as though fully set forth herein.

to the voters at the April 21, 2026, referendum would, by definition, “*interfere*” with that amendatory process and is expressly prohibited. *Id.* at 304–06.

Virginia courts have repeatedly applied *Scott* to bar similar relief in cases like this one. In *Fund for Animals, Inc. v. Virginia State Board of Elections*, plaintiffs sought to enjoin the Virginia State Board of Elections “from canvassing . . . votes” on a proposed constitutional amendment that had already been twice-passed by the legislature, but not yet voted on by the people. No. HN-1856-1, 2000 WL 1618006, at \*1 (Va. Cir. Ct. Oct. 27, 2000). The court held that it “would be premature” to grant injunctive relief because doing so would violate the separation of powers. *Id.* at \*3 (citing *Scott*, 114 Va. at 304).

Similarly, just months ago, this Court denied a request for a TRO and injunctive relief that would have prohibited clerks of the General Assembly from transferring House Joint Resolution 6007 between General Assemblies because the request “invite[d] the Court to prematurely invade the province of the legislature.” Order at 2, *Jett v. Nardo*, No. CL25-5352 (Va. Cir. Ct. Nov. 5, 2025), attached as Ex. 1. The Court recognized the matter was “not currently justiciable” because “amending the Constitution is a process left exclusively to the sound judgment of the legislature that proposes amendments and the citizens that ratify or reject them.” *Id.* “While that process is ongoing,” the Court concluded, “the courts cannot interfere to stop any of the proceedings.” *Id.* (quoting *Scott*, 114 Va. at 304). The Tazewell County Circuit Court also twice denied similar injunctive relief that would have halted the constitutional amendment process before voters had the opportunity to vote on the proposed amendment. *See* Order at 1, *McDougle v. Nardo*, No. CL25-1582 (Va. Cir. Ct. Oct. 31, 2025), attached as Ex. 2; Order at 2, *McDougle*, No. CL 25-1582 (Va. Cir. Ct. Jan. 13, 2026), attached as Ex. 3.<sup>2</sup>

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<sup>2</sup> The Tazewell court ultimately did enjoin different portions of the constitutional amendment process from moving forward. *See* Order, *McDougle*, No. CL25-1582, 2026 WL 243908, at \*2–4 (Va. Cir. Ct. Jan. 27,

Plaintiffs argue that their claims fall within *Scott*'s exceptions, or, alternatively, that *Scott*'s holding has been limited. Both arguments are wrong.

*First*, *Scott* held that, “with few exceptions,” courts cannot “enjoin” or “interfere” with “the holding of an election.” 114 Va. at 305–07. The *only* exception *Scott* recognized was that, in some cases, “courts have enjoined the holding of an election in which the *property rights* of the plaintiff were in danger.” *Id.* at 305 (emphasis added). Here, no Plaintiff alleges that any property rights would be abridged if the election occurs. Thus, *Scott*'s only exception does not apply.

Plaintiffs wrongly argue that *Scott* also allows exceptions when the challenged referendum involves: (1) “interference with civil rights,” (2) “*ultra vires* acts of public officer[s],” or (3) “irreparable harm from passage of legislation.” Mot. at 17 (citing *Fletcher v. Tuttle*, 37 N.E. 683, 686–87 (Ill. 1894), *Fleming v. Guthrie*, 9 S.E. 23, 25 (W. Va. 1889), and *Duggan v. City of Emporia*, 114 P. 235, 238 (Kan. 1911))). *Scott* does cite these cases, but for the general principle that courts cannot enjoin an election, nothing more. *See*, 114 Va. at 305–07. Regardless, Plaintiffs misread these out-of-state cases, each of which provides further reason to reject their requests for relief.

In *Fletcher*, the court distinguished between what it called “civil rights,” which it explained included “the power of acquiring and enjoying property, or exercising the paternal and marital powers,” and what it called “political rights,” which it explained included the “right to cast [one’s] own ballot in a legal and effective manner,” “to be [a] candidate,” to have the election “called and held under the provisions of a valid law,” and to have one’s name “printed upon the ballots.” 37

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2026), *appeal pending sub nom.*, *Scott v. McDougle*, No. 260127 (Va. 2026), attached as Ex. 4; Order at 3–4, *Republican Nat’l Comm. v. Koski*, No. CL26000266-00 (Va. Cir. Ct. Feb. 19, 2026), attached as Ex. 5. The Supreme Court noted, however, that the limited nature of the *McDougle* injunction did not impact the April 21 referendum and set a briefing schedule that will resolve the merits after the referendum concludes. Order at 4, *Scott*, No. 260127 (Va. Feb. 13, 2026), attached as Ex. 6. In *Koski*, the court’s order did not address the defendants’ arguments on *Scott v. James* or subject matter jurisdiction, and the defendants promptly sought review in the Supreme Court. *See generally* Pet. for Review, *Koski*, No. 260169 (Va. Feb. 20, 2026).

N.E. at 686. The court *refused* to enjoin an election under maps that would allegedly subvert the plaintiffs’ political rights, holding that “courts of equity have *no authority or jurisdiction*” to “restrain[] the holding of an election” for “the protection of rights which are merely political, and where no civil or property right is involved.” *Id.* at 688 (emphasis added). Thus, *Fletcher*, too, requires the conclusion that Plaintiffs, who plainly assert political rights, cannot obtain relief.

Nor does *Fleming* provide any exception for “*ultra vires* acts of a public officer.” *Contra* Mot. at 17.<sup>3</sup> *Fleming* addressed whether courts could enjoin the certification of election results after the fact (unlike here, where Plaintiffs seek an injunction halting the election itself), and even then, still vacated a lower court’s injunction because “a court of equity has no jurisdiction” to stop the legislature from exercising its “exclusive control over the . . . certificate or election returns,” lest it violate the separation of powers. 9 S.E. at 23–25.

And in *Duggan*, the court similarly refused to “enjoin the calling and holding of an election,” holding that “it is a principle of very general application that courts will not” do so. 114 P. at 235–36. The court could not even “conceive of conditions where a court of equity would be justified in enjoining the calling and holding of an election.” *Id.* at 237–38. Plaintiffs contort *Duggan*’s acknowledgment that one exception to the “doctrine of noninterference” applies where “the mere passage of the ordinance would immediately occasion . . . some irreparable loss or injury beyond the power of redress by subsequent judicial proceedings.” *Id.* at 238. Here, however, any injury from adoption of the proposed amendment is amenable to judicial relief after the fact.<sup>4</sup>

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<sup>3</sup> Such an exception would obliterate the rule itself—courts lack jurisdiction to “pass upon [the] constitutionality” or “validity” of the amendment until it is “put in force.” *Scott*, 114 Va. at 304.

<sup>4</sup> *Duggan* also reminds that the need for any such relief remains entirely speculative in a case such as this: “The futility of the proceedings to enjoin the submission of the proposed ordinances is likewise obvious when we reflect that the people *may not adopt them*, and the court ought not to be called upon to anticipate conditions which may never arise.” *Compare* 114 P. at 239 (emphasis added), *with Scott*, 114 Va. at 304 (“If the amendment is not adopted, of course, no question will ever come before the court.”).

**Second**, Plaintiffs’ contention that *Coleman v. Pross*, 219 Va. 143 (1978), rather than *Scott*, applies in this case, Mot. at 17–18, is also incorrect. *Coleman* never even mentioned *Scott*, and this Court lacks authority to hold that it somehow qualified or abrogated *Scott*. See *Commonwealth v. Watson*, 297 Va. 355, 358 (2019) (“Under stare decisis, a circuit court lacks power to rule that [the Supreme] Court [of Virginia] has overruled its earlier precedent by implication.”). Nor is there any basis for doing so, because *Coleman*’s facts were unlike *Scott*’s—and unlike those here.

*Coleman* was brought directly in the Supreme Court of Virginia under a statutory regime that allows the Attorney General to seek a writ of mandamus to compel the Comptroller to appropriate funds for a referendum on proposed amendments that the Comptroller believes are unconstitutional. See Code § 8.01-653. That statute permits judicial review under a process that *respects* the separation of powers, rather than violates it, because the General Assembly specifically granted the Court that power. See *Jenkins v. Mehra*, 281 Va. 37, 42 (2011) (“Th[e] Supreme] Court’s ‘jurisdiction is defined by the constitution of the state and the laws passed in pursuance thereof.’” (quoting *Forbes v. State Council*, 107 Va. 853, 855 (1908))); Va. Const. art. VI, § 1. Without that specific grant of authority from the General Assembly—which is indisputably lacking here—the Court’s interference in *Coleman* would have violated the separation of powers. See *Scott*, 114 Va. at 304–06; see also *Fund for Animals*, 2000 WL 1618006, at \*3 (holding plaintiffs’ reliance on *Coleman* in challenging constitutionality of not-yet adopted constitutional amendments was “misplaced” because in *Coleman* “the [Supreme Court] was specifically vested with jurisdiction to grant mandamus relief when it [was] requested by” named officials (citations omitted)). Plaintiffs here are not those officials and therefore cannot invoke Section 8.01-653. Therefore, the applicable precedent is *Scott*, which makes clear this Court lacks jurisdiction.

## **II. Plaintiffs are overwhelmingly unlikely to succeed on the merits.**

Each of Plaintiffs' various claims rests on the same factual assertion: that the ballot language voters will consider in the upcoming referendum fails to accurately represent the proposed amendment. Not only are Plaintiffs wrong as a factual matter—the ballot language is not misleading or false—but their arguments also fail as a matter of law under the constitutional and statutory provisions they cite. And, *even if* any of Plaintiffs' claims were plausible, they have failed to show they are entitled to the relief they seek in this posture. To obtain a preliminary injunction, a movant must present a “*legally viable* claim based on credible facts” that will “more likely than not succeed on the merits.” *Cartograf*, 85 Va. App. at 19 (citation omitted). None of Plaintiffs' claims meet this standard: each claim is highly novel (at best), and Plaintiffs have failed to cite *any* on-point authority recognizing the claims they advance.

### **A. The presumptively constitutional ballot language is not misleading or false.**

Under Virginia law, the authority to craft ballot language describing a proposed constitutional amendment rests with the General Assembly. Article XII, § 1 states that “it shall be the duty of the General Assembly to submit such proposed amendment . . . to the voters . . . *in such manner as it shall prescribe.*” Va. Const. art. XII, § 1 (emphasis added). The Supreme Court of Virginia has made clear that “the language of the ballot question . . . is decided by the General Assembly.” *Goldman v. State Bd. of Elections*, No. 201067, 2020 WL 5498497, at \*3 (Va. Sep. 9, 2020) (unpublished). Thus, Article XII, § 1 does not “require[] that the amendment be put [to] the voters *in haec verba.*” *Fund for Animals*, 2000 WL 1618006, at \*2. Instead, Article XII, § 1's phrase “such proposed amendment” is “modified by the latter clause ‘in such manner’ such that the latter describes the manner and way the General Assembly chooses to put ‘such proposed amendment’ to the voters for consideration.” *Id.* And the General Assembly's choice of language,

like all “actions of the General Assembly,” is “presumed to be constitutional.” *Old Dominion Comm. for Fair Util. Rates v. State Corp. Comm’n*, 294 Va. 168, 177 (2017) (quotation omitted). Given the General Assembly’s broad discretion to craft ballot language, it is perhaps unsurprising that Plaintiffs cite no Virginia cases to support their position that Virginia courts can review ballot language based on an undefined fairness standard. The only authority Plaintiffs cite that is related to Virginia is A.E. Dick Howard’s *Commentaries on the Constitution of Virginia* (1974), which in turn relies on a 1949 advisory opinion from the Attorney General of Virginia. But both are squarely against Plaintiffs. The opinion concerned a ballot question submitted to the voters that indisputably contained a material error, *see* 1949–50 Ops. Va. Att’y Gen. 67 (Oct. 4, 1949), attached as Ex. 7, and yet the Attorney General opined that the error did *not* undermine the validity of the resulting constitutional amendment. *Id.* The opinion underscores the broad discretion that the General Assembly has in crafting ballot language, noting that “[t]he form of the submission [to the voters] is a matter for the Legislature to prescribe and may be in general terms referring to the constitutional amendment to be voted on.” *Id.* at 66 (emphasis added). It further notes that it is “conclusively presumed that every voter received the benefit of the notice [of the amendment] contemplated through the publication of the amendment *in extenso*.” *Id.* at 67. The *Commentaries* further supports that interpretation. *Commentaries* at 1173 (“[T]he wording of the ballot lies within the discretion of the General Assembly.”). These principles—deference to the General Assembly’s discretion to craft ballot language, and the availability of the amendment itself to alleviate any possible confusion—apply with equal force here.

Despite the General Assembly’s considerable discretion to craft ballot language, each of Plaintiffs’ claims rests on their argument that the General Assembly has exceeded that discretion by formulating ballot language that is inaccurate or misleading. *See* Mot. at 1–3. Setting aside the

legal deficiencies of those claims—which are addressed in greater detail below—Plaintiffs are simply wrong. The ballot language accurately describes the proposed amendment.

The proposed amendment “authorize[s] [the General Assembly] to modify one or more congressional districts . . . in the event that any State . . . conducts a redistricting of such state’s congressional districts . . . for any purpose” other than a decennial redistricting or when complying with a court order and further provides that the General Assembly’s redistricting authority expires after 2030. H.D. J. Res. 4, 2026 Reg. Sess. (Va. 2026), attached as Ex. 8; H.D. J. Res. 6007, 2025 Spec. Sess. I (Va. 2025), attached as Ex. 9. The ballot language prescribed by the General Assembly asks:

Should the Constitution of Virginia be amended to allow the General Assembly to temporarily adopt new congressional districts to restore fairness in the upcoming elections, while ensuring Virginia’s standard redistricting process resumes for all future redistricting after the 2030 census?

H.B. No. 1384 (“HB 1384”), § 14, 2026 Reg. Sess. (Va. 2026) (enacted), attached as Ex. 10. This language clearly communicates the proposed amendment’s key provisions in verbiage readily comprehensible to Virginia voters: it is a limited grant of authority to the General Assembly to adopt new congressional districts.

Plaintiffs focus on the final clause, which states that the proposed amendment authorizes the General Assembly to “adopt new congressional districts to restore fairness,” *see* Mot. at 1–3, but this is also accurate: it makes clear that, if the amendment is approved, the General Assembly’s redistricting authority is cabined to adopting new maps that, in its view, “restore fairness.” The General Assembly could not, for example, redistrict before 2030 based on a desire to make districts more compact, or to minimize political boundary splits. That kind of revision would still have to await the next decennial redistricting process. Instead, the amendment would authorize the General Assembly to redistrict in response to discretionary redistricting by other states—redistricting that

could skew the balance of power in the U.S. House of Representatives in a manner that would be unfair to Virginians. Furthermore, a reasonable voter would understand the language to mean that it is the General Assembly’s view of “fairness” that will govern, since it is the General Assembly that will decide whether and how to redistrict. If a voter doubts the General Assembly’s sense of fairness, he or she is free to vote against the proposed amendment. But the fact that different voters may themselves disagree about what constitutes fairness is not relevant to whether the ballot language is constitutionally permissible and does not make that language false.

Finally, to the extent voters desire clarification, they may review the full text of the proposed amendment itself, which is readily available on the General Assembly’s website. Because the content of the proposed amendment is “sufficiently identified and described in the [amendment] itself,” there is no significant risk that voters will be misled by the ballot language. *See Falls Church Taxpayers League v. City of Falls Church*, 203 Va. 604, 610–11 (1962) (rejecting argument that ballot measure’s description of a proposed ordinance was “misleading and incomplete” where ordinance was readily available to voters).

**B. The General Assembly did not violate Article XII, § 1’s “Submission Clause.”**

Article XII, § 1 of the Constitution of Virginia states that once the General Assembly approves a proposed amendment, “it shall be the duty of the General Assembly to submit such proposed amendment . . . to the voters . . . *in such manner as it shall prescribe.*” Va. Const. art. XII, § 1 (emphasis added). Plaintiffs contend that the ballot language violates this “submission clause” because the proposed amendment says the General Assembly can conduct mid-cycle redistricting “in response to redistricting actions taken in other states,” whereas the ballot language says the General Assembly can redistrict to “restore fairness.” Mot. at 7–8.

This argument is factually wrong for the reasons explained above. The “restore fairness” phrase—which the Court must presume is constitutional, *see State Corp. Comm’n*, 294 Va. at

177—accurately informs voters of the circumstances in which the General Assembly can exercise its redistricting authority. The argument also fails as a matter of law. Plaintiffs do not cite any *Virginia* cases holding that the “submission clause” permits a court to interrogate the General Assembly’s chosen language—and no such cases appear to exist. *See generally* Mot. at 7–10. In lieu of any in-state authority, Plaintiffs rely on a hodgepodge of out-of-state cases. *See id.* at 9–10. But these authorities reveal only that the bar to succeed on such claims—even in states that allow them—is extraordinarily high. Minnesota, for example, requires plaintiffs to show that the challenged ballot language is “so unreasonable and misleading as to be a palpable evasion of the requirement to submit the proposed amendment to voters,” and admonishes courts not to “substitute [their] judgment for word and form choices made in fixing the language of a question that will be on a ballot.” *Samuels v. City of Minneapolis*, 966 N.W.2d 245, 250–51 (Minn. 2021) (rejecting challenge to ballot language even though it did “not track the language of the petition”). Maine similarly requires plaintiffs to show the ballot language will “mislead reasonable voters, who understand the proposed legislation, into voting *contrary to their wishes*. Merely demonstrating that the question creates a misleading impression about the legislation is not enough.” *Olson v. Sec’y of State*, 689 A.2d 605, 607 (Me. 1997); *see also, e.g., Stop Slots MD 2008 v. State Bd. of Elections*, 34 A.3d 1164, 1189–90 (Md. 2012) (rejecting argument that ballot question was misleading); *Fla. Educ. Ass’n v. Fla. Dep’t of State*, 48 So. 3d 694, 700–01 (Fla. 2010) (holding that ballot language must only “state the chief purpose of the proposed amendment,” and need not “explain every detail or ramification”; a court can reject ballot language only if it “is clearly and conclusively defective” (quotation omitted)); *League of Women Voters v. Utah State Legislature*, 559 P.3d 11, 30 (Utah 2024) (“[C]ourts should not split hairs when

reviewing ballot language. The question is not whether a better or more accurate ballot title could be drafted . . .”). The ballot language at issue here falls far short of these exacting standards.

Plaintiffs also suggest in passing that the ballot language is constitutionally defective because it fails to inform voters that the amendment will “result[] in the loss or restriction of an independent fundamental state right,” *i.e.*, the “right to a nonpartisan redistricting process.” Mot. at 8–9 (citation omitted). To the extent Plaintiffs suggest this is an independent reason that the ballot language violates the submission clause, they are wrong for three reasons. **First**, the ballot language *does* inform Virginia’s voters that the proposed amendment would temporarily allow the General Assembly to “adopt new congressional districts,” while noting that “Virginia’s standard redistricting process [will] resume” after 2030. Ex. 10, § 14. This language clearly communicates a suspension of Virginia’s normal redistricting process. **Second**, Plaintiffs cite no Virginia authority suggesting that ballot language describing a constitutional amendment that will restrict “an independent fundamental state right”—a term Plaintiffs never define—must indicate as such. The only authority they cite is a Florida case, Mot. at 8, which concerned an amendment that would eliminate the state’s prohibition on cruel and unusual punishments, a vastly different factual scenario than the one here. *See Armstrong v. Harris*, 773 So. 2d 7, 17 (Fla. 2000). **Third**, Plaintiffs do not even try to explain why Virginia voters have an “independent fundamental state right” to a “nonpartisan redistricting process.” True, the Virginia Constitution currently provides for an independent redistricting commission, but that process does not create a freestanding and individualized “right” to a “nonpartisan redistricting process.” *Cf. Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 217 (1974) (holding that a “generalized interest of all citizens in constitutional governance” does not give rise to a personal right enforceable in court).

**C. The explanation of the amendment does not violate Code § 30-19.9.**

In arguing that the ballot language violates Code § 30-19.9, Plaintiffs fundamentally misunderstand the statute’s requirements. *See* Mot. at 10–13. Section 30-19.9 directs the Virginia State Board of Elections to “print[] and distribute[] to the general registrar of each county and city” a neutral, plain-English “explanation” of a proposed constitutional amendment. Plaintiffs’ argument that the General Assembly violated this statute by drafting purportedly misleading ballot question language fails in at least three different ways.

*First*, the *ballot question language* is distinct from the *explanation* regulated by the statute. *See* Code § 30-19.9 (“The explanation shall contain the ballot question, the full text of the proposed constitutional amendment, and a statement of not more than 500 words on the proposed amendment.”). The ballot language was drafted in legislation by the General Assembly, *see* Ex. 10; the explanation, in contrast, is drafted by the State Board of Elections, *see* Code § 30-19.9. Thus, the neutrality requirement for the explanation must refer to the 500-word statement about the proposed amendment, not the ballot language. Plaintiffs do not—and cannot—contest the explanation regulated by Section 30-19.9 because it has not yet been published. *See Proposed Amendment for April 2026 Special Election*, Va. Dep’t of Elections, <https://perma.cc/8LPU-KCTS> (last accessed Feb. 24, 2026). Those publications need not occur until April. *See* Code § 30-19.9.

*Second*, any violation of Section 30-19.9 would not invalidate the proposed amendment. Section 30-19.9 provides that Defendants “shall” take the actions listed therein, but as the Supreme Court of Virginia has recently emphasized, “‘shall’ commands addressed to public officers are typically deemed directory instead of mandatory, unless otherwise provided by the statute.” *Bland-Henderson v. Commonwealth*, 303 Va. 211, 220 (2024). Thus, “a statute that ‘direct[s] the mode of proceeding by public officers is to be deemed directory, and a precise compliance is not to be deemed essential to the validity of the proceedings,’ unless the statute says otherwise.” *Id.* (quoting

*Nelms v. Vaughan*, 84 Va. 696, 699–700 (1888) (emphasis added)). Far from stating otherwise, Section 30-19.9 has a savings clause that specifically says: “Any failure to comply with the provisions of this section *shall not affect* the validity of the constitutional amendment.” Code § 30-19.9 (emphasis added). Plaintiffs’ argument runs right into this clearly contrary express statutory language.<sup>5</sup>

**Third**, “[a] statute that is constitutional cannot be made unconstitutional by some other separate act of the legislature.” *Rudacille v. State Comm’n on Conserv. & Dev.*, 155 Va. 808, 819 (1931). “It is unquestionably true, that one Legislature cannot, by an act of ordinary legislation, bind or control, in any manner, subsequent Legislatures.” *Antoni v. Wright*, 63 Va. 833, 848 (1872). Pursuant to these principles, any purported inconsistency between HB 1384 and a prior statute, such as Section 30-19.9, must be resolved in favor of the latter-enacted law.

**D. The ballot language does not violate the Free Elections Clause of the Constitution of Virginia.**

Plaintiffs’ argument that the ballot language violates Virginia’s Free Elections Clause is particularly notable for its failure to cite even a single case about ballot language or Virginia’s Free Elections Clause. *See* Mot. at 3–6. At most, the cases Plaintiffs cite stand for the proposition that voters sometimes have standing to pursue other substantive claims in other contexts. *See, e.g., Wilkins v. West*, 264 Va. 447, 459, 460–61 (2002) (rejecting standing of nonresidents who

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<sup>5</sup> Plaintiffs cite *Howell v. McAuliffe*, 292 Va. 320 (2016), a mandamus case, for their argument that Section 30-19.9 is mandatory. But that case is inapposite for two reasons. First, it has nothing to do with proposed constitutional amendments. Second, Plaintiffs are seeking an injunction to *prohibit Defendants from complying* with their statutory directives rather than a writ of mandamus *requiring them to comply* with their legal duties. The potential availability of a writ of mandamus against government officials says nothing of the availability of injunctive relief against those officials. *Compare Howell*, 292 Va. at 351, with *Bland-Henderson*, 303 Va. at 220. And, even if the Court could construe Plaintiffs’ requested injunction as a writ, relief would still be improper. *See Goldman*, 2020 WL 5498497, at \*3 (denying writ in similar case seeking to compel same Defendants as here to comply with Virginia’s election law because “other provisions of law, including Article XII, Section 1, confirm the respondents have no role in determining the language of the ballot question, which is decided by the General Assembly”).

challenged district lines as noncompact or racial gerrymanders); *Howell*, 292 Va. at 330–31 (recognizing voters had standing in case challenging interplay of the Constitution’s executive clemency and felony disenfranchisement provisions). Plaintiffs pair these inapposite cases with an inapposite discussion of the need for each vote to be “equal.” Mot. at 5. But this argument has no place here: every Virginia voter will enjoy an equal opportunity to participate in the referendum, *contra Democratic Party of Va. v. State Bd. of Elections*, No. HK-1788, 1999 WL 1318834 (Va. Cir. Ct. Oct. 19, 1999) (cited Mot. at 4), and every voter’s ballot will be tabulated according to equal standards, *contra Bush v. Gore*, 531 U.S. 98, 104–05 (2000) (cited Mot. at 5). Like any other opponent of the proposed amendment, Plaintiffs are *free* to vote against it. What they may not do, however, is dress their policy-based objections in constitutional garb to deprive Virginia voters of the right to vote on the proposed constitutional amendment in the upcoming referendum.

**E. The ballot language does not violate the Due Process Clause of the Constitution of Virginia.**

As Plaintiffs acknowledge, the due process guarantees of the Constitution of Virginia are “virtually the same as those of the United States Constitution.” Mot. at 6 (quoting *Willis v. Mullett*, 263 Va. 653, 657 (2002)). And courts considering similar challenges under the federal due process clause have thoroughly rejected them, ruling that “referendum ballot language impinges on substantive due process only when it misidentifies the subject of the balloting.” *Burton v. Georgia*, 953 F.2d 1266, 1271 (11th Cir. 1992). Because there is no question that the ballot language here accurately conveys the amendment’s subject—namely, it allows the General Assembly to prescribe new congressional districts in advance of the next decennial census in certain limited instances—Plaintiffs cannot succeed on the merits of their due process claim.

As *Burton* explained, “ballot language is intended only to identify for the voters the amendment to be passed upon; voters must inspect the text of the amendment itself to determine,

for themselves, the legal effect of its passage.” *Id.* at 1270. “In this respect, the language identifying proposed constitutional amendments serves much the same role on the ballot as a candidate’s name in an election for political office. In general, voters presumably do not select officials on the basis of their names, but on the policies and programs those names represent.” *Id.* at 1270–71. *Burton* rejected Plaintiffs’ position here, reasoning that if courts were to adopt it, “every amendment summary would be subject to [judicial review] of whether the change in the law implied by the ballot language is a ‘fair’ representation of the amendment’s actual import—whatever that may be.” *Id.* at 1271. As that court recognized, “[i]t is not for [the judiciary] to decide whether the state General Assembly could have selected some other language, or some other approach, that might have better informed the voters of [a proposed amendment’s] content.” *Id.*

Further, courts consistently find that due process claims against allegedly misleading ballot language invariably fail when, as here, disclosures in the ballot materials describe the general nature of the amendment, there is significant preelection publicity about the nature of the proposed amendment, and the full text of the proposed amendment is available for voters to review. *See, e.g., Horwath v. City of E. Palo Alto*, 212 Cal. App. 3d 766, 778 (1989) (rejecting due process claims even where officials failed to comply with a statute requiring them to prepare an impartial analysis of the ballot issue); *Kohler v. Tugwell*, 292 F. Supp. 978, 981 (E.D. La. 1968), *aff’d*, 393 U.S. 531 (1969) (“The issue before us is not a proposition for grammarians. If the average voter had to decide what he was voting on from the ballot alone, he might well have read it as the plaintiffs do. But he did not have to decide from this summary. He could look at the amendment itself.”). The same is undisputably true here.

Notably, Plaintiffs do not identify any cases finding that misleading ballot language violates due process. Instead, they cite two cases for the generic proposition that “fundamental

unfairness in the election process implicates due process.” Mot. at 6 (citing *Griffin v. Burns*, 570 F.2d 1065 (1st Cir. 1978), and *Roe v. Alabama*, 68 F.3d 404 (11th Cir. 1995)). But neither of the cases they rely on supports a freewheeling power to void or postpone elections based on litigants’ subjective disagreements with ballot language. In fact, *Roe* held that a refusal to count contested ballots did *not* violate due process because the counting procedures were followed consistently across the state. *See* 68 F.3d at 407–08. And *Griffin* involved an extreme situation in which state officials had consistently counted absentee ballots in primary elections, advertised the availability of absentee voting in primary elections, and then *retroactively voided* absentee ballots cast in a primary election as impermissible under state law. *See* 570 F.2d at 1067–68. *Those* striking facts clearly constituted a due process violation—the plaintiffs’ voting rights were violated in a literal way when their ballots were voided, and they had no possible opportunity to know that the absentee law would be construed against them in the way that it was. *See id.* Here, in contrast, Plaintiffs do not allege that any votes will be voided, and every voter is on notice that the ballot language is merely a summary, with the full text of the proposed amendment separately available for review.

**F. The ballot language does not violate the Free Speech Clause of the Constitution of Virginia or the U.S. Constitution.<sup>6</sup>**

Plaintiffs contend that the challenged ballot language constitutes “viewpoint discrimination” because it comprises “the state using its monopoly over the ballot to advocate for one side over another.” Mot. at 15. “By prescribing a ballot question that tells voters that the amendment will ‘restore fairness,’” Plaintiffs argue, “the General Assembly has converted the official ballot into a vehicle for the proponents’ central argument.” *Id.*

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<sup>6</sup> Because the free speech protections in the Constitution of Virginia are “coextensive with the free speech provisions of the federal First Amendment,” *Elliott v. Commonwealth*, 267 Va. 464, 473–74 (2004), Plaintiffs address their claims under the U.S. Constitution and Constitution of Virginia together. Proposed Intervenor follows suit and note that Plaintiffs have cited no Virginia authorities suggesting that Virginia’s free-speech protections are any greater than those in federal law.

This argument—like the rest of Plaintiffs’ arguments—fails as a factual matter. The “restore fairness” language does not “advocate for one side over another,” *id.*, but rather informs Virginia voters that approving the amendment will stop short of granting the General Assembly unlimited power to redistrict mid-cycle. *See* Argument § II.A. That said, even if the ballot language *were* unfair or misleading, it would not constitute “viewpoint discrimination.” The First Amendment to the U.S. Constitution says that Congress “shall make no law . . . *abridging* the freedom of speech.” U.S. Const. amend. I (emphasis added). Consistent with this language, the U.S. Supreme Court has held that the First Amendment “prohibits the Government *from restricting or burdening* ‘expression because of its message.’” *Vidal v. Elster*, 602 U.S. 286, 292–93 (2024) (emphasis added) (quoting *Ashcroft v. Am. C.L. Union*, 535 U.S. 564, 573 (2002)). “A viewpoint-based regulation *targets* not merely a subject matter, but particular views taken by speakers on a subject.” *Id.* (citation omitted; emphasis added). In other words, to qualify as viewpoint discrimination, a law must somehow burden speech based on a particular viewpoint.

The ballot language does not abridge, target, or restrict anyone’s speech. It places no limitations whatsoever on the speech of those who disagree with the proposed amendment. Consider what would happen if the Court granted Plaintiffs’ requested injunction: Would Plaintiffs be any less able to engage in any protected expression? Clearly they would not—they would remain just as free as they are today to express their disapproval of the amendment. Thus, because the ballot language does not “restrict[] or burden[]” Plaintiffs’ speech, *Vidal*, 602 U.S. at 292–93, it is not viewpoint discrimination, *see Phillips v. Snyder*, 836 F.3d 707, 721 (6th Cir. 2016) (rejecting viewpoint discrimination claim where the passage of the challenged legislation “does not restrict the expression of one’s viewpoint”); *E.E.O.C. v. Ass’n of Cmty. Orgs. For Reform Now*, 83 F.3d 418, 1996 WL 197411, at \*4 (5th Cir. 1996) (unpublished) (similar).

Perhaps recognizing that this principle dooms their free-speech claims, Plaintiffs suggest that the government may not “itself amplif[y] one viewpoint while suppressing the other.” Mot. at 14. This purported rule does not apply to the ballot language—which does not “suppress[.]” any viewpoint—and both cases Plaintiffs cite involved government restrictions limiting or compelling speech. See *Members of City Council of L.A. v. Taxpayers for Vincent*, 466 U.S. 789, 801 (1984) (considering a challenge to a “prohibition against posting signs”); *Pac. Gas & Elec. Co. v. Pub. Utils. Comm’n of Cal.*, 475 U.S. 1, 913 (1986) (considering a challenge to an order forcing party to disseminate another party’s speech, thereby “forcing [.] it to speak where it would prefer to remain silent”). The challenged ballot language does neither.

To the extent the ballot language implicates the First Amendment at all, it does so as speech *by the government*—not as a *restriction* on speech imposed by the government. And as a general matter, “the Government’s own speech . . . is exempt from First Amendment scrutiny.” *Johanns v. Livestock Mktg. Ass’n*, 544 U.S. 550, 553 (2005). Plaintiffs cite no exception to this rule, nor do they advance any other argument for why the General Assembly’s choice of ballot language gives rise to a cognizable First Amendment claim. Their free-speech claims must therefore fail.

### **III. The other preliminary injunction factors weigh sharply against an injunction.**

The harm to the constitutional separation of powers from judicial interference in the lawmaking process far outweighs any harm claimed by Plaintiffs. “Respect for the separation of the powers of the legislative and judicial branches of government is an essential element of our constitutional system.” *Advanced Towing Co., LLC v. Fairfax Cnty. Bd. of Supervisors*, 280 Va. 187, 191 (2010); see *Edwards v. Vesilind*, 292 Va. 510, 524 (2016) (emphasizing the importance of “promoting, not eroding, the separation of powers principles integral to the sound government of this Commonwealth”). *Scott* makes clear that amending the Constitution is a process shared by the legislature and people alike. *Scott*, 114 Va. at 303–04. A last-minute injunction would throw

the entire referendum election—which the Supreme Court of Virginia has already said should proceed, Ex. 6—into chaos, *see Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (warning that “[c]ourt orders affecting elections . . . can themselves result in voter confusion and subsequent incentive to remain away from the polls”). State officials must send the amendment text and ballot question to electoral boards for posting by March 2, *see* HB 1384. Ex. 10, § 14; and early voting begins March 6, *see* Code § 24.2701.1. The resulting pandemonium could irreparably deprive Virginians of the opportunity to vote on the proposed amendment that will decide their congressional districts for upcoming elections. For the same reasons, the public interest is best served when each branch of government stays within its constitutionally prescribed role. *See McEachin v. Bolling*, No. CL11-5456, 2011 WL 10909615, at \*4 (Va. Cir. Ct. Dec. 16, 2011).

On the other side of the ledger, denying the requested injunction would not harm Plaintiffs. They face no prospect of irreparable harm from simply allowing the legislative and constitutional amendment processes to proceed while the merits are adjudicated. *See Scott*, 114 Va. at 304 (“If, upon completion of the proceedings, the validity of the amendment is assailed, on the ground that the several provisions of the Constitution have not been complied with, then the courts can pass upon the validity of the amendment.”). Plaintiffs’ allegations of irreparable harm and the public interest also depend on their contention that the challenged action is likely unconstitutional. *See* Mot. at 18–20. That is incorrect for the reasons explained above, *supra* Argument §§ I–II, and because Plaintiffs are unlikely to show any constitutional violation or injury, the equities and public interest militate against granting their requested relief.

## **CONCLUSION**

Proposed Intervenors respectfully request that this Court deny the Motion.

Dated: February 26, 2026

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Aria C. Branch', written over a horizontal line.

Aria C. Branch (VSB No. 83682)

Jacob D. Shelly\*

Derek A. Zeigler\*

Kevin R. Kowalewski\*

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\* *Pro Hac Vice* applications forthcoming

*Counsel for Proposed Intervenors*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26th day of February 2026, a true and exact copy of the foregoing was filed with the Office of the Clerk of the Circuit Court of the City of Richmond and, on the same date, sent by email to:

William H Hurd  
Michael W. Thomas  
whurd@eckertseamans.com  
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*Counsel for Plaintiffs*

DATED: February 26, 2026

Respectfully submitted,



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*Counsel for Proposed Intervenors Don Scott,  
Louise Lucas, and Scott Surovell*

# **Exhibit 1**

Virginia:

In the Circuit Court of the City of Richmond, John Marshall Courts Building

**CHRISTALYN M. JETT, ET AL.,**

*Plaintiffs,*

v.

**Case No.: CL25-5352**

**G. PAUL NARDO, ET AL.,**

*Defendants.*

**ORDER**

On November 3, 2025, the parties appeared, in person and by counsel, on Plaintiffs' motions for Temporary Restraining Order and Preliminary Injunction relating to a pending constitutional amendment affecting congressional redistricting. Having considered the undisputed facts, the relevant authorities, and the arguments of counsel, the Court rules as follows:

*(a) The Plaintiffs Lack Standing.*

Plaintiffs, three elected Clerks of Circuit Courts in the Commonwealth, claim imminent harm on the basis that they are unable to comply with the notice provisions of Va. Code Ann. § 30-13 (Lexis 2025) due to alleged infirmities in an ongoing act of the General Assembly to amend the Constitution of the Commonwealth. Section 30-13 requires clerks of the various Circuit Courts to publicly post proposed amendments when they have been journaled by the Clerk of the House of Delegates at the end of the respective session of the General Assembly. See *id.* Plaintiffs acknowledge that Defendant Nardo, as Clerk of the House of Delegates, has not journaled any proposed

amendment to the Constitution. As such, Plaintiffs' obligations under § 30-13 have not arisen, and any claimed harm is entirely speculative. See *Friends of Rappahannock v. Caroline Cnty.*, 286 Va. 38, 48 (2013) (complainant must allege facts demonstrating a particularized harm). Plaintiffs lack standing.

*(b) The Matter is not Justiciable.*

Plaintiffs' action also invites the Court to prematurely invade the province of the legislature. For well over a century, the courts of the Commonwealth have recognized a bedrock principle that amending the Constitution is a process left exclusively to the sound judgment of the legislature that proposes amendments and the citizens that ratify or reject them. See *Scott v. James*, 114 Va. 297 (1912). While that process is ongoing, "the courts cannot interfere to stop any of the proceedings." See *id.* at 304. This matter is not currently justiciable.

For the foregoing reasons, the motions currently before the Court must be **DENIED.**

Pursuant to Rule 1:13, the Court dispenses with the parties' endorsement of this Order. The Clerk is directed to forward a certified copy of this Order to the parties.

**IT IS SO ORDERED.**

ENTER: November 5, 2025

  
Tracy Thorne-Begland, Judge

*Duplicate original*

# **Exhibit 2**

**VIRGINIA:**  
**IN THE CIRCUIT COURT FOR THE COUNTY OF TAZEWELL**

**RYAN T. MCDOUGLE,** )  
**Virginia State Senator and Legislative** )  
**Commissioner for the Virginia** )  
**Redistricting Commission,** )  
**WILLIAM M. STANLEY JR.,** )  
**Virginia State Senator and Legislative** )  
**Commissioner for the Virginia** )  
**Redistricting Commission,** )  
**TERRY KILGORE,** )  
**Delegate to the Virginia House of Delegates,** )  
**VIRGINIA TROST-THORNTON,** )  
**Citizen Commissioner of the Virginia** )  
**Redistricting Commission,** )  
**Plaintiffs,** )

**Case No. CL25-1582**

**v.** )

**G. PAUL NARDO, in his official capacity** )  
**as Clerk of the Virginia House of Delegates,** )  
**SUSAN CLARKE SCHAAR, in her official** )  
**capacity as Clerk of the Virginia Senate,** )  
**TARA PERKINSON, in her official capacity** )  
**as Chief Deputy Clerk of the Virginia Senate,** )  
**And** )  
**CHARITY D. HURST, in her official** )  
**capacity as Clerk of the Court of the Tazewell** )  
**Circuit Court,** )  
**Defendants.** )

**ORDER**

This matter comes before the Court on plaintiffs' requests for injunctive relief. The Court held a hearing on these requests on October 29, 2025. Having considered the pleadings filed in this matter and the arguments of counsel at the hearing, and for the reasons stated on the record, plaintiffs' emergency motion for a temporary restraining order is DENIED. The hearing on preliminary injunction is set for November 5, 2025.



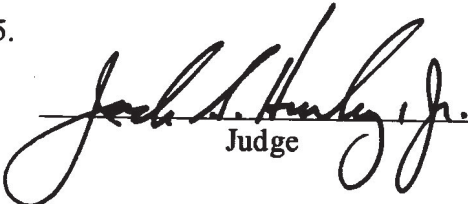
A TRUE COPY – TESTE  
CHARITY D. HURST, CLERK

BY: Carolyn Moore, DC  
Carolyn Moore, Deputy Clerk  
Electronic Certificate made  
pursuant to Sec. 17.1-258.3:2

Certified, Tazewell Circuit, Charity D. Hurst, Clerk, Verify at <https://risweb.vacourts.gov/jsra/CdvAct/> (Document ID: 185-2747)

Endorsements of counsel are hereby dispensed with pursuant to Rule 1:13 of the Rules of the Supreme Court of Virginia.

ENTERED this 31<sup>st</sup> day of October, 2025.

  
\_\_\_\_\_  
Judge

# **Exhibit 3**

**VIRGINIA: IN THE CIRCUIT COURT OF TAZEWELL COUNTY**

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

Plaintiffs,

v.

G. PAUL NARDO, in his official capacity as  
Clerk of the Virginia House of Delegates, et al.,

Defendants,

and

DON SCOTT, in his official capacity as Speaker  
of the Virginia House of Delegates,

Intervenor-Defendant.

Civil Action No. CL25-1582

**ORDER DENYING PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING  
ORDER**

Having considered the Plaintiffs' Emergency Motion for Temporary Restraining Order and the briefing, record, and pertinent authorities, as well as the Clerk Defendants' Plea of Immunity, the Court finds that Plaintiffs are not entitled to a Temporary Restraining Order pending a hearing on Plaintiffs' Motion for Preliminary Injunction. The Court finds that the current case poses an analogous situation to *Chase v. Senate of Va.*, 539 F. Supp. 3d 562 (E.D. Va. 2021), where the Court therein reasoned that,

“Here, the Court, persuaded by the reasoning in Rangel and Harwood, concludes that legislative immunity extends to Schaar. First, as in Rangel, the Virginia Constitution requires both houses of the General Assembly to maintain a journal of proceedings. Second, as in both Rangel and Harwood, there is no allegation that [\*572] Schaar committed any wrongdoing. Rather, her job is to act as the agent of the senators in complying with a facially neutral constitutional provision. *Cf. Harwood*, 69 F.3d at 631. On these facts, Schaar is entitled to partake of the legislative immunity that would have been afforded to the state senators.”



A TRUE COPY – TESTE  
CHARITY D. HURST, CLERK

BY: Carolyn Moore, DC  
Carolyn Moore, Deputy Clerk  
Electronic Certificate made  
pursuant to Sec. 17.1-258.3:2

Certified, Tazewell Circuit, Charity D. Hurst, Clerk, Verify at https://irisweb.vacourts.gov/jsra/Cch/Act/ (Document ID:185-2924)

Likewise, this Court cannot find that any of these three Clerks have committed, or will commit, any wrongdoing by carrying out their respective duties as Clerks and agents of their employer legislators.

The Court therefore **DENIES** Plaintiffs' Emergency Motion for Temporary Restraining Order.

Plaintiffs' Motion at its core, requests the Court to invade the province of the Legislature prior to the final actions of the Legislature. For well over a century, the courts of the Commonwealth have recognized a bedrock principle that amending the Constitution is a process left exclusively to the sound judgment of the Legislature that proposes amendments and the citizens that ratify or reject them. See *Scott v. James*, 114 Va. 297 (1912). While that process is ongoing, "the courts cannot interfere to stop any of the proceedings." See *id.* at 304. In the Separation of Power doctrine established by the U.S. Constitution as well as the Constitution of Virginia, the Court's role in these situations is limited to scrutinizing the Constitutionality of any action of the Legislature is at the conclusion of the act, not in the process thereof.

For the foregoing reasons, the Motion for Temporary Restraining Order must be DENIED.

Pursuant to Rule 1:13, the Court dispenses with the parties' endorsement of this Order.

The Clerk is directed to forward a certified copy of this Order to the parties.

IT IS SO ORDERED.

ENTERED this 13th day of January, 2026.

  
Judge

# **Exhibit 4**

**2026 WL 243908 (Va.Cir.Ct.) (Trial Order)**

Circuit Court of Virginia.

Tazewell County

Ryan T. MCDUGLE, Virginia State Senator and Legislative  
Commissioner for the Virginia Redistricting Commission, et al., Plaintiffs,

v.

G. Paul NARDO, in his official capacity as Clerk of  
the Virginia House of Delegates, et al., Defendants,

and

Don SCOTT, in his official capacity as Speaker of the  
Virginia House of Delegates, Intervenor-Defendant.

No. CL25-1582-00.

January 27, 2026.

**Order**

[Jack S. Hurley, Jr.](#), Judge.

\*1 Upon an Amended Complaint, all responses thereto; upon all briefs, Memoranda Exhibits, Amicus Briefs, and arguments at the hearing of January 21, 2026, the Court makes the following findings and rulings.

While the Court allowed counsel up to ten (10) days to submit additional authority on the limited issue of ripeness regarding the applicability of [Va. Code §30-13](#), the actions of the Interpleader Defendant makes clear that it is ripe; however, since the Court retains jurisdiction for twenty-one (21) days, it can re-address this issue if additional authority filed by January 31, 2026 so necessitates.

The first issue raised by the Plaintiffs is that the 2024 Special Session could not legally remain active as of October 31, 2025, the date of passage of the proposed Constitutional Amendment. Plaintiffs argue that the Special Session ended upon the convening of the Regular 2025 Session. Secondly, they argue in the alternative that the Special Session ended upon the passage of the Budget, which was the purpose for which the Governor called the Special Session.

However, Plaintiffs were unable to show Constitutional or Statutory prohibition of continuing the Special Session and conceded that when the Plaintiffs were in the majority in 2018 and 2022, they continued Special Sessions in the same manner. Therefore, the Court FINDS that the continued reconvening of the Special Session was valid up to and including the October 31, 2025 meeting of said Special Session.

The second challenge to the actions of the 2024 Special Session's passage of the proposed Constitutional Amendment is the failure of the General Assembly to follow its own Resolutions in adding the proposed Constitutional Amendment to the scope of business that may come before the 2024 Special Session.

While it is not contested that the Governor called for a Special Session to address the issue of the Budget Bill, it is likewise conceded that on a February 3, 2024 vote of both houses of the General Assembly, an application for a Special Session was also invoked pursuant to Article III, Section 6 of the Virginia Constitution.

House Joint Resolution 428 passed in the House of Delegates by a vote of 98-0, and in the Senate by a vote of 40-0. Said Resolution stated that the Special Session would “consider such matters are provided for in **the procedural resolution** [emphasis added] adopted to govern the conduct of business coming before such Special Session;”

The Procedural Resolution” was House Joint Resolution 6001, which also passed by a super majority in both houses: 99-0 in the House and 39-1 in the Senate. The specified purpose of the Resolution, which is found in italics under the Bills Number is:  
*“Limiting legislation to be considered by the 2024 Special Session I of the General Assembly and establishing a schedule of the conduct of business coming before such Special Session.”*

The first paragraph directly states that”... **except with unanimous consent** [emphasis added] of the house in which legislation is offered, **no** [emphasis added] bill, joint bills, joint resolutions, or resolutions affecting the rules of procedure or schedule of business of the General Assembly, either of its houses during the Special Session other than (i) Budget Bill(s) and revenue bills; (ii) single-house commending and memorial resolutions; (iii) General Assembly, either of its houses, or any of its committees; (iv) the election of judges and other officials subject to the election of the General Assembly; or (v) appointments subject to the confirmation of the General Assembly”.

**\*2** Irrespective of their own rule as set forth in House Joint Resolution 6001, the General Assembly passed a second rule without unanimous consent OR a super majority to add a sixth item of business - “(vi) bill or joint resolution addressing the impacts upon the Commonwealth, its budget, and its services due to layoffs, firings, or reductions in force by the federal government, changes to federal government programs, actions of the Department of Government Efficiency, and other actions affecting the Commonwealth relating to the federal budget may be offered and considered during the 2024 Special Session I of the General Assembly”.

While this suit does not address any such bills, etc. considered in the Special Session pertaining to item (vi), any such action, if taken, might well be in violation of the scope of business allowed in the 2024 Special Session.

The Special Session once again met and attempted to expand the scope of its business through a third procedural resolution, House Joint Resolution 6006, which added a seventh item, “(vii) joint resolution proposing an amendment to the Constitution of Virginia related to reapportionment or redistricting may be offered and considered during the 2024 Special Session I of the General Assembly,” which IS the basis of this pending action.

The vote on this procedural resolution was passed strictly along party lines, in the House 50-42 and, 21-17 in the Senate. This vote was not by unanimous vote as required under House Joint Resolution 6001, and it did not pass by a two-thirds super majority that would have been required to demand a new Special Session to consider this business.

Certainly, both houses of the Commonwealth's legislature are required to follow their own rules and resolutions. Likewise, the legislators required to reach the two-thirds super majority in order to demand a Special Session under Article IV, Section 6, have the right to depend on the accompanying rule which limit the subject matter of the items they agree can be considered in the Special Session. Without this limitation, the majority can seek a Special Session agreeing to consider limited items in order to gain the votes necessary to invoke a Special Session, and thereafter by simple majority vote take up ANY ITEM without acquiescence of the two-thirds concurrence necessary to request the same. This blatant abuse of power by a majority IGNORES their own rules and resolutions thereby trampling ANY and ALL procedural rights of the minority.

Surely, the minority members of the Virginia House of Delegates and the Senate of Virginia are afforded the same civil rights of any citizen of the Commonwealth who enters into an agreement upon valid consideration, as here where they voted for a Special Session which contained a procedural rule limiting the business to come before it to five (5) specific items, unless the same was presented by unanimous vote of the house offering the proposed legislation.

Therefore, the Court FINDS that adding the House Joint Resolution 6007 (joint resolution proposing an amendment to the Constitution of Virginia related to the reapportionment or redistricting) violated House Joint Resolution 428 and House Joint Resolution 6001, and any action taken thereon is an invalid expansion of the General Assembly's own call to the Governor for the 2024 Special Session, and the Court ORDERS that any such action is void, ab initio.

The third challenge to the proposed Constitutional Amendment, is that it is being submitted to the voters of the Commonwealth of Virginia, pursuant to [Article XII, Section I of the Virginia Constitution](#), which states:

“Any amendment or amendments to this Constitution may be proposed in the Senate or House of Delegates, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, the name of each member and how he voted to be recorded, and referred to the General Assembly and its first regular session held after the next general election of members of the House of Delegates.”

**\*3** The Plaintiffs contend that the vote on House Joint Resolution 6007 which occurred on October 31, 2025, some forty-three days after voting began in the 2025 General Election for the House of Delegates, wherein more than one million votes (approximately 40% of the 2025 Vote Totals) had already been cast. Plaintiffs contend that the definition of “election” is the process of selecting a person to occupy an office.” *Election, Black's Law Dictionary*.

The Attorney General opined that on January 17, 2026 that the Constitution defines the date of the General Election for the House of Delegates on “the Tuesday succeeding the first Monday in November.”

While all concede that the enumerated date in [Article IV, Section 3 of the Constitution](#) is “Election Day,” Defendants concede that voting began pursuant to Virginia law on September 19, 2025. Approximately one million Virginians had voted by the time the General Assembly passed House Joint Resolution 6007 regarding the proposed redistricting Constitutional Amendment. For this Court to find that the election was only on November 4, 2025, those one million Virginia voters would be completely disenfranchised. The Constitution REQUIRES an intervening election FOLLOWING the first passage of a proposed Constitutional Amendment. It is legal, acceptable and even encouraged for voters to take advantage of the earlier voting statute. There is no rational conclusion except that the ELECTION began on the first day of voting (September 19, 2025) and ended on November 4, 2025. Therefore, the Court FINDS that following the October 31, 2025 vote and passage of House Joint Resolution 6007 there HAS NOT BEEN an ensuing general election of the House of Delegates, and such ensuing general election CANNOT occur until 2027. Thus, the action of the General Assembly during its Regular Session 2026 CANNOT meet the second passage required of [Article XII, Section 1 of the Virginia Constitution](#), which second passage must occur before the same can be submitted to the voters of Virginia for adoption.

The fourth and final challenge by the Plaintiffs is that [VA Code Section 30-13](#) was not satisfied since the Defendants concede that the proposed Constitutional Amendment was neither published by the Clerk of the House of Delegates, nor was it posted at the front door of every Courthouse, “not later than three months prior to the next ensuing general election of members of the House of Delegates.”

Defendants woefully argued that the posting could occur three (3) months prior to the 2027 election and still comply with the statute even if the proposed Constitutional Amendment was voted on in the Spring of 2026. The sole purpose for the posting the proposed amendment at the front door of the Courthouse and having a copy in the Clerk's Office available for inspection is to provide the voters with notice and information PRIOR to the election of the House of Delegates members who would be elected to vote on the proposed Constitutional Amendment for the second vote as required under the Constitution. Since [Article](#)

XII, [Section I of the Virginia Constitution](#) states that after the proposed amendment has been passed the second time, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the voters qualified to vote in elections by the people, in such manner as it shall prescribe [emphasis added] and not sooner than ninety days after final passage by the General Assembly.

\*4 [VA Code Section 30-13](#) does exactly THAT. It prescribes how the vote can take place, and what steps must be taken prior to such vote. This statute has been amended four times SINCE the adoption of the 1971 overhaul of the Virginia Constitution. Therefore, the Court FINDS that the provisions of [Section 30-13 of the Code of Virginia](#) have not been complied with, and therefore all votes on the proposed Constitutional Amendment taken during the 2026 Regular Session of the General Assembly are ineffective as being a “SECOND” VOTE OF THE General Assembly under [Article XII, Section I of the Constitution](#).

The Court having made the FINDINGS set forth above hereby RULES that the 2024 Special Session was a valid session up to and including all meetings until January 13, 2026. The Court further having FOUND that the General Assembly failed to follow its own Rules and Resolutions, DECLARES that any and all matters, motions, actions and votes regarding House Joint Resolution 6007 was in violation of the same as are ORDERED to be VOID AB INITIO.

Likewise, even if said passage HAD been valid, that no “NEXT ENSUING GENERAL ELECTION OF THE MEMBERS OF THE HOUSE OF DELEGATES” has occurred whereby the Court ORDERS that any 2026 Regular Session vote on a proposed Constitutional Amendment SHALL BE and IS construed as a FIRST vote under [Article XII, Section I of the Virginia Constitution](#).

Lastly, even if the General Assembly is NOT required to follow its own Rules and Resolutions, and even if “election” is narrowly defined as “Election Day”, the Court FINDS the General Assembly FAILED to comply with [Section 30-13 of the Code of Virginia](#), which therefore PROHIBITS the proposed amendment from being submitted to the voters for their consideration. The Court hereby GRANTS a TEMPORARY and PERMANENT INJUNCTION, requiring the Clerk of the Circuit Court of Tazewell County to post the proposed Constitutional Amendment at least ninety (90) days BEFORE the next ensuing election of the members of the House of Delegates election.

The General Assembly has attempted or is attempting to repeal [Section 30-13](#), which is fully within their power to do. However, under [Article IV, Section 13 of the Constitution of Virginia](#), “All laws enacted at a regular session... shall take effect on the first day of July following the adjournment of the session of the General Assembly at which it has been enacted;... unless in the case of an emergency (which emergency shall be expressed in the body of the bill) the General Assembly shall specify an earlier date by a vote of four-fifths of the members voting in each house....” Therefore, any attempt to repeal [Section 30-13](#) which does not comply with this Constitutional mandate, is NULL and VOID. In the same way, the attempt within the House Joint Resolution to have this pending case transferred to the Circuit Court of the City of Richmond is in direct violation of [Article IV, Section 14\(2\) of the Constitution of Virginia](#) which states that: “The General Assembly shall not enact any local special, or private law in the following cases: (2) Providing for a change of venue in civil or criminal cases.

A copy of House Joint Resolutions and Virginia Codes and Constitutional provisions referred to herein are attached hereto.

The Clerk is directed to send attested copies to all attorneys of record.

Enter this 27<sup>th</sup> day of January, 2026.

<<signature>>

Jack S. Hurley, Jr., Judge

Tazewell County Circuit Court

End of Document

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# **Exhibit 5**

**VIRGINIA:**

**IN THE CIRCUIT COURT OF TAZEWELL COUNTY**

REPUBLICAN NATIONAL COMMITTEE, )  
NATIONAL REPUBLICAN )  
CONGRESSIONAL COMMITTEE, BEN )  
CLINE, U.S. Representative for Virginia’s )  
Sixth Congressional District, and MORGAN )  
GRIFFITH, U.S. Representative for )  
Virginia’s Ninth Congressional District, )

Plaintiffs, )

v. )

Civil Action No.: CL26-266

STEVEN KOSKI, in his official capacity as )  
Commissioner of the Virginia Department of )  
Elections, VIRGINIA DEPARTMENT OF )  
ELECTIONS, JOHN O’BANNON, in his )  
official capacity as Chairman of the Virginia )  
State Board of Elections, ROSALYN R. )  
DANCE, in her official capacity as )  
Vice-Chairman of the Virginia State Board of )  
Elections, GEORGIA ALVIS-LONG, in her )  
official capacity as Secretary of the Virginia )  
State Board of Elections, CHRISTOPHER P. )  
STOLLE, in his official capacity as Board )  
Member of the Virginia State Board of )  
Elections, J. CHAPMAN PETERSEN, in his )  
official capacity as Board Member of the )  
Virginia State Board of Elections, VIRGINIA )  
STATE BOARD OF ELECTIONS, BRIAN )  
EARLS, in his Official capacity as the General )  
Registrar for Tazewell County, IRMA )  
MITCHELL, in her Official capacity as )  
Chairman of the Tazewell County Electoral )  
Board, JANE SORENSEN, in her official )  
capacity as Vice Chairman of the Tazewell )  
County Electoral Board, and JAMES )  
MCDONALD, Secretary of the Tazewell )  
County Electoral Board, )

Defendants. )

**ORDER**



A TRUE COPY – TESTE  
CHARITY D. HURST, CLERK

BY: Carolyn Moore, DC  
Carolyn Moore, Deputy Clerk  
Electronic Certificate made  
pursuant to Sec. 17.1-258.3:2

Certified, Tazewell Circuit, Charity D. Hurst, Clerk, Verify at https://risweb.vacourts.gov/jsra/CdvAct/ (Document ID: 185-3080)

On the 19<sup>th</sup> day of February, 2026 came the Plaintiffs, by and through Counsel, and came the Defendants, by and through Counsel, upon the filing of an Injunction and other requests, upon Notice of Emergency Motion for a Temporary Restraining Order, upon a Motion for an Emergency Restraining Order, upon the Notice of Constitutional Challenge and Memorandum of Law, and upon the Notice of Tender all of which were filed on 18<sup>th</sup> of February, 2026; and upon the same being discussed and argued by respective Counsel;

And further upon service being made upon The Virginia Department of Elections, the Virginia State Board of Elections, Georgia Alvis-Long, John O'Bannon, Rosalyn R. Dance, Steve Koski, and Christopher P. Stolle in their respective capacities and the returns of the same being filed with the Clerk of Court on the 18<sup>th</sup> of February, 2026;

WHEREAS, the Plaintiffs filed this cause of action on the 18<sup>th</sup> of February, 2026 and specifically, but not exclusively, prayed for emergency and immediate injunctive relief for the reasons stated in the Complaint and Memorandum of Law in addition to the other pleadings;

WHEREAS, the Plaintiffs filed a Notice the request for temporary injunctive relief on the 18<sup>th</sup> day of February, 2026;

WHEREAS, at 12:00 p.m. (noon), in the Circuit Court of Tazewell County, Virginia, the Plaintiffs were present by counsel and the Defendants were present by Counsel for the Attorney General of Virginia;

WHEREAS, the local parties of Tazewell County; to-wit: Brian Earls, Registrar, Irma Mitchell, Jane Sorensen, and James McDonald, Tazewell County Electoral Board members, were present in person, and by counsel;

WHEREAS, it appeared that no other parties or persons with interest were present or consented to the jurisdiction of the Court;

WHEREAS, the Court heard and considered arguments presented by Counsel for the Plaintiffs and Counsel for the Attorney General of Virginia as it related to the request for an Emergency Injunction;

WHEREAS, upon the review of the Complaint previously mentioned, the other pleadings in this matter; upon the consideration of the arguments presented; the Court FINDS as follows:

Having considered the Plaintiffs' Emergency Motion for Temporary Restraining Order and the briefing, record, oral argument at the February 19, 2026 hearing, and pertinent authorities, the Court finds that Plaintiffs are entitled to a temporary restraining order pending a hearing on Plaintiffs' Motion for Preliminary Injunction or other motions that may come before the Court after proper and timely notice to all parties herein.

Having previously found that House Joint Resolution 6007 is "VOID AB INITIO" and even if it "HAD been valid," no "NEXT ENSUING GENERAL ELECTION OF THE MEMBERS OF THE HOUSE OF DELEGATES" has occurred as required by Article XII, Section 1 of Virginia's Constitution, and that the amendment process violated Section 30-13 of the Virginia Code, *McDougle v. Nardo*, No. CL25-1582-00, 2026 WL 243908, \*\*2-4 (Va. Cir. Ct. Jan. 27, 2026), the Court finds that Plaintiffs have an extraordinarily high likelihood of success on the merits. Moreover, the Court finds that Plaintiffs are also likely to succeed on the merit of their claim that the referendum on the proposed amendment violates the timing requirement of Article XII, Section 1 because early voting is set for "sooner than 90 days after" the January passage of House Joint Resolution 4. The

Court also finds that Plaintiffs are likely to succeed on their claim that the ballot language as set by HB 1384 violates the Submission Clause of Article XII, Section 1 of Virginia's Constitution because it is misleading, in particular the "restore fairness" language because it would lead a voter to believe he or she were doing something unfair by voting against the proposed amendment.

The Court also finds that the equities weigh in favor of injunctive relief. The Court finds that Plaintiffs will be irreparably harmed absent injunctive relief because of the numerous violations of the constitutional amendment process and because Congressmen Cline and Griffith would be irreparably harmed by their districts changing at this juncture.

The Court finds that the equities of this case warrant temporary relief "for the limited purpose of preserving the status quo between the parties pending a hearing on a motion for a preliminary injunction," and that "adequate notice to opposing parties has been given by the movant." Va. Sup. Ct. R. 3:26(b).

In addition, the Court denies Defendants' procedural objections *in toto*. Transfer is not warranted in this case because venue is proper in this Court under Va. Code §8.01-261(2) and under Va. Code §8.01-261(15)(c), and because HB 1384's transfer-of-venue provision is an unconstitutional "special" law under Article IV, Section 14, and could not take effect in any event before July 1, 2026 because it is not a "general appropriation law" and is not "emergency" legislation enacted "by a vote of four-fifths of the members voting in each house." Va. Const., art. IV, section 13.

Further, staying this case, or dismissing this case, and the relief requested therein in favor of the appeal in the *McDougle* case pending at the Supreme Court of Virginia is unwarranted because this is a different case with different plaintiffs and different

defendants concerning a different statute (HB 1384) and a different issue (the propriety of the referendum) than are before the Court in the *McDougle* case.

The Court, therefore:

1. **DENIES** Commonwealth of Virginia Defendants' Motion/Objection to Transfer Venue;

2. **DENIES** Commonwealth of Virginia Defendants Motion to Stay pending appeal of *McDougle v. Nardo*.

3. **GRANTS** Plaintiffs' Emergency Motion for Temporary Restraining Order and **ORDERS** the following:

All Defendants are **TEMPORARILY RESTRAINED** in their official capacities from administering, preparing for, taking any action to further the procedure of the referendum, or otherwise moving forward with causing an election to be held on the proposed constitutional amendment contained in House Joint Resolution 6007, Gen. Assemb., Spec. Sess. (Va. 2025).

Brian Earls, Registrar, and the other named Electoral Board members are **TEMPORARILY RESTRAINED AND ENJOINED** in their official capacities, as defined in Title 24.2, Chapter 1, Article 3 of the Code of Virginia (1950), as amended, from administering, preparing for, taking any action to further the procedure of the referendum, or otherwise moving forward with causing an election to be held on the proposed constitutional amendment contained within House Joint Resolution 6007, Gen. Assmb., Spec. Sess. (Va. 2025). All other duties, functions, responsibilities, and obligations as it relates to other functions of the local Registrar

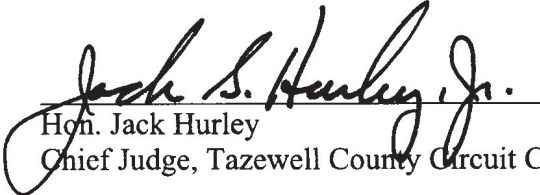
and local Electoral Board members shall neither be impacted nor prohibited by this Order.

This emergency injunction order shall be effective from February 19, 2026, the entry date of this Order, until March 18, 2026, at which time it shall stand dissolved unless prior thereto it shall have been enlarged, modified, or a further injunction shall have been granted by further Order of this Court; and,

The Clerk of the Circuit Court of Tazewell County, Virginia SHALL forward an attested copy of this Order to all counsel of record and to all Defendants in their respective capacities. Further, given that service of process has not been effectuated on all Defendants, specifically the local Registrar and the local Electoral Board Members, the Court SHALL also continue this matter on the Court's active docket until such time as proper returns of service on all Defendants are filed with the Court before scheduling any further hearing or proceeding on this matter.

4. **DENIES** Commonwealth Defendants' Motion to Stay the Temporary Restraining Order pending appeal.

ENTERED this 19th day of February, 2026.

  
Hon. Jack Hurley  
Chief Judge, Tazewell County Circuit Court

SEEN and OBJECTED TO: for the reasons set forth during oral argument on February 19, 2026.



Pebbles L. Burgess\* (VSB No. 74817)

Jay Jones  
Attorney General of Virginia

Gretchen E. Nygaard  
Deputy Attorney General

Pebbles L. Burgess\* (VSB No. 74817)  
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\*Counsel of Record for Defendant

# **Exhibit 6**

**VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday, the 13th day of February, 2026.*

DON SCOTT, IN HIS OFFICIAL CAPACITY AS  
SPEAKER OF THE VIRGINIA HOUSE OF  
DELEGATES, ET AL.,

APPELLANTS,

against      Record No. 260127  
                  Court of Appeals No. 0190-26-3

RYAN T. McDOUGLE, VIRGINIA STATE SENATOR AND  
LEGISLATIVE COMMISSIONER FOR THE VIRGINIA  
REDISTRICTING COMMISSION, ET AL.,

APPELLEES.

AND

G. PAUL NARDO, IN HIS OFFICIAL CAPACITY AS  
CLERK OF THE VIRGINIA HOUSE OF DELEGATES, ET AL.,

APPELLANTS,

against      Court of Appeals No. 0189-26-3

RYAN T. McDOUGLE, VIRGINIA STATE SENATOR AND  
LEGISLATIVE COMMISSIONER FOR THE VIRGINIA  
REDISTRICTING COMMISSION, ET AL.,

APPELLEES.

FROM THE COURT OF APPEALS OF VIRGINIA

Before the Court is the Motion of the Court of Appeals of Virginia that this Court certify the above-captioned cases for review in this Court pursuant to Code § 17.1-409, including certain ancillary matters and motions. Having reviewed the motion of the Court of Appeals and considered the appellate filings made by the parties to date, the Court orders as follows:

1. It appearing to the Court that these matters have not been determined by the Court of Appeals of Virginia and that the case is of such imperative public importance as to justify the deviation from normal appellate practice and to require a prompt decision in this Court, the

motion of the Court of Appeals of Virginia that we certify these cases for review pursuant to Code § 17.1-409 is hereby granted. Accordingly, appellate jurisdiction over these cases is transferred to this “Court for all purposes[,]” Code § 17.1-409, and all further appellate proceedings in these matters shall be had in this Court unless and until further order of this Court provides otherwise.<sup>1</sup>

2. This order constitutes certification pursuant to Rule 5:23 that an appeal has been awarded. Because no assignments of error or petitions for appeal have been filed, the parties may assign any purported errors in the judgment below in their initial briefing in this Court.

3. The Clerk of the Circuit Court of the County of Tazewell is hereby ordered to provide the certified record of the proceedings held in this matter in that court to the Clerk of this Court on or before February 20, 2026. With the exception of the deadline, the circuit court clerk shall provide the record in accordance with the specifications of Rules 5:13 and Rule 5:13A.

4. The motion of the Attorney General of Virginia to intervene in this matter is hereby granted.

5. The parties designated by the Court of Appeals as appellants in this matter and the Attorney General of Virginia are directed to file their respective Opening Briefs, if any, on or before March 23, 2026. With the exception of the filing deadline, said briefs shall comply in all other respects with the requirements of Rule 5:26 and Rule 5:27.

6. Any person wishing to intervene on the side of the parties designated by the Court of Appeals as appellants in this matter shall move to intervene on or before March 16, 2026. Any

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<sup>1</sup> Although there was only one proceeding in the circuit court, the Court of Appeals of Virginia assigned separate case numbers to the filings of the various parties. Going forward, all filings shall be made in *Scott, et al., v. McDougle, et al.*, Record No. 260127.

brief on behalf of any such intervenor shall be filed on or before March 23, 2026. With the exception of the filing deadline, said briefs shall comply in all other respects with the requirements of Rule 5:26 and Rule 5:27.

7. Any person wishing to file a brief amicus curiae in support of the parties designated by the Court of Appeals as appellants in this matter shall move for leave to file such a brief on or before March 16, 2026. Any such brief amicus curiae shall be filed on or before March 23, 2026. With the exception of the filing deadline, said briefs shall comply in all other respects with the requirements of Rule 5:26 and Rule 5:30.

8. The parties designated by the Court of Appeals as appellees in this matter are directed to file their respective Briefs of the Appellees, if any, on or before April 13, 2026. With the exception of the filing deadline, said briefs shall comply in all other respects with the requirements of Rule 5:26 and Rule 5:28.

9. Any person wishing to intervene on the side of the parties designated by the Court of Appeals as appellees in this matter shall move to intervene on or before April 6, 2026. Any brief on behalf of any such intervenor shall be filed on or before April 13, 2026. With the exception of the filing deadline, said briefs shall comply in all other respects with the requirements of Rule 5:26 and Rule 5:28.

10. Any person wishing to file a brief amicus curiae in support of the parties designated by the Court of Appeals as appellees in this matter shall move for leave to file such a brief on or before April 6, 2026. Any such brief amicus curiae shall be filed on or before April 13, 2026. With the exception of the filing deadline, said briefs shall comply in all other respects with the requirements of Rule 5:26 and Rule 5:30.

11. The parties designated by the Court of Appeals as appellants in this matter and the Attorney General of Virginia are directed to file Reply Briefs, if any, on or before April 23, 2026. With the exception of the filing deadline, said briefs shall comply in all other respects with the requirements of Rule 5:26 and Rule 5:29.

12. Pursuant to Rule 5:32(c), the Court hereby dispenses with the requirements regarding an appendix and the matter will proceed on the original record. Briefs shall cite to the certified record produced by the circuit court.

13. Oral argument, if any, will be scheduled at a date and time selected by the Court.

14. The motions for stay previously filed in the Court of Appeals of Virginia are hereby denied. Given the limited scope of the injunctive relief issued in the circuit court's order, *see* Order at 6 (Jan. 27, 2026) ("The Court hereby GRANTS a TEMPORARY and PERMANENT INJUNCTION, requiring the Clerk of the Circuit Court of Tazewell County to post the proposed Constitutional Amendment at least ninety (90) days BEFORE the next ensuing election of the members of the House of Delegates election"), the denial of the motions to stay has no effect on the referendum scheduled for April 21, 2026, and nothing in this order shall prevent the parties from raising the underlying arguments and issues as this matter goes forward.

A Copy,

Teste:

  
Clerk

# **Exhibit 7**

**CONSTITUTION OF VIRGINIA—Proposed amendments of 1949; form of question on the ballot. F-1**

October 4, 1949.

HONORABLE ROBERT WHITEHEAD,  
Member of House of Delegates.

This is in reply to your letter of September 12, in which you request my opinion regarding the effect of the form of the question by which the proposed amendments to the Constitution of Virginia dealing with the right of suffrage will be submitted to the voters.

Chapter 525 of the Acts of Assembly of Virginia of 1948 provides that it shall be the duty of the officers conducting the general election to be held on November 8, 1949, to take the sense of the qualified voters upon the ratification or rejection of the proposed amendments to the Constitution of Virginia contained in the joint resolution proposing the said amendments, which proposed amendments are set forth *in extenso* in said Act. The Schedule of this Act contains the following provision:

“At such election a ballot shall be furnished each voter which shall have printed thereon the following:

“Question: Shall Sections 18, 19, 20, 21, 22, 23, 25, 28, 31, 35, 38 and 173 of the Constitution of Virginia, which sections relate to the elective franchise, and, among other things, provide for the elimination of the poll tax as a prerequisite to voting, registration and renewal of registration of voters, the establishment of a State Board of Elections, and the levying of a school tax in lieu of the present capitation tax, be amended; and shall the Constitution be further amended by adding Section 31-a, providing for local boards of elections, and Section 38-a, prescribing the effective date of these amendments?

For  
 Against”

As you point out, the language “and, among other things, provide for the elimination of the poll tax as a prerequisite to voting” etc. is descriptive of the proposed amendments submitted for adoption and is not descriptive of the present provisions of the Constitution, though, as a grammatical matter, this language has been placed in the question directed to be printed upon the ballots so as to modify the language referring to the existing provisions. You ask whether the proposed amendments will be validly adopted so as to become a part of our Constitution if a majority of the votes cast are in favor of the proposition as submitted by this question.

Section 196 of the Constitution of Virginia deals with the method of amending the Constitution with which we are here concerned. This section reads as follows:

“Any amendment or amendments to the Constitution may be proposed in the Senate or House of Delegates, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the ayes and noes taken thereon, and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates, and shall be published for three months previous to the time of such election. If, at such regular session or any subsequent extra session of that General Assembly the proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people, in such manner and at such time as it shall prescribe; and if the people shall approve and ratify such amend-

ment or amendments by a majority of the electors, qualified to vote for members of the General Assembly, voting thereon, such amendment or amendments shall become part of the Constitution."

Pursuant to this provision the amendments in question were proposed and agreed to in 1946 by a majority of the members elected to each house of the General Assembly. See House Joint Resolution 22, found as Chapter 402 of the Acts of Assembly of 1946. This resolution, which set forth *in extenso* the present constitutional provisions and the amendments proposed, was duly published prior to the general election of members of the House of Delegates for the 1948 session. It was then agreed to by a majority of the members elected to the House and Senate at the 1948 session. See House Joint Resolution 16, found as Chapter 526 of the Acts of Assembly of 1948. Pursuant to the requirement that the proposed amendments be submitted to the people "in such manner and at such time" as the General Assembly shall prescribe, House Bill 555 was enacted into law and is found as Chapter 525 of the Acts of 1948. The Act contained the provision above set out prescribing the question to be printed on the ballot, and also contained the following provision:

"\* \* \* The State Board of Elections shall cause to be sent to the clerk of each county and corporation, at least thirty days before the election, as many copies of this act as there are places of voting therein; and it shall be the duty of such clerks to forthwith deliver the same to the sheriffs of their respective counties and cities for distribution. Each such sheriff shall forthwith post a copy of such act at some public place in each election district at or near the usual voting place in the said district."

It appears, therefore, that the proposed amendments have been before two sessions of the Legislature for debate and consideration. The second time followed a general election of members of the House of Delegates held after publication of the proposed amendments. Moreover, the sense of the qualified voters will be taken after the complete Act showing the old and the proposed new provisions has been posted at some public place in each election district at or near the usual voting place in the district.

The above is recited merely to show that the machinery set up by the Constitution and Acts of the General Assembly for the adoption of amendments to the Constitution by the method specified in Section 196 thereof provides ample opportunity for the qualified voters to ascertain the manner in which the basic law of the Commonwealth will be changed if the proposed amendments are adopted. As you know, there has been much public discussion of the proposed amendments both in the press and otherwise, and there will undoubtedly be much more before the election is held, all of which will tend to inform the voters of the issue to be decided.

It is to be noted that Section 196 of the Constitution provides that the General Assembly shall submit the proposed amendments to the people "in such manner \* \* \* as it shall prescribe." It is well established that under such a provision it is not necessary to print the amendment in full, since it is presumed that every voter received the benefit of notice through publication of the proposed amendments *in extenso*. See 16 C. J. S., Constitutional Law, §9, pp. 42-43, and cases cited. The form of the submission is a matter for the Legislature to prescribe and may be in general terms referring to the constitutional amendment to be voted on. It is equally well established that the Legislature cannot propose one question and submit to the voters another, and the question presented should not be such as would mislead the voters. See authority cited above.

Relative to the question directed to be printed on the ballots with respect to the proposed amendments, the actual question is: "Shall Sections 18, 19, 20, 21, 22, 23, 25, 28, 31, 35, 38 and 173 of the Constitution of Virginia be amended?" Apparently, through an inadvertence which went unnoticed by the members of the Legislature, the language, intended to inform the voters of the general purpose

of the proposed amendments, was placed as a modifying clause to the clause referring to the existing constitutional provisions instead of being added at the end of the question following such language as "so as to provide".

The inquiry you present is in substance whether this error makes the question so misleading as to vitiate and render void the action of the voters should the majority of them vote in the affirmative. In my opinion, it does not.

I think it would be obvious to the voter that a mistake had been made and that the descriptive language was intended to refer to the new constitutional provisions proposed. No one voting at the election would be misled into believing that the descriptive language was really intended to refer to the existing provisions for, as you state, "obviously this is not true".

For instance, the descriptive language is "which sections \* \* \* provide for the elimination of the poll tax as a prerequisite to voting." Any person who is eligible to vote at the election on this question will know that the present constitutional provision does not provide for the elimination of the poll tax as a prerequisite to voting, *because he must have paid his poll tax in order to be eligible to vote*. Also he would know that the present provisions do not provide for the "renewal of registration", *because he would know that he did not have to renew his registration in order to vote*. The clause in the descriptive language implying that the existing provisions provide for "the levying of a school tax in lieu of the present capitation tax" would clearly be recognized as a mistake because it is itself inconsistent. While grammatically it modifies the clause referring to the presently existing provisions, it describes them as providing something in lieu of the present capitation tax. The *presently existing* sections could not possibly provide something *in lieu of a present* capitation tax. This reference to the "present capitation tax" is also inconsistent with the other part of the descriptive language implying that the present sections provide for the elimination of the poll tax.

As pointed out above, the voter would know in fact that he had actually been required to pay a capitation tax before being permitted to vote on this very question. The very situation and the obviously inconsistent language of the question would suggest to the voter that the descriptive language was mistakenly used in reference to the existing provisions and that it should have been and was intended to be used in reference to the proposed amendments. The otherwise misleading effect of the form of the question is overwhelmed by the known and the obvious.

Under this method of adopting amendments to the Constitution, the function of the printed matter on the ballot is not to inform or advise the voter, but is simply the instrument provided for the voter's expression of his desire. It is conclusively presumed that every voter received the benefit of the notice contemplated through the publication of the amendment *in extenso*. *Jones v. McDade*, 75 So. 988, 200 Ala. 230 (1927); *Mundell v. Swedlund*, 58 Idaho 209, 71 P. (2d) 434 (1937); *State v. Osborne*, 57 P. (2d) 1083; 153 Or. 484 (1936). The language used on the ballot needs only to be a reference in general terms to the constitutional amendment to be voted on.

If the General Assembly had directed that the question be phrased thus:

"Question: Shall Sections 18, 19, 20, 21, 22, 23, 25, 28, 31, 35, 38 and 173 of the Constitution of Virginia, which sections relate to the elective franchise, be amended so as to provide, among other things, for the elimination of the poll tax as a prerequisite to voting, registration and renewal of registration of voters, the establishment of a State Board of Elections, and the levying of a school tax in lieu of the present capitation tax, \* \* \*?"

and a majority of the voters had voted "For", there could be no doubt that the amendments would have been validly adopted.

Yet, in such cases the voters would not have been informed by the question alone as to all the detailed provisions of the amendment. If he is to vote intelligently, he will have to inform himself fully as to the provisions of the

amendments by reading the full provisions of the Resolutions or the Act adopted by the General Assembly and duly published. The same thing is true in the case as it actually is. If the voter does this, which he will be presumed to have done, he will not be misled by the form of the question.

In some cases it has been held that constitutional provisions have not been validly adopted, even though they received a majority vote, because the form of the question by which they were submitted was misleading. I think these cases are sound and should be followed when it can be said that it is clear that the form of the question could have deceived or misled the voter in voting for an amendment when he may have voted otherwise if the question had been properly phrased.

It is my opinion, however, that the form of the question under which the proposed amendments to the Virginia Constitution will be submitted does not mislead the voter as to the contents of the proposed new provisions. The question could not possibly lead the voters to think that they were adopting new constitutional provisions providing one thing while they, the new provisions, actually provide something else. Conceivably the voters could be misled as to the present provisions, but the question does not mislead them as to the new provisions. This is so even if the question is given its literal grammatical meaning, for then it simply proposes that the present sections be amended without stating how.

If a voter votes in favor of the change, it should be assumed that he knows what the new provisions contain, unless it can be said that he is misled on that point. As pointed out above, even the literal wording of the present question does not do this. It is but natural to assume that those who are against the change will vote "Against" and also that those who feel that the question does not sufficiently inform them what is proposed by the new sections will also vote "Against" or will not vote on the question at all. Certainly those who vote "For" will know what is contained in the new provisions and will thus signify that they favor the change. If a majority vote "For", it follows that a majority know what the proposed changes are and that they favor the same.

Courts do not lightly overthrow the action of the majority of the qualified voters in adopting new constitutional provisions. To say that the voters have been misled by the form of the question because the descriptive language has been placed in the wrong place, when the voter would recognize this as an inadvertent mistake in draftsmanship in view of the very language used and because of knowledge which the voter must have in order to be voting on the question, would simply negate the expressed desire of the voters. In my opinion, the descriptive language would clearly be recognized as intended to refer to the new provisions and that no grounds exist for saying that the voters would be misled. For these reasons it is my opinion that, if a majority vote "For" on the question as framed by the General Assembly for the submission of the proposed amendments dealing with the right of suffrage, such amendments will have been validly adopted.

In answer to your second question as to whether the sections of the Constitution, both existing and as proposed, should be printed on the ballot, or whether only the question plus the squares for the voting should be printed, it is my opinion that only the question and the squares should be printed. The Constitution, Section 196, provides that the proposed amendments shall be submitted to the people in such manner as the General Assembly shall prescribe. Since the General Assembly has specified what shall be printed on the ballot, it is my opinion that this directive must be followed and that only the question and the squares for voting either for or against the proposal should be printed on the ballot.

# **Exhibit 8**

26101729D

HOUSE JOINT RESOLUTION NO. 4

Offered January 14, 2026

Prefiled November 17, 2025

Proposing an amendment to Section 6 of Article II of the Constitution of Virginia and proposing an amendment to the Constitution of Virginia by adding in the Schedule a section numbered 6, relating to apportionment; congressional districts; limited authority of the General Assembly to modify.

Patrons—Willett, Convirs-Fowler, Price, Anderson, Anthony, Askew, Bennett-Parker, Bulova, Callsen, Carnegie, Carr, Carroll, Clark, Cohen, Cole, J.G., Cole, N.T., Cousins, Dougherty, Downey, Feggans, Franklin, Gardner, Glass, Guzman, Hayes, Helmer, Henson, Hernandez, Herring, Hope, Jones, Keys-Gamarra, Krizek, Laufer, LeVere Bolling, Maldonado, Martinez, McClure, McQuinn, Mundon King, Nivar, Pope Adams, Rasoul, Reaser, Reid, Scott, D., Seibold, Sewell, Shin, Sickles, Simon, Simonds, Sullivan, Thomas, Thornton, Torian, Tran, Ward and Watts; Senator: Favola

WHEREAS, proposed amendments to the Constitution of Virginia, hereinafter set forth, were agreed to by a majority of the members elected to each of the two houses of the General Assembly at the special session I of 2024 and referred to this, the next regular session held after the 2025 general election of members of the House of Delegates, as required by the Constitution of Virginia; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the following amendments to the Constitution of Virginia be, and the same hereby are, proposed in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 6 of Article II of the Constitution of Virginia and amend the Constitution of Virginia by adding in the Schedule a section numbered 6 as follows:

ARTICLE II
FRANCHISE AND OFFICERS

Section 6. Apportionment.

Members of the House of Representatives of the United States and members of the Senate and of the House of Delegates of the General Assembly shall be elected from electoral districts established pursuant to this section and Section 6-A of this Constitution. Every electoral district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. Every electoral district shall be drawn in accordance with the requirements of federal and state laws that address racial and ethnic fairness, including the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States and provisions of the Voting Rights Act of 1965, as amended, and judicial decisions interpreting such laws. Districts shall provide, where practicable, opportunities for racial and ethnic communities to elect candidates of their choice.

The Commonwealth shall be reapportioned into electoral districts in accordance with this section and Section 6-A in the year 2021 and every ten years thereafter, except that the General Assembly shall be authorized to modify one or more congressional districts at any point following the adoption of a decennial reapportionment law, but prior to the next decennial census, in the event that any State of the United States of America conducts a redistricting of such state's congressional districts at any point following that state's adoption of a decennial reapportionment law for any purpose other than (i) the completion of the state's decennial redistricting in response to a federal census and reapportionment mandated by the Constitution of the United States and established in federal law or (ii) as ordered by any state or federal court to remedy an unlawful or unconstitutional district map.

Any such decennial reapportionment law, or reapportionment law modifying one or more congressional districts, shall take effect immediately and not be subject to the limitations contained in Article IV, Section 13, of this Constitution.

The districts delineated in the decennial any reapportionment law shall be implemented for the November general election for the United States House of Representatives, Senate, or House of Delegates, respectively, that is held immediately prior to the expiration of the term being served in the year that the reapportionment law is required to be enacted. A member in office at the time that a decennial redistricting law is enacted shall complete his term of office and shall continue to represent the district from which he was elected for the duration of such term of office so long as he does not move his residence from the district from which he was elected. Any vacancy occurring during such term shall be filled from the same district that elected the member whose vacancy is being filled.

SCHEDULE

Section 6. Application and duration of certain redistricting amendments.

The authorization in Article II, Section 6 authorizing the General Assembly to modify one or more congressional districts at any point following adoption of a decennial reapportionment law in the event that

1/17/26 11:18

54 *any State of the United States of America conducts a redistricting of such state's congressional districts at*  
55 *any point following that state's adoption of a decennial reapportionment law shall be limited to making such*  
56 *modifications between January 1, 2025, and October 31, 2030, in response to actions taken by another state*  
57 *between January 1, 2025, and October 31, 2030.*

# **Exhibit 9**

# VIRGINIA ACTS OF ASSEMBLY - 2024 SPECIAL SESSION I

## CHAPTER 5

### HOUSE JOINT RESOLUTION NO. 6007

*Proposing an amendment to Section 6 of Article II of the Constitution of Virginia and proposing an amendment to the Constitution of Virginia by adding in the Schedule a section numbered 6, relating to apportionment; congressional districts; limited authority of the General Assembly to modify.*

Agreed to by the House of Delegates, October 29, 2025

Agreed to by the Senate, October 31, 2025

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendments to the Constitution of Virginia be, and the same hereby are, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 6 of Article II of the Constitution of Virginia and amend the Constitution of Virginia by adding in the Schedule a section numbered 6 as follows:

#### ARTICLE II

#### FRANCHISE AND OFFICERS

##### Section 6. Apportionment.

Members of the House of Representatives of the United States and members of the Senate and of the House of Delegates of the General Assembly shall be elected from electoral districts established pursuant to *this section and* Section 6-A of this Constitution. Every electoral district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. Every electoral district shall be drawn in accordance with the requirements of federal and state laws that address racial and ethnic fairness, including the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States and provisions of the Voting Rights Act of 1965, as amended, and judicial decisions interpreting such laws. Districts shall provide, where practicable, opportunities for racial and ethnic communities to elect candidates of their choice.

The Commonwealth shall be reapportioned into electoral districts in accordance with this section and Section 6-A in the year 2021 and every ten years thereafter, *except that the General Assembly shall be authorized to modify one or more congressional districts at any point following the adoption of a decennial reapportionment law, but prior to the next decennial census, in the event that any State of the United States of America conducts a redistricting of such state's congressional districts at any point following that state's adoption of a decennial reapportionment law for any purpose other than (i) the completion of the state's decennial redistricting in response to a federal census and reapportionment mandated by the Constitution of the United States and established in federal law or (ii) as ordered by any state or federal court to remedy an unlawful or unconstitutional district map.*

Any such decennial reapportionment law, *or reapportionment law modifying one or more congressional districts*, shall take effect immediately and not be subject to the limitations contained in Article IV, Section 13, of this Constitution.

The districts delineated in ~~the decennial~~ *any* reapportionment law shall be implemented for the November general election for the United States House of Representatives, Senate, or House of Delegates, respectively, that is held immediately prior to the expiration of the term being served in the year that the reapportionment law is ~~required to be~~ enacted. A member in office at the time that a ~~decennial~~ redistricting law is enacted shall complete his term of office and shall continue to represent the district from which he was elected for the duration of such term of office so long as he does not move his residence from the district from which he was elected. Any vacancy occurring during such term shall be filled from the same district that elected the member whose vacancy is being filled.

#### SCHEDULE

##### *Section 6. Application and duration of certain redistricting amendments.*

*The authorization in Article II, Section 6 authorizing the General Assembly to modify one or more congressional districts at any point following adoption of a decennial reapportionment law in the event that any State of the United States of America conducts a redistricting of such state's congressional districts at any point following that state's adoption of a decennial reapportionment law shall be limited to making such modifications between January 1, 2025, and October 31, 2030, in response to actions taken by another state between January 1, 2025, and October 31, 2030.*

# **Exhibit 10**

# VIRGINIA ACTS OF ASSEMBLY - 2026 SESSION

## CHAPTER 6

*An Act to amend and reenact Items 5 and 6 and Enactments 14, 15, and 16 of Chapter 725 of the Acts of Assembly of 2025, which appropriates the public revenues for two years ending, respectively, on June 30, 2025, and June 30, 2026, and to amend Chapter 725 of the Acts of Assembly of 2025, which appropriates the public revenues for two years ending, respectively, on June 30, 2025, and June 30, 2026, by adding an item numbered 78.10 and by adding enactments numbered 17, 18, 19, and 20 which appropriates the public revenues for two years ending, respectively, on June 30, 2025, and June 30, 2026; and to provide for the submission to the voters of proposed amendments to the Constitution of Virginia by amending Section 6 of Article II and by adding in the Schedule a section numbered 6; and to repeal § 30-13 of the Code of Virginia, relating to the general appropriation act; Department of Elections.*

[H 1384]

Approved February 6, 2026

**Be it enacted by the General Assembly of Virginia:**

**1. That Items 5 and 6 and Enactments 14, 15, and 16 of Chapter 725 of the Acts of Assembly of 2025 are amended and reenacted and that Chapter 725 of the Acts of Assembly of 2025 is amended and reenacted by adding an item numbered 78.10 and by adding enactments numbered 17, 18, 19, and 20, as follows:**

*Item 5. Division of Legislative Automated Services*

	5		First Year - FY2025	Second Year - FY2026
		<b>Information Technology Development and Operations (82000)</b>	\$6,950,723	\$7,100,723
		Computer Operations Services (82001)	\$6,950,723	\$7,100,723
				\$7,200,723
		<i>Fund Sources:</i>		
		General	\$6,663,128	\$6,813,128
				\$6,913,128
		Special	\$287,595	\$287,595

*Authority: Title 30, Chapter 3.2, Code of Virginia.*

*A. Out of this appropriation shall be paid the annual salary of the Director, Division of Legislative Automated Systems, \$210,452 from June 10, 2024 to June 9, 2025 and \$216,766 from June 10, 2025 to June 30, 2026.*

*B. Included in this appropriation is funding sufficient for the ongoing replacement of a legacy legislative bill tracking system. The expenditure of these funds is contingent on the Director of the Division of Legislative Automated Systems developing a detailed implementation plan and submitting the plan to the Committee on Joint Rules for its approval. Any procurement of a replacement legislative bill tracking system shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et. seq.) of the Code of Virginia and the contract review provisions of § 2.2-2012. The plan may propose to procure a replacement legislative bill tracking system using (i) a request for information or a request for proposal, singly or jointly or in any combination thereof, (ii) such other industry recognized procurement method for procuring a management information system, or (iii) such other procurement method that comports with the best interests of the Commonwealth in the determination of the Director.*

*C. The Director, Division of Legislative Automated Systems, shall provide a detailed accounting of funding provided since fiscal year 2020 for the replacement of the legacy legislative tracking system, and separately for other legislative system replacements and upgrades. Such accounting shall be provided to the Chairs of the Joint Rules Committee, the House Appropriations Committee, and the Senate Finance and Appropriations Committee by October 1, 2024.*

*D. Out of the amounts included in this item, \$201,140 the first year and \$201,140 the second year from the general fund is provided to complete the replacement of a legacy legislative bill tracking system.*

*E. Out of the amounts included in this item, \$50,000 the first year and \$50,000 the second year from the general fund is provided for software, security, and infrastructure upgrades for the Division of Legislative Automated Systems.*

*F. Out of this appropriation, \$100,000 the second year from the general fund shall be provided for costs associated with the April 21, 2026, special election.*

*Item 6. Division of Legislative Services*

	6		First Year - FY2025	Second Year - FY2026
		<b>Legislative Research and Analysis (78400)</b>	\$9,640,479	\$9,640,479
			\$9,915,804	\$9,860,479

	Bill drafting and Preparation (78401)	\$9,640,479	\$9,640,479
		\$9,915,804	\$9,980,479
	Fund Sources:		
	General	\$9,620,449	\$9,620,449
			\$9,840,449
	Special	\$20,030	\$20,030
		\$295,355	

Authority: Title 30, Chapter 2.2, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the Director, Division of Legislative Services, \$202,701 from June 10, 2024 to June 9, 2025 and ~~\$208,782~~ \$219,221 from June 10, 2025 to June 30, 2026.

B. Notwithstanding the salary set out in paragraph A. of this item, the Committee on Joint Rules may establish a salary range for the Director, Division of Legislative Services.

C. The Division of Legislative Services shall continue to provide administrative support to include payroll processing, accounting, and travel expense processing at no charge to the Behavioral Health Commission, the Chesapeake Bay Commission, the Joint Commission on Health Care, the Virginia Commission on Youth, the Commission on Electric Utility Regulation, and the Virginia State Crime Commission.

D. Notwithstanding any other provision of law, the Senate Joint Resolution 10 (2022 Session) Joint Subcommittee to Examine the Commonwealth's Pandemic Response shall continue conducting its study and meet as needed to provide a final report by December 1, 2024. Any remaining appropriation at year end shall be carried forward to the subsequent fiscal year to support the Joint Subcommittee.

E. The Division shall procure additional expertise as necessary in its role as staff support to the Virginia Gaming Commission established by House Joint Resolution 548, 2023 Acts of Assembly. In addition to the activities directed in HJR 548, the Joint Subcommittee shall evaluate all potential options to consolidate gaming regulation and oversight in the Commonwealth and provide a detailed transition plan in support of recommendations.

F. Out of this appropriation, \$275,325 the first year from dedicated special revenue is provided to implement the recommendations of the Chesapeake Bay Restoration Fund Advisory Committee.

G. Out of this appropriation, \$120,000 from the general fund the second year shall be provided for one position to support the Commission on Women's Health.

H. Out of this appropriation, \$100,000 the second year from the general fund shall be provided for costs associated with the April 21, 2026, special election.

Item 78.10. Department of Elections

78.10		First Year - FY2025	Second Year - FY2026
	Financial Assistance to Localities - General (72800)	\$0	\$5,000,000
	Funding for Special Elections and Assistance to Localities (72823)	\$0	\$5,000,000
	Fund Sources:		
	General	\$0	\$5,000,000

Authority: Title 24.2, Chapter 1, Code of Virginia.

A. Out of this appropriation, \$5,000,000 the second year from the general fund shall be provided to the Department of Elections for the costs associated with the April 21, 2026, special election. Unless otherwise prohibited by law, the funding may be used for voter education, administrative costs of the Department, grant funding to localities to defray the costs of absentee voting in-person, and other costs associated with the April 21, 2026, special election.

B. Localities shall establish voter satellite offices for the April 21, 2026, special election, that allow for appropriate access to in-person absentee voting.

14. § 1. It shall be the duty of the officers responsible for conducting the election directed by law to be held on the Tuesday after the first Monday in November each year, to conduct an election, at the places appointed for holding the same, on Tuesday, April 21, 2026, for the purpose of taking the sense of the qualified voters upon the ratification or rejection of the proposed amendments to the Constitution of Virginia, contained herein and in the joint resolution proposing such amendments, to wit:

Amend Section 6 of Article II of the Constitution of Virginia and amend the Constitution of Virginia by adding in the Schedule a section numbered 6 as follows:

ARTICLE II  
FRANCHISE AND OFFICERS

Section 6. Apportionment.

Members of the House of Representatives of the United States and members of the Senate and of the House of Delegates of the General Assembly shall be elected from electoral districts established pursuant to *this section and* Section 6-A of this Constitution. Every electoral district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in

proportion to the population of the district. Every electoral district shall be drawn in accordance with the requirements of federal and state laws that address racial and ethnic fairness, including the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States and provisions of the Voting Rights Act of 1965, as amended, and judicial decisions interpreting such laws. Districts shall provide, where practicable, opportunities for racial and ethnic communities to elect candidates of their choice.

The Commonwealth shall be reapportioned into electoral districts in accordance with this section and Section 6-A in the year 2021 and every ten years thereafter, *except that the General Assembly shall be authorized to modify one or more congressional districts at any point following the adoption of a decennial reapportionment law, but prior to the next decennial census, in the event that any State of the United States of America conducts a redistricting of such state's congressional districts at any point following that state's adoption of a decennial reapportionment law for any purpose other than (i) the completion of the state's decennial redistricting in response to a federal census and reapportionment mandated by the Constitution of the United States and established in federal law or (ii) as ordered by any state or federal court to remedy an unlawful or unconstitutional district map.*

Any such decennial reapportionment law, *or reapportionment law modifying one or more congressional districts*, shall take effect immediately and not be subject to the limitations contained in Article IV, Section 13, of this Constitution.

The districts delineated in ~~the decennial~~ *any* reapportionment law shall be implemented for the November general election for the United States House of Representatives, Senate, or House of Delegates, respectively, that is held immediately prior to the expiration of the term being served in the year that the reapportionment law is ~~required to be enacted~~. A member in office at the time that a ~~decennial~~ redistricting law is enacted shall complete his term of office and shall continue to represent the district from which he was elected for the duration of such term of office so long as he does not move his residence from the district from which he was elected. Any vacancy occurring during such term shall be filled from the same district that elected the member whose vacancy is being filled.

#### SCHEDULE

*Section 6. Application and duration of certain redistricting amendments.*

*The authorization in Article II, Section 6 authorizing the General Assembly to modify one or more congressional districts at any point following adoption of a decennial reapportionment law in the event that any State of the United States of America conducts a redistricting of such state's congressional districts at any point following that state's adoption of a decennial reapportionment law shall be limited to making such modifications between January 1, 2025, and October 31, 2030, in response to actions taken by another state between January 1, 2025, and October 31, 2030.*

§ 2. The ballot shall contain the following question:

"Question: Should the Constitution of Virginia be amended to allow the General Assembly to temporarily adopt new congressional districts to restore fairness in the upcoming elections, while ensuring Virginia's standard redistricting process resumes for all future redistricting after the 2030 census?"

The ballots shall be prepared, distributed and voted, and the results of the election shall be ascertained and certified, in the manner prescribed by § 24.2-684 of the Code of Virginia. The State Board of Elections shall cause to be sent to the electoral boards of each county and city sufficient copies of the full text of the amendments and question contained herein for the officers of election to post in each polling place on April 21, 2026. The State Board of Elections shall be deemed to be in compliance with the provisions of § 30-19.9 of the Code if the information required by that section is sent to the electoral boards on or before Monday, March 2, 2026.

The electoral board of each county and city shall, as soon as possible but no later than six days after the day of the election, make out, certify, and forward an abstract of the votes cast for and against such proposed amendments in the manner now prescribed by law in relation to votes cast in general elections.

Notwithstanding the provisions of subsection B of § 24.2-679, the State Board of Elections shall meet as soon as possible after receipt of the certified abstracts but no later than fourteen days after the day of the election to open and canvass such abstracts and examine and report the whole number of votes cast at the election for and against such amendments in the manner now prescribed by law in relation to votes cast in general elections. The State Board of Elections shall record a certified copy of such report in its office and without delay make out and transmit to the Governor an official copy of such report, certified by it. The Governor shall without delay make proclamation of the result, stating therein the aggregate vote for and against the amendments.

If a majority of those voting vote in favor of the amendments, they shall become effective upon certification by the State Board of Elections.

The expenses incurred in conducting this election shall be defrayed as in the case of election of members of the General Assembly.

**15. That § 30-13 of the Code of Virginia is repealed.**

**16. That the provisions of the fifteenth enactment of this act shall be retroactive effective beginning July 1, 1971.**

*17. Notwithstanding any other law to the contrary, in any action or suit related to any resolution concerning a constitutional amendment, any election related to a constitutional amendment, any enacted constitutional amendment, or any related statute, including any claim related to the process, efficacy, implementation, or interpretation thereof, venue shall only be proper in the Circuit Court of the City of Richmond. The provisions of this enactment shall be effective September 1, 2025, and shall be broadly construed. Upon passage, any pending suit affected by this legislation shall be immediately transferred to the Circuit Court of the City of Richmond.*

~~414.~~ 18. That the provisions of the first ~~and second enactment~~ enactments of this act shall expire at midnight on June 30, 2026.

~~515.~~ 19. That the provisions of the ~~second~~ third, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, ~~and thirteenth, fourteenth, fifteenth, sixteenth, and seventeenth enactment~~ enactments of this act shall have no expiration date.

~~616.~~ 20. That the provisions of the ~~third~~ fourth enactment of this act are declarative of existing law and shall have no expiration date.

2. That this act is effective on its passage as provided in § 1-214 of the Code of Virginia.