

LINDSAY MYDRA WHEATLEY, *et al.*,

Plaintiffs,

v.

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

Defendants.

IN THE CIRCUIT COURT

FOR

DORCHESTER COUNTY, MARYLAND

Case No. C-09-CV-26-000285

**PLAINTIFFS' MEMORANDUM OF GROUNDS AND AUTHORITIES IN SUPPORT
OF THEIR MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION AGAINST DEFENDANTS**

Plaintiffs, by and through undersigned counsel, file this Memorandum of Grounds and Authorities in support of their Motion for a Temporary Restraining Order and Preliminary Injunction Against Defendants (the "Motion") seeking emergency injunctive relief against Defendants Maryland State Board of Elections (the "Board") *et al.*¹

PRELIMINARY STATEMENT

This Court's intervention is urgently required to protect the rights of millions of Maryland voters. House Bill 2100 ("HB2100"), a bill rushed through the General Assembly in a few days, is designed to deceive Maryland voters into giving up essential anti-gerrymandering protections that have been in Maryland's Constitution for decades. It exempts congressional redistricting from the Constitution's requirements enshrined in Article III, § 4 that districts adhere to basic traditional redistricting criteria—including that districts be compact, contiguous and pay due regard to political subdivision boundaries. The bill then proposes two other amendments: (1) providing that *nothing* in Maryland's Constitution or Declaration of Rights provides criteria for the boundaries

¹ Plaintiffs incorporate by reference as if fully restated herein the Affidavits of Plaintiffs Christopher West, Mary Beth Carozza, John Frederick Mautz IV, Christopher Troy Adams, and Lindsay Mydra Wheatley, which are cited in support of facts set forth herein.

of congressional districts and (2) granting the General Assembly the authority to confer original jurisdiction on the Maryland Supreme Court to “review” congressional district plans.

The cumulative effect of this naked power-grab is to make long-standing constitutional principles inapplicable to congressional districts and to grant the General Assembly a license to engage in extreme gerrymandering without limitation. It acts to overturn a recent decision of the Maryland judiciary which held that the Maryland Constitution Article III, § 4 and multiple Articles of the Maryland Declaration of Rights prohibit partisan gerrymandering. *See generally Szeliga v. Lamone*, No. C-02-CV-21-001816, 2022 WL 2132194 (Anne Arundel Cir. Ct. Mar. 25, 2022). But voters would not know that by reading the sanitized ballot language that the General Assembly and Defendants will place on the November 3, 2026 ballot absent this Court’s intervention. That outcome-oriented language claims that HB2100 merely “clarifies that certain standards in the Maryland Constitution apply only to districts used to elect members of the General Assembly; authorizes the General Assembly to grant original jurisdiction to the Supreme Court of Maryland to review the congressional districting plan of the State; and requires the criteria for boundaries of congressional districts to be determined by applicable federal laws.” Compl. Ex. E at 3.

All of this violates Maryland’s Constitution, Declaration of Rights, and Election Law Article in multiple ways. HB2100 misleads and misrepresents the nature of the amendment to Maryland’s Constitution, offending both Marylanders’ constitutional rights and their statutory rights to adequate notice pursuant to the Election Law Article, including Md. Code Ann., Election Law (“EL”) §§ 7-103 and 7-105. Moreover, the amendment was enacted far too late for the ballot question to be configured in accordance with constitutional and statutory requirements—the ballot language for a question appearing on the November 2026 ballot was due July 1 and was supposed to have been published for notice and public comment before being finalized. The General

Assembly instead attempted to override those mandatory provisions of the Election Law Article, retroactively stripping Marylanders of those important statutory protections. Finally, by combining in one amendment three unique changes to Maryland’s Constitution on different, non-interrelated subjects, HB2100 violates the single-subject requirement for constitutional amendments found in Article XIV, § 1 of the Maryland Constitution.

For these reasons, set forth more fully below, the Court should enter a temporary restraining order and a preliminary injunction enjoining implementation of HB2100 and excluding it from the November 2026 ballot in Maryland.

FACTUAL BACKGROUND

I. The Maryland Constitution and Declaration of Rights Impose Traditional Redistricting Criteria on Both Maryland’s State Legislative Districts and Congressional Districts.

The U.S. Constitution provides that “[t]he Times, Places and Manner of holding Elections for . . . Representatives, shall be prescribed in each State by the Legislature thereof,” U.S. CONST. art. I, § 4, cl. 1. The United States Constitution thus leaves to state legislatures primary responsibility for the apportionment of their congressional districts. In Maryland, the General Assembly configures its congressional districts by legislation. In doing so, the General Assembly must comply (as to congressional and state legislative districts) with certain requirements set forth in Article III, § 4 of the Maryland Constitution. Specifically, that Section requires that “[e]ach legislative district shall consist of adjoining territory, be compact in form, and of substantially equal population. Due regard shall be given to natural boundaries and the boundaries of political subdivisions.” MD. CONST. art. III, § 4.

These requirements are common and are known as traditional redistricting criteria. *See Louisiana v. Callais*, 146 S. Ct. 1131, 1156 (2026). They were added to the Maryland Constitution in 1972. *See Szeliga*, 2022 WL 2132194, at *9. The compactness requirement is “intended to

prevent political gerrymandering,” *Matter of Legis. Districting of State*, 299 Md. 658, 687 (1984), and so is the contiguity requirement (i.e., that districts consist of “adjoining territory”), *Szeliga*, 2022 WL 2132194, at **42–43. Districts are not considered “compact” if their shapes contain “tentacles, appendages, bizarre shapes, or any other obvious irregularities.” *Allen v. Milligan*, 599 U.S. 1, 20 (2023) (citation omitted).

Political gerrymandering, a practice that has been controversial for over two centuries, means “the drawing of legislative district lines to subordinate adherents of one political party and entrench a rival party in power.” *Ariz. State Legis. v. Ariz. Indep. Redistricting Comm’n*, 576 U.S. 787, 791 (2015). Although the U.S. Supreme Court has ruled that partisan gerrymandering questions are nonjusticiable in federal court, *see generally Rucho v. Common Cause*, 588 U.S. 684 (2019), the Court confirmed that states have the authority to regulate gerrymandering “on a number of fronts,” including through imposing the use of “some of the traditional districting criteria for their mapmakers” or by “outright prohibit[ing] partisan favoritism in redistricting.” *Id.* at 719–20. This is what the Maryland Constitution does in Article III, § 4 and via Articles 7, 24, and 40 of the Maryland Declaration of Rights.

This point was illustrated in 2022 following the General Assembly’s adoption of a gerrymandered 2021 congressional plan. Shortly after its adoption, a group of plaintiffs sued on the basis that the plan constituted an illegal gerrymander that (1) violated Article III, § 4’s traditional redistricting criteria requirements and (2) violated Articles 7, 24, and 40 of the Maryland Declaration of Rights by improperly discriminating against voters on the basis of their partisanship. *Szeliga*, 2022 WL 2132194, at *46. The *Szeliga* court found the plan violated Article III, § 4 by failing to configure compact districts and failing to give “due regard” to the political subdivision requirement. *Id.* at **45–46. The plan violated Article 7 of the Declaration of Rights,

Maryland’s free-elections clause, because it was drawn with “partisanship as a predominant intent, to the exclusion of traditional redistricting criteria.” *Id.* at *46. Similarly, because of the extent to which the 2021 plan disadvantaged Maryland voters on the basis of partisanship, the court found violations of voters’ constitutional right under Articles 24 (equal-protection) and 40 (free-speech) of the Declaration of Rights. *Id.* While an appeal was taken from *Szeliga*, the parties dismissed that appeal a week later and the current 2022 congressional plan was enacted shortly thereafter.

II. The Governor Hastily Calls a Special Session to Amend the State Constitution to Overturn *Szeliga* and Strip Any Anti-Gerrymandering Protections From Maryland Voters for Congressional Plans.

On July 7, 2026—just a few months before the 2026 General Election—Democratic lawmakers and Governor Wes Moore announced that the General Assembly would convene in special session on August 3, 2026, to consider legislation placing a redistricting-related constitutional amendment before voters at the November 3, 2026 general election. Campbell Robertson, *Maryland Moves Toward Redistricting Ahead of 2028*, N.Y. TIMES (July 7, 2026), <https://www.nytimes.com/2026/07/07/us/politics/maryland-redistricting.html>; see West Aff. ¶ 10. On July 17, 2026, Governor Moore issued a proclamation convening the General Assembly in an Extraordinary Session commencing on August 3, 2026. See Compl. Ex. A; West Aff. ¶ 11. According to the proclamation, the purpose of the Extraordinary Session was to “pass[] legislation to amend the State constitution to clarify and reaffirm that the provisions which govern the requirements of our State legislative districts do not apply to Maryland’s congressional districts.” *Id.* (capitalization omitted); West Aff. ¶ 12.

The General Assembly convened in a special session on August 3, 2026 and, in the span of just three days, passed HB2100, which makes three distinct and material changes to Maryland’s

Constitution.² West Aff. ¶¶ 13-17; Carozza Aff. ¶¶ 8-11; Mautz Aff. ¶¶ 8-12; Adams Aff. ¶¶ 8-11.

HB2100 proposes the following amendment to the Maryland Constitution:

Article III – Legislative Department

4.

Each legislative district **FOR THE ELECTION OF A MEMBER OF THE SENATE AND MEMBERS OF THE HOUSE OF DELEGATES** shall consist of adjoining territory, be compact in form, and of substantially equal population. Due regard shall be given to natural boundaries and the boundaries of political subdivisions.

62.

(A) **THE GENERAL ASSEMBLY SHALL HAVE THE POWER TO GRANT ORIGINAL JURISDICTION TO THE SUPREME COURT OF MARYLAND TO REVIEW THE CONGRESSIONAL DISTRICTING PLAN OF THE STATE.**

(B) **NOTHING IN THIS ARTICLE OR ELSEWHERE IN THIS CONSTITUTION, INCLUDING THE DECLARATION OF RIGHTS, PROVIDES APPLICABLE CRITERIA FOR THE BOUNDARIES OF A CONGRESSIONAL DISTRICTING PLAN.**

SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly determines that the amendment to the Maryland Constitution proposed by Section 1 of this Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland Constitution concerning local approval of constitutional amendments do not apply.

The proposed amendment therefore alters the text of Article III, § 4 by specifying that only General Assembly districts are subject to the requirements that districts must be contiguous, compact, and of “substantially equal population” and that “due regard” must be given to political subdivision and natural boundaries. Compl. Ex. C, Section 1. The proposed amendment also adds a new section (Section 62) to the Maryland Constitution containing two new provisions. *See id.*

The first, Section 62(A), allows the General Assembly to grant the Maryland Supreme Court original jurisdiction to review the State’s congressional plan. *Id.* The second new provision,

² Specifically, on August 3, 2026, HB2100 was first considered by the House of Delegates. *See* Compl. Ex. A. HB2100 was amended on the floor of the House of Delegates and then passed on August 4, 2026. *See* Compl. Ex. C. The Senate then passed HB2100 the same day, and Governor Moore signed HB2100 on August 5, 2026. *See* Compl. Ex. D. The General Assembly suspended applicable rules governing hearings and readings to accelerate HB2100’s passage. West Aff. at ¶ 19.

Section 62(B), purports to make the requirements of the Maryland Constitution, “including the Declaration of Rights,” inapplicable to the State’s congressional plans. *Id.* The not-so-subtle effect of this legislation is to eliminate a series of anti-gerrymandering protections from the Maryland Constitution that voters have enjoyed for decades.

III. HB2100 Is Passed Too Late To Properly Go On The 2026 Ballot.

While the Governor and General Assembly were aware of *Szeliga* since at least 2022, they chose to wait until August 3, 2026—just three months before the 2026 general election—to go into special session and enact HB2100’s proposed constitutional amendment. In that regard, although the General Assembly could have put the amendment proposed by HB2100 on the ballot next year to allow for sufficient time for public comment and notice, the General Assembly instead decided to ram it through on the November 2026 ballot. The bill provides that the proposed amendment set forth in Section 1 “shall be submitted to the qualified voters of the State at the next general election to be held in November 2026 for adoption or rejection in accordance with Article XIV of the Maryland Constitution.” Compl. Ex. C, Section 3(a).

The as-introduced version of HB2100 contains, in Section 3(b)(2), language that “[a]t that general election, a question substantially similar to the following shall be submitted to the qualified voters of the State.” See Compl. Ex. B, Section 3(b)(2). However, that text was stricken by an amendment to HB2100 in the House and replaced with the language that “[n]otwithstanding any other provision of law, at that general election, the following question shall be submitted to the qualified voters of the State.” See Compl. Ex. C, Section 3(b)(2).

This “[n]otwithstanding” language is a blatant attempt to exempt HB2100 and its proposed constitutional amendment from the requirements of EL §§ 7-103 and 7-105. *Video of House Floor Actions (8/3/2026)*, MD. GEN. ASSEMBLY, at 42:05–42:30, <https://mgaleg.maryland.gov/mgaweb>

site/FloorActions/Media/house-71-A?year=2026RS (last visited Aug. 8, 2026). On the floor of the House of Delegates, Delegate Kris Fair acknowledged that it was too late for the process required by the Election Law Article to be followed, and that the “[n]otwithstanding” language was aimed at having the amendment “simply go straight to the ballot.” *Id.* at 42:40–42:44; *see also* West Aff. ¶ 15. The reason for this attempt is clear: the proposed amendment is plainly untimely, and procedurally and substantively insufficient under the Maryland Constitution, the Declaration of Rights, and Election Law Article.

EL § 7-103(c)(1) requires the Secretary of State to “prepare and certify to the State Board the information required under” EL § 7-103(b) “for all statewide ballot questions” on or before July 1, 2026. That deadline passed over a month before the enactment of HB2100 on August 5, 2026. *See Video of House Floor Actions (8/3/2026)*, MD. GEN. ASSEMBLY, at 46:18–46:42, <https://mgaleg.maryland.gov/mgaweb/FloorActions/Media/house-71-A?year=2026RS> (last visited Aug. 8, 2026). There are no other provisions in the Election Law Article for the Secretary of State to prepare and certify the information required by EL § 7-103(b); nor did HB2100 explicitly provide for such late certification.

Nevertheless, on August 7, 2026, the State Board posted the proposed amendment in HB2100 to its website as “Question 3” for the November 2026 general election. *See* Compl. Ex. E; West Aff. ¶ 18. This information was not, upon information and belief, prepared and certified by the Secretary of State, and it was posted over one month after the July 1, 2026, deadline.

EL § 7-105(b) also required a “brief statement, prepared in clear and concise language, devoid of technical and legal terms to the extent practicable, summarizing the question” to be submitted to the State Board by August 3, 2026. EL § 7-105(b)(1)–(2). No such statement was submitted to the State Board by that deadline.

Finally, EL § 7-105(e) also required the State Board and local boards to post the “complete text of” proposed amendments no later than August 5, 2026. The State Board did not post the complete text of the proposed amendments in HB2100 on or before August 5, 2026. Upon information and belief, the complete text of the proposed amendments was not posted by the State Board until August 7, 2026, after the statutory deadline. *See* Compl. at Ex. E. Further, upon information and belief, the Defendant County boards did not reproduce the complete text of HB2100 on their websites by the August 5 deadline as required by EL § 7-105(e).

IV. Plaintiffs Filed This Action on August 10, 2026.

Plaintiffs are five registered Maryland voters, four of whom are also members of the Maryland General Assembly. *See* Wheatley Aff. ¶¶ 1-7; West Aff. ¶¶ 1-8; Carozza Aff. ¶¶ 1-8; Mautz Aff. ¶¶ 1-8; Adams Aff. ¶¶ 1-8. Plaintiffs filed this action seeking declaratory and injunctive relief on August 10, 2026, just five days after HB2100’s enactment. *See generally* Compl. They allege violations of the Maryland Constitution and Declaration of Rights, as well as violations of the Election Law Article. *See* Compl. ¶¶ 65-131 & Request for Relief; *see also* Wheatley Aff. ¶ 10; West Aff. ¶ 20; Carozza Aff. ¶ 12; Mautz Aff. ¶ 13; Adams Aff. ¶ 12.

STANDARD FOR INJUNCTIVE RELIEF

A temporary restraining order (“TRO”) preserves the status quo pending an adversarial hearing on a motion for preliminary injunction or a resolution on the merits. *Harford County Education Asso. v. Board of Education*, 281 Md. 574, 585 (1977). The Court may grant a TRO when the facts show that the moving party will suffer immediate, substantial, and irreparable harm before a full adversarial hearing can be held, and the Court makes appropriate findings regarding: (a) the likelihood the moving party will succeed on the merits; (b) the balance of harm to each party if relief is or is not granted; (c) whether the moving party will suffer the irreparable injury

unless the order is granted; and (d) whether granting the order is contrary to the public interest. Md. Rule 15-504(a); *see also Fuller v. Republic Cent. Comm.*, 444 Md. 613, 635–36 (2015).

Similarly, to obtain a preliminary injunction Plaintiffs must show: (1) the likelihood that they will succeed on the merits; (2) whether greater harm will be done to them without an injunction than will be done to Defendants if an injunction is entered; (3) they will suffer irreparable injury unless the injunction is granted; and (4) granting the injunction is not contrary to the public interest. *Ademiluyi v. Egbuonu*, 466 Md. 80, 114 (2019). These factors “are not like elements of a tort.” *DMF Leasing, Inc. v. Budget Rent-A-Car of Maryland, Inc.*, 161 Md. App. 640, 648 (2005). Rather, the “four factors are simply that, *factors*, designed to guide trial judges in deciding whether a preliminary injunction should be issued.” *Id.* The Maryland Supreme Court generally considers the first and third factors to be the most significant. *Ademiluyi*, 466 Md. at 114–115.

Here, for the reasons that follow, the factors the Court must consider tip decidedly in favor of issuing the requested temporary restraining order and preliminary injunction. Plaintiffs are likely to succeed on their claims against HB2100, they face irreparable harm in the absence of injunctive relief, the “balance of convenience” favors Plaintiffs, and the public interest favors the injunctive relief requested here.

LAW AND ARGUMENT

I. Plaintiffs Are Likely To Succeed On The Merits.

To show a likelihood of success on the merits, Plaintiffs need only show “a real probability of prevailing on the merits.” *Ademiluyi*, 466 Md. at 115. Plaintiffs have more than cleared that bar as to each of their three claims.

A. HB2100's Ballot Language Violates Multiple Provisions Of The Maryland Constitution, Declaration of Rights, and the Election Law Article.

Plaintiffs and other Maryland voters are entitled, under Article XIV, § 1 and Article I, § 7 of the Maryland Constitution, Articles 7 and 24 of the Maryland Declaration of Rights, and EL §§ 7-103 and 7-105, to adequate and sufficient notice of proposed constitutional amendments on the ballot. HB2100 infringes these rights in three basic ways.

First, HB2100's ballot question fails to provide voters with the timely, truthful, and non-misleading information they need to make an informed choice. This violates the requirements of Article XIV, § 1 and Article I, § 7 of the Maryland Constitution, Articles 7 and 24 of Maryland's Declaration of Rights, and of EL §§ 7-103 and 7-105. HB2100's amendment would exempt the General Assembly from any obligation to comply with the provisions of the Maryland Constitution or Declaration of Rights when configuring congressional plans, but a voter would never know this by reading the heavily sanitized ballot language. Second, because the General Assembly failed to adopt HB2100 in time to comply with the various statutory notice requirements in EL §§ 7-103 and 7-105, those statutes are violated by the placement of HB2100's proposed amendment on the ballot in Maryland. Third, for the same reason, the notice-and-comment process for proposed ballot questions set forth in EL § 7-103(c)(5) was abrogated here improperly.

These violations compel an injunction of HB2100 prohibiting its implementation during on the November 3, 2026 general election. *See Scott v. McDougle*, 930 S.E.2d 332, 348 (Va. 2026) (affirming lower-court order enjoining a rushed attempt by the Virginia General Assembly and Governor to hastily ram through an amendment to Virginia's constitution in order to facilitate the General Assembly's attempt to enter into an extreme gerrymander because "[w]hile the Commonwealth is free by its lights to do the right thing for the right reason, the Rule of Law requires that it be done the right way"); *League of Women Voters v. Utah State Legis.*, 559 P.3d

11, 26–37 (Utah 2024) (invalidating a redistricting-related amendment because the Legislature bypassed the Utah Constitution’s process for placing amendments on the ballot by approving misleading ballot language and forgoing the publication requirement).

1. Articles I, § 7 and XIV, § 1 of the Maryland Constitution, and Articles 7 and 24 of Maryland’s Declaration of Rights, require that proposed constitutional amendments be put to voters with accurate, non-confusing language.

The requirement that a ballot question provide sufficient notice of a proposed amendment is first and foremost guaranteed by the Maryland Constitution and Declaration of Rights, which require voter input on proposed constitutional amendments and outline the process by which proposed amendments to Maryland’s Constitution are put to a vote. *See generally* MD. CONST. art. XIV. As the Maryland Supreme Court has explained, “the Constitutional provisions providing for voter input by amendment” in Article XIV, § 1 “as implemented by the Election Law, require ‘a clear, unambiguous and understandable statement of the full and complete nature of the issues undertaken to be included in the proposition,’” and the proposed amendment’s “‘contents and purpose’” must be “set forth, in understandable language, ‘with th[e] clarity and objectivity required to permit an average voter, in a meaningful manner, to exercise an intelligent choice.’” *Stop Slots MD 2008 v. State Bd. of Elections*, 424 Md. 163, 189–90 (2012) (quoting *Anne Arundel Cnty. v. McDonough*, 277 Md. 271, 300 (1976)).

This requirement also derives from Article 24 of the Declaration of Rights, which provides that no person may be “deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.” MD. DECL. OF RTS. art. 24. The “law of the land” clause is Maryland’s due process guarantee, construed “*in pari materia*” with the Due Process Clause of the Fourteenth Amendment, *Attorney General v. Waldron*, 289 Md. 683, 714 (1981), with federal decisions treated as persuasive authority, *see Frankel v. Bd. of Regents*, 361 Md. 298, 313 & n.3 (2000). But

the state provision is independent of its federal counterpart and may afford greater protection. *See Frankel*, 361 Md. at 313; *see also Dua v. Comcast Cable of Md., Inc.*, 370 Md. 604, 618 n.6 (2002). Maryland's due-process rights extend beyond judicial proceedings "to every case which may deprive a citizen of life, liberty, or property, whether the proceeding be judicial, administrative or executive in its nature." *Ulman v. Mayor of Baltimore*, 72 Md. 587, 593 (1890) (citation omitted).

The Maryland Supreme Court has applied these principles directly to the submission of proposed constitutional amendments. As *Stop Slots MD* put it, when "the General Assembly submits an amendment to voters for approval, Due Process requires that adequate notice of the referendum be provided to the electorate prior to the election." *Stop Slots MD 2008*, 424 Md. at 192 (citing *McDonough*, 277 Md. at 282). And that is because "the essence of due process is notice," and voters' due process is "not protected" when no publication or reasonable notice is followed "so that reasonably well-informed voters may be assured." *McDonough*, 277 Md. at 282. The notice provisions of EL § 7-105 exist, as the Court explained, "[a]ccordingly"—that is, to implement the constitutional command. *Stop Slots MD 2008*, 424 Md. at 192.

Applying these principles, *McDonough* invalidated a referendum result because the question, as worded and as advertised before the election, "was so inaccurate, ambiguous and obtuse, that an ordinary voter, of average intelligence, could not, in a meaningful and comprehending manner, have knowledgeably exercised his franchise." *Id.* at 307–08.

Here, the interest at stake is the voting franchise itself. Article 7 of the Declaration of Rights provides that "elections ought to be free and frequent" and that "every citizen having the qualifications prescribed by the Constitution, ought to have the right of suffrage." The Court has described the right of suffrage embodied in Article 7 as among the most important and fundamental rights granted to Maryland citizens. *Liddy v. Lamone*, 398 Md. 233, 254 n.19 (2007) (collecting

cases); *see also Nader for President 2004 v. Md. State Bd. of Elections*, 399 Md. 681, 686 (2007).

The Court has repeatedly invalidated election statutes and practices on the basis of Articles 7 and 24 without reaching federal law at all. *See Md. Green Party v. Md. Bd. of Elections*, 377 Md. 127, 153, 165 (2003) (invalidating registration and petition provisions under Article I of the Maryland Constitution and Articles 7 and 24 of the Declaration of Rights); *Nader*, 399 Md. at 708 (county-match signature requirement inconsistent with Article I of the Maryland Constitution and Articles 7 and 24 of the Declaration of Rights).

2. EL §§ 7-103 and 7-105 implement Maryland's constitutional requirements for voter input and due process on proposed amendments.

While the fount of the guarantees of voter input and due process for the vote on proposed constitutional amendments are found in the Constitution and Declaration of Rights, those rights are “implemented” by the Election Law Article. *Stop Slots MD 2008*, 424 Md. at 189. For proposed constitutional amendments, the principal mechanisms to implement those rights are found in EL §§ 7-103 and 7-105. Those provisions implement the constitutional guarantees described above. *Id.* at 189–90.

EL § 7-103(b) sets forth specific requirements for the sufficiency of ballot language to ensure that the ballot is “complete enough to convey an intelligent idea of the scope and import of the amendment” and “ought not to be clouded by undue detail” or “misleading tendency, whether of amplification, or omission.” *Id.* (quoting *McDonough*, 277 Md. at 301–02). To that end, EL § 7-103(b) requires that each question appear on the ballot with specific information: a question number or letter; a brief designation of the type or source of the question; a brief title in boldface type describing the topic, goal, or outcome; a condensed statement describing the change in policy in plain and clear language that a voter can easily understand, that does not explain the legal mechanism providing for the policy change, and that avoids legal jargon, double negatives,

and the passive voice; the voting choices; and a brief statement explaining the practical outcome of each voting choice. EL § 7-103(b)(1)–(6). Because this statute exists to implement the constitutional requirements, *Stop Slots MD 2008*, 424 Md. at 189–90, a question that fails these elements equally fails the constitutional standard.

When “the ballot question is a summary of the purpose of the proposed amendment prepared” by the General Assembly, *Stop Slots MD 2008*, 424 Md. at 191–92 (citing § 7-105(b)(3)), the ballot question must also “accurately and in a non-misleading manner, apprise[] the voters of the true nature of the legislation upon which they are voting.” *McDonough*, 277 Md. at 296 (citation omitted); *Kelly v. Vote Know Coal., Inc.*, 331 Md. 164, 172 (1993). In applying this standard, courts ask whether the language “convey[s] with reasonable clarity the actual scope and effect of the measure,” *Surratt v. Prince George’s Cty.*, 320 Md. 439, 447 (1990), characterized most recently as “minimum reasonable clarity,” *Md. State Bd. of Elections v. Ambridge*, 489 Md. 404, 463 (2025).

In addition, EL § 7-103 establishes a public notice-and-comment process to help ensure that ballot language is clear and understandable. Specifically, the Secretary of State must “prepare and certify to the State Board” the information required by § 7-103(b) by “July 1 immediately preceding a general election.” EL § 7-103(c)(1). Once certified, the State Board must then “make the information . . . available to the public for a 15-day comment period,” after which the Secretary of State must, within four days, “review the comments received during the comment period and make any necessary changes to the question,” then submit the certified plain text to the State Board for publication on its website pursuant to EL § 9-207. EL § 7-103(c)(5).

Principles of due process also require that adequate notice of the proposed constitutional amendment must be given to the public prior to the election. *Stop Slots MD 2008*, 424 Md. at 192.

There are multiple deadlines set forth in EL § 7-105 to govern this process. For one, EL § 7-105(a) requires a local board to provide such notice by mailing a “specimen ballot” or “publi[shing] or disseminati[ng] by mass communication” before the election. This notice must include the text of the actual question on the ballot and a brief statement summarizing the question. EL § 7-105(b). Second, the brief statement referenced in EL § 7-105(b) must be prepared by “the Department of Legislative Services,” then “approved by the Attorney General,” and then “submitted to the State Board *by the first Monday in August.*” EL § 7-105(b)(2)(i)–(iii) (emphasis added). The amendment text must also be posted by the “State Board and each applicable local board” in a manner widely accessible to the public for “at least 90 days before the general election.” EL § 7-105(e).

3. HB2100 fails multiple requirements under the Election Law Article and the Maryland Constitution.

“[I]n determining the sufficiency of a ballot question summarizing a proposed amendment,” the court “must inquire not only whether the question itself sufficiently apprised voters of the amendment’s purpose, but, also, ‘whether or not its publication, by advertisements, prior to the election, permitted, in a meaningful manner, an intelligent decision, by an average voter.’” *Stop Slots MD 2008*, 424 Md. at 193 (quoting *McDonough*, 277 Md. at 291–92). HB2100 fails several of these requirements—compelling it to be enjoined and not placed on the ballot for the November 3, 2026 general election.

Misleading and Incomplete Description of HB2100’s Effects. The untimely notice of the ballot question that Defendants did provide, and intend to certify to the ballot, materially misdirects and misleads Plaintiffs and other Maryland voters. The Maryland Constitution requires “‘a clear, unambiguous and understandable statement of the full and complete nature of the issues undertaken to be included in the proposition,’” and that the proposed amendment be “set forth, in understandable language, ‘with the clarity and objectivity required to permit an average voter, in

a meaningful manner, to exercise an intelligent choice.’” *Stop Slots MD 2008*, 424 Md. at 189–90 (quoting *McDonough*, 277 Md. at 300).

The Election Law Article “implement[s]” those requirements. *Id.* In pertinent part, EL § 7-103(b)(4) requires ballot statements to describe the change in a way a voter can “easily understand,” and in a way that “does not explain the legal mechanism providing for the policy change” and “does not contain legal jargon or use double negatives or the passive voice.” *Id.* § 7-103(b)(4)(i)–(iii). Moreover, EL § 7-103(b)(6) requires a brief statement of “what the practical outcome of each voting choice would be.”

HB2100’s ballot language does none of those things. This is the statement:

Election Districts

The proposed Constitutional Amendment clarifies that certain standards in the Maryland Constitution apply only to districts used to elect members of the General Assembly; authorizes the General Assembly to grant original jurisdiction to the Supreme Court of Maryland to review the congressional districting plan of the State; and requires the criteria for boundaries of congressional districts to be determined by applicable federal laws.

(Amending Article III of the Maryland Constitution)

- For the Constitutional Amendment
- Against the Constitutional Amendment

Compl. at Ex. E; *see also* Compl. Ex. C, Section 3(b)(2).

That statement tells voters in the vaguest terms that the constitutional amendment proposed by HB2100 “clarifies” existing standards and “requires the criteria for boundaries of congressional districts to be determined by applicable federal laws.” *Id.* Here is what this euphemism-filled, sanitized description of HB2100 does not tell voters.

The ballot language does not tell voters that the proposed amendment to Article III, § 4 would remove *every* requirement within Article III, § 4 from congressional redistricting. As set

forth above, Article III, § 4 currently subjects congressional districts to traditional districting criteria, and Maryland courts recently enforced those requirements in enjoining a gerrymandered congressional plan in 2022. *Szeliga*, 2022 WL 2132194, at **43–46. The proposed amendment does not “clarify” the standards in Article III, § 4 that apply; it eliminates them. And the statement only vaguely refers to “certain standards” for districts, which is not clear and understandable. So too for the second portion of HB2100—granting the General Assembly the authority to grant the Maryland Supreme Court original jurisdiction to review the State’s congressional plan. This language is full of legal jargon and is confusing.

The language also does not inform voters that their inalienable rights to free elections, equal protection and due process, and free speech guaranteed by Articles 7, 24, and 40 of the Declaration of Rights would be stripped as to congressional redistricting criteria by HB2100’s proposed new Article III, § 62(b). Notably, the *Szeliga* court recognized that the partisan gerrymandering evident in that 2021 congressional plan violated Articles 7, 24, and 40 of the Maryland Declaration of Rights by infringing on the rights of voters. *Id.* at 46. Nowhere in the text of the ballot question is it disclosed to voters that voting “FOR” the amendments proposed by HB2100 would make these requirements inapplicable as criteria for congressional districts.

That is not acceptable. In *McDonough*, the Maryland Supreme Court condemned a rezoning ballot question that only generally asked voters to vote “FOR” or “AGAINST” the “rezo(n)g of certain parcels,” leaving voters “unable to tell whether such ‘rezoning’ up-graded or down-graded the zoning uses.” 277 Md. at 289–99. The question therefore “did not present a clear, unambiguous and understandable statement of the full and complete nature of the issues undertaken to be included in the proposition.” *Id.* at 300.

The ballot question here is no better than the rezoning question in *McDonough*. As the Florida Supreme Court colorfully put it, “[r]educd to colloquial terms, a ballot title and summary cannot ‘fly under false colors’ or ‘hide the ball’ with regard to the true effect of an amendment” to the State’s constitution. *Fla. Dep’t of State v. Slough*, 992 So.2d 142, 147 (Fla. 2008). Because HB2100 and its ballot question does just that, it must be enjoined and not placed on the ballot.

The ballot question also misdirects voters by claiming that HB2100’s proposed amendments would “require[] the criteria for boundaries of congressional districts to be determined by applicable federal laws.” Compl. Ex. E at 3. This is legal jargon and is both confusing and misleading. The ballot question says nothing about what federal laws apply, or how. Ordinary voters cannot be expected to understand the nuances of federal law. In fact, the use of “traditional redistricting criteria” is *not* a federal requirement, *see League of Women Voters of Chicago v. City of Chicago*, 757 F.3d 722, 726 (7th Cir. 2014); *Callais*, 146 S. Ct. at 1156, and in particular, “compactness or attractiveness [of districts] has never been held to constitute an independent federal constitutional requirement.” *Gaffney v. Cummings*, 412 U.S. 735, 752 n.18 (1973). This language is also meaningless—the Supremacy Clause of the U.S. Constitution *requires* the State to adhere to federal law. A statement that Maryland legislative enactments must comply with federal law (what the ballot question boils down to) is no more legally operative than a declaration that the sky is blue or water is wet.

What the proposed ballot question does not disclose is the truth: the proposed Article III, § 62(b) broadly removes every single state constitutional protection or limitation on the General Assembly’s discretion to enact congressional redistricting plans and gerrymander them in the most extreme partisan way. *See* Compl. Ex. C (defining Section 62(b) as “nothing in this Article or elsewhere in this Constitution, including the Declaration of Rights, provides applicable criteria for

the boundaries of a congressional districting plan.”). And the purpose of the proposed amendments to Article III, § 4 and § 62 is clear—Governor Moore and Democratic lawmakers intend to pass a new congressional plan targeting the state’s lone Republican congressional district. *See* Bryan P. Spears, *Moore’s redistricting commission recommends ‘congressional map concept’*, MD. MATTERS (Jan. 21, 2026), <https://marylandmatters.org/2026/01/21/moores-redistricting-commission-recommends-congressional-map-concept/>; Jane C. Timm, *Maryland House passes new congressional map, setting up a showdown with the state Senate*, NBC NEWS (Feb. 2, 2026), <https://www.nbcnews.com/politics/2026-election/maryland-house-passes-new-congressional-map-state-senate-rcna257030>; Mautz Aff. ¶ 10. To circumvent the *Szeliga* court’s holding that the 2021 congressional districting plan was the “product of extreme partisan gerrymandering” in violation of the Maryland Constitution and Declaration of Rights, the General Assembly is targeting the constitutional provisions at the heart of that case. 2022 WL 2132194, at *45–46.

The ballot question language has already confused voters across the state, *see* Wheatley Aff. ¶ 11 (explaining that the ballot statement for HB2100 “was confusing to me”); Mautz Aff. ¶ 14 (similar); Carozza Aff. ¶ 13 (explaining that the ballot statement “was confusing to my constituents and to me”), and is likely to lead to voters unknowingly voting to reduce or eliminate all Marylanders’ inalienable constitutional rights as it relates to congressional redistricting without the information to make a knowing and informed choice. *See* Wheatley Aff. ¶ 11; West Aff. ¶ 21; Carozza Aff. ¶ 13; Mautz Aff. ¶ 14; Adams Aff. ¶ 13.

The ballot question is therefore inaccurate, misleading, and does not “apprise[] the voters of the true nature of the legislation upon which they are voting.” *Stop Slots MD 2008*, 424 Md. at 192 (citations omitted). It violates the Maryland Constitution Article XIV, § 1, Article 24 of the Declaration of Rights, and EL §§ 7-103 and 7-105.

Timing. The ballot question's substantive defects are compounded by inadequate public notice. The constitutionally required pre-election notice of the proposed constitutional amendments can no longer be provided before the November 3, 2026 general election. The Secretary of State's July 1 certification deadline under EL § 7-103(c), the first-Monday-in-August (i.e., August 3, 2026) summary deadline under EL § 7-105(b)(2), and the 90-day posting requirement under EL § 7-105(e) (i.e., August 5, 2026) had all passed before or immediately upon HB2100's enactment on August 5, 2026. Because those statutes implement the due process guarantee, *Stop Slots MD 2008*, 424 Md. at 189–90, 192, the non-compliance with these requirements is a deprivation of Plaintiffs' Due Process and Free Election rights in Articles 24 and 7 of the Declaration of Rights—one that the General Assembly itself created by enacting the amendment over a month *after* the certification deadline had run. Each of those failures is also an “act or omission” by Defendants “inconsistent with this article or other law applicable to the elections process” in violation of EL § 12-202(a). Before an election, officials must “do what the law tells them to do” and courts must require compliance. *Dutton v. Tawes*, 225 Md. 484, 491 (1961). These failures cannot be cured and compel an injunction barring HB2100's proposed amendments from the ballot.

Notice and Comment. Separately, by abrogating the notice-and-comment process for proposed ballot questions required by EL § 7-103, the General Assembly has further infringed Plaintiffs' and other Maryland voters' rights to due process and adequate notice. The purpose of notice-and-comment rules is to afford an opportunity for public input and to help ensure that ballot language is clear and not misleading. The General Assembly acknowledged it was bypassing the required 15-day public comment period but justified the deviation by pointing to the six-hour public hearing that was held by the House Committee on August 5. *See Video of House Floor*

Actions (8/3/2026), MD. GEN. ASSEMBLY, at 43:10–28, 55:30–57:05, <https://mgaleg.maryland.gov/mgaweb/FloorActions/Media/house-71-A?year=2026RS> (last visited Aug. 8, 2026). But six hours of a committee hearing the day before the General Assembly passed HB2100 is a far-cry from fifteen days of public comment during which residents from all over the state could provide their input. Eliminating this important procedural protection for proposed constitutional amendment ballot questions is an independent statutory violation under EL § 12-202.

HB2100 must be enjoined and excluded from the 2026 general election ballot.

B. The General Assembly’s Attempt to Exclude HB2100 From the Requirements of EL §§ 7-103 and 7-105 Violates the Anti-Retroactivity Principle.

Plaintiffs anticipate the Defendants will claim that the “[n]otwithstanding” language contained in HB2100 exempts this statute from the statutory requirements of EL §§ 7-103 and 7-105. *See Video of House Floor Actions* (8/3/2026), MD. GEN. ASSEMBLY, at 42:05–42:30, <https://mgaleg.maryland.gov/mgaweb/FloorActions/Media/house-71-A?year=2026RS> (last visited Aug. 8, 2026). Setting aside the fact that those statutes implement constitutional guarantees, and constitutional guarantees cannot be abrogated by statute, *see supra* § I.B, the General Assembly’s ham-fisted attempt to exempt HB2100 from those requirements is barred by Article 24 of the Maryland Declaration of Rights’ anti-retroactivity principle.

Retrospective statutes are those “acts which operate on transactions which have occurred or rights and obligations which existed before passage of the act.” *Langston v. Riffe*, 359 Md. 396, 406 (2000). Legislation that retroactively abrogates vested rights violates Article 24 of the Declaration of Rights. *Muskin v. State Dep’t of Assessments & Taxation*, 422 Md. 544, 557 (2011) (“Retrospective statutes that abrogate vested rights are unconstitutional generally in Maryland”).

Section 3(b)(2) of HB2100 is impermissibly retrospective under Maryland law. The July 1, 2026 deadline for the Secretary of State to prepare and certify the ballot question information required by EL § 7-103 expired more than a month before HB2100's enactment, and the August 3 and August 5 deadlines for the brief statement summarizing the ballot to be submitted and for the posting of the proposed amendment were not met. HB2100 purports to alter the legal significance of those missed deadlines. Because the Election Law Article "implements" the requirements of Maryland Constitution, *Stop Slots MD* 2008, 424 Md. at 189, HB2100 also retroactively abrogates the vested rights of Plaintiffs to a prescribed numbers of days of notice of proposed constitutional amendments, and to notice-and-comment on the proposed ballot language.

The Election Law Article's implementation of these constitutional guarantees vested Plaintiffs and other voters with rights to notice, to notice-and-comment on the proposed ballot question, and other rights for ballot questions to be placed on the November 3, 2026 general election ballot in Maryland. The General Assembly is not free to allow these established deadlines to pass for that election and then, by adding a "notwithstanding" clause to Section 3(b)(2) of HB2100, abrogate Plaintiffs' vested rights as to questions to be presented on the 2026 ballot.

Democratic lawmakers who advocated for the "notwithstanding" clause admitted that its purpose was to bypass the requirements of the Election Law Article because it was too late for the process to be followed. *See Video of House Floor Actions (8/3/2026)*, MD. GEN. ASSEMBLY, at 42:05–42:30, <https://mgaleg.maryland.gov/mgawebsite/FloorActions/Media/house-71-A?year=2026RS> (last visited Aug. 8, 2026). But this attempt to selectively apply statutory requirements based on political expediencies violates Plaintiffs' due process rights and their rights to free and fair elections, and the General Assembly's obligation to "pass Laws necessary for the preservation of the purity of Elections." MD. CONST. art. I, § 7. HB2100 and its ballot question must be enjoined.

C. **HB2100 Violates the Single-Subject Requirement of the Maryland Constitution.**

Finally, as alleged in Count Three of the Complaint, HB2100 is invalid because its proposed amendment violates the single-subject requirement set forth in Article XIV, § 1 of the Maryland Constitution. Constitutional amendments are limited to a single subject matter. But HB2100 asks voters to amend provisions of Maryland's Constitution in three distinct ways: (1) limit existing redistricting criteria in the Constitution to General Assembly districts; (2) enable the General Assembly to grant the Maryland Supreme Court original jurisdiction to review congressional redistricting legislation; and (3) provide that nothing in Maryland's constitution provides the criteria for congressional districts. Those are separate subjects and should be presented separately to voters. Because HB2100 improperly attempts to merge them together, it violates the single-subject requirement and cannot stand.

1. **The Single-Subject Requirement is intended to prevent logrolling and misleading constitutional amendments.**

Article XIV, § 1 of the Maryland Constitution sets forth a single-subject requirement:

The General Assembly may propose Amendments to this Constitution; provided that ***each Amendment shall be embraced in a separate bill***, embodying the Article or Section, as the same will stand when amended and passed . . . The requirement in this section that an amendment proposed by the General Assembly shall be embraced in a separate bill shall not be construed or applied to prevent the General Assembly from (1) proposing in one bill a series of amendments to the Constitution of Maryland for the general purpose of removing or correcting constitutional provisions which are obsolete, inaccurate, invalid, unconstitutional, or duplicative; or (2) embodying in a single Constitutional amendment one or more Articles of the Constitution ***so long as that Constitutional amendment embraces only a single subject***.

MD. CONST. art. XIV, § 1 (emphasis added). The Maryland Supreme Court has explained that this provision “viewed as a whole, is intended to require a single amendment to deal with a single subject which may be ratified or rejected by a single vote.” *Andrews v. Governor of Maryland*, 294 Md. 285, 296–97 (1982). “If the proposed changes deal with different or dissimilar subjects

and seek to reach different objectives which require amendment, then the legislature must submit these proposals to the electorate so as to allow the electors to vote upon each separately.” *Id.* at 297.

Maryland and other states with similar single-subject requirements “generally agree[] that these constitutional provisions are all aimed at preventing the pernicious practice of ‘logrolling’ in the submission of a constitutional amendment.” *Id.* at 292 (collecting cases). “Logrolling occurs when two or more propositions essentially dissimilar in subject matter are submitted to the electorate in one amendment so that the voter may cast one expression of his vote answer on the measure as a whole.” *Id.* A legislature is guilty of logrolling when it proposes an amendment with propositions “related to more than one subject and ha[s] at least two distinct and separate purposes not dependent upon or connected with each other,” *id.*, so as to “make it impossible for the voters to express their will as to each,” *id.* at 296 (citing *Baum v. Newbry*, 267 P.2d 220, 223 (Or. 1954)).

Single-subject requirements are also intended to prohibit proposed amendments that are misleading to the public. *See id.* at 295 (single-subject requirements help “prevent imposition upon or deceit of the public by the presentation of a proposal which is misleading or the effect of which is concealed or not readily understandable,” quoting *Fugina v. Donovan*, 104 N.W.2d 911, 914 (Minn. 1960)). Thus, a proposed amendment should not stand when it is misleading to the public and “logrolls” unrelated proposals into one. *See id.*; *In re Initiative Petition No. 314*, 625 P.2d 595, 603 (Okla. 1980); *Fugina*, 104 N.W.2d at 914.

2. HB2100 logrolls multiple changes to Maryland’s Constitution in ways that mislead voters.

HB2100 attempts to combine three distinct amendments to the Maryland Constitution into a single amendment—a clear logrolling attempt that precedent condemns. Accordingly, HB2100 violates Article XIV, §1’s single-subject requirement and must be invalidated.

The Maryland Supreme Court in *Andrews* found “especially instructive” the Oklahoma Supreme Court’s decision in *In re Initiative Petition No. 314*, 294 Md. at 295. That case held that a proposed amendment which “[c]ombin[ed] proposals to allow unlimited advertising of alcoholic beverages and franchising agreements with a proposal to allow on-premises consumption” was “logrolling of the worst type.” *In re Initiative Petition No. 314*, 625 P.2d at 604, 607. The proponents argued the proposal had “one general subject which is control of alcoholic beverages,” *id.* at 600, but the court rejected that defense and struck the amendment. *Id.* at 607.

Similarly, *Andrews* cited to the Arizona Supreme Court’s decision in *Kerby v. Luhrs* which found a violation of Arizona’s single-subject requirement for a proposed amendment that, under the umbrella of taxation, in fact concerned three distinct subjects: (1) the method of taxing copper mines, (2) the method of taxing public utility corporations, and (3) the establishment of a tax commission. 36 P.2d 549, 554–55 (Ariz. 1934). *Kerby* held that “there are at least three distinct propositions contained therein, no two of which are necessarily required for a proper operation of the third” and “[o]n their face they have no direct relation to *each other*.” *Id.* at 554 (emphasis in original). “Their only connection is that they are all embraced in a broader general subject, to wit, that of taxation.” *Id.*

While *Andrews* recognized that the single-subject rule allows multiple changes in a single proposed amendment when the charges are “interlocking concepts and . . . so functionally interrelated as to present a single subject,” 294 Md. at 300, that does not save HB2100. The Pennsylvania Supreme Court recently rejected a “functionally interrelated” defense to a proposed crime-victims rights constitutional amendment which added “numerous new and broad constitutional rights” for crime victims. *League of Women Voters of Pa. v. DeGraffenreid*, 265 A.3d 207, 239–40 (Pa. 2021). Citing *Andrews*, the *League of Women Voters* court recognized that

multiple changes in a single amendment are “functionally interrelated” where they “form an interlocking package necessary to accomplish one overarching objective, such that the amendment ‘stand[s] or fall[s] as a whole.’” *Id.* at 237 (citing *Andrews* 294 Md. at 297 and quoting *Kerby*, 36 P.2d at 554). But “[i]f any of the multiple changes in a proposed amendment are independent of the others, and could stand alone, then [the constitution] requires that they be presented separately to the voters so that they may individually vote on those changes.” *Id.* Because the crime-victims’ rights were “not dependent on each other to be effective” and could operate independently, they were not functionally interrelated and had to be presented separately to the voters. *Id.* at 240.

Here, the proposed amendment in HB2100 is both misleading and an impermissible attempt at logrolling multiple propositions relating to different subjects into one amendment. HB2100 contains three amendments: the amendment to Article III, § 4 limiting the provision’s criteria to General Assembly districts, the creation of a provision in Article III, § 62 authorizing the grant of original jurisdiction to the Maryland Supreme Court, and the creation of a provision in Article III, § 62 rendering all requirements of the Maryland Constitution, including the Declaration of Rights, inapplicable to congressional districts. Compl. Exs. D, E. These are “three distinct propositions contained therein, no two of which are necessarily required for a proper operation of the third.” *Kerby*, 36 P.2d at 554. The amendment limiting the criteria for General Assembly districts could be separately proposed from the amendment stating that the criteria do not apply to congressional districts, and neither amendment is necessary to the amendment providing original jurisdiction over congressional districts to the Maryland Supreme Court. All three provisions could stand alone. At a minimum, the proposed amendment relates to two separate subjects of “redistricting criteria” and “jurisdiction,” or to the subjects of “congressional redistricting” and “General Assembly redistricting.” Thus, they must be presented *separately*.

Furthermore, a Maryland voter could support original jurisdiction for congressional redistricting but disapprove of limiting the constitutional requirements for drawing districts to only state legislative districts. The combination of these amendments into one proposal was not done “to make obvious possible hidden side effects and to promote public awareness.” *Andrews*, 294 Md. at 297. To the contrary, the proposed amendments—and the accompanying ballot text—are misleading to the public and hide their true effects. *See supra* § I.A.3.

Accordingly, HB2100’s proposed amendments attempt to “constrain[] [voters] to adopt measures of which in reality they disapprove, in order to secure the enactment of others they earnestly desire” in violation of the single-subject requirement. *Andrews*, 294 Md. at 301 (citing *Mundell v. Swedlund*, 71 P.2d 434, 443–44 (Idaho 1937)). Such tactics constitute unconstitutional logrolling and an attempt to confuse and mislead voters, violating the single-subject requirement of Article XIV, § 1 of the Maryland Constitution.

II. Plaintiffs Will Suffer Irreparable Harm Absent An Injunction.

Plaintiffs and other Maryland voters will suffer irreparable injury absent issuance of a TRO and preliminary injunction in this case. Generally, for an injury to be deemed irreparable, “the injury ‘need not be beyond all possibility of compensation in damages, nor need it be very great.’” *Ademiluyi*, 466 Md. 80 at 133–134. It is “generally found in situations where courts are either unable to determine appropriate monetary damages or where monetary damages are inadequate.” *Id.* That is the case here.

Plaintiffs will suffer irreparable harm absent an injunction because the inclusion of the HB2100’s proposed amendment to Maryland’s Constitution on the upcoming ballot flies in the face of numerous election process requirements protected under the Maryland Constitution, Declaration of Rights, and Election Law Article. *See West Aff.* ¶¶ 21-30; *Wheatley Aff.* ¶¶ 12-17. Its inclusion on the ballot “no doubt . . . ‘may change’ the outcome of an election” as required by

EL § 12-202(a)(2) because the “mere presence on the ballot creates the possibility that” the Constitution may be amended while its “absence from the ballot assures that [it] will not.” *Cabrera v. Penate*, 439 Md. 99, 112 (2014); *see also Ademiluyi*, 466 Md. at 122 (considering a pre-election challenge to the inclusion of a judicial candidate on the ballot and finding her inclusion “had the potentiality to change the outcome of the election”); *see also* West Aff. ¶ 24; Wheatley Aff. ¶¶ 12, 15; Carozza Aff. ¶¶ 14, 17. The harm of requiring Plaintiffs and other Marylanders to vote on a ballot question that is unlawful is irreparable. *See Ademiluyi*, 466 Md. at 134 (irreparable harm to voters from unqualified judicial candidate’s name being certified to ballot, due to risk of “a judge being elected . . . that lacked the proper qualifications”); *League of Women Voters*, 559 P.3d at 43 (injunction warranted because “Utah voters need to know now whether Amendment D . . . is valid”); *see also* West Aff. ¶¶ 25-30; Adams Aff. ¶¶ 14-19; Wheatley Aff. ¶¶ 12-17. “Clearly, this sort of injury could not be redressed by any monetary sum, as it would undermine the integrity of the . . . election processes.” *Ademiluyi*, 466 Md. at 134.

Even worse than simply an unlawful “mode and manner” of proposing an amendment, *see McDonough*, 277 Md. 271, 293–94, in the absence of an injunction, Plaintiffs and millions of Marylanders will be issued ballots asking them to vote on amending the State’s founding document based on ballot language that acts to confuse and mislead voters—which precedent confirms is irreparable harm. *See, e.g., Fla. Ass’n of Realtors v. Orange County*, 350 So.3d 115, 130–31 (Fla. 5th Dist. Ct. App. 2022) (finding irreparable harm from plaintiffs being forced to fight a “misleading ballot summary”); *League of Women Voters*, 559 P.3d at 42 (“risk that voters will unwittingly surrender a constitutional right because Amendment D was not submitted or publicized as the constitution requires” caused irreparable harm).

If no action is taken to prevent the inclusion of the proposed amendment on the ballot,

Plaintiffs stand to suffer substantial harm, subject to no available remedy, which this State's founding document was intended to protect against. See West Aff. ¶¶ 21-30; Adams Aff. ¶¶ 14-19; Wheatley Aff. ¶¶ 12-17; Mautz Aff. ¶¶ 15-20; Carozza Aff. ¶¶ 14-19. Thus, the time to redress the violations of the Maryland Constitution and Plaintiffs' rights arising out of the passage of HB2100 is *now*—before ballots are certified, printed, distributed, and voters start to cast votes on an amendment that violates multiple provisions of Maryland's Constitution and laws on the basis of ballot language that presents HB2100 to voters in a confusing and misleading manner, intended to minimize the significant gutting of Marylanders' constitutional rights that HB2100 would cause.

III. The “Balance of Convenience” Favors Issuance Of An Injunction.

The “balance of conveniences” element seeks to weigh the balance of harms between Plaintiffs and Defendants. The element favors a plaintiff where the benefits to the plaintiff are “equal to or outweigh the potential harm which the defendant may incur if the injunction is granted.” *Rowe v. Chesapeake and Potomac Telephone Co. of Md.*, 56 Md. App. 23, 30 (1983).

As set forth above, Plaintiffs and millions of Marylanders will suffer irreparable injury if Defendants proceed to certify, print, and distribute ballots to administer the November 3, 2026 general election with the amendment proposed by HB2100—before Plaintiffs' claims against HB2100 can be heard. By contrast, the burden on Defendants from a brief delay in certifying the ballot language would be light. For one, Defendants have “no legitimate interest in enforcing an unconstitutional ordinance.” *KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1272 (11th Cir. 2006). Even if an injunction would “impose regulatory and monetary costs on Defendants, those costs do not outweigh the irreparable injury Plaintiffs would suffer to their fundamental right to vote”—a right that “is ‘of the most fundamental significance under our constitutional structure.’” *Drenth v. Boockvar*, No. No. 1:20-cv-829, 2020 WL 2745729, *5 (M.D. Pa. May 27, 2020) (quoting *Ill. State Bd. of Elections v. Socialist Workers Party*, 440 U.S. 173, 184 (1979)).

In all events, any brief delay in this case is manageable and will not meaningfully impair Defendants' ability to administer the election. By statute, ballot certification occurs 64 days before the general election—i.e., August 31, 2026. *See* EL § 9-207(a)(2). The statute itself contemplates that ballot certification can be delayed—including by a petition made to the Maryland Supreme Court by the Board, if it came to that. *Id.* § 9-207(b). Further, ballot printing cannot begin until three days after the certification date. *Id.* § 9-207(e). While the Maryland General Assembly's last-minute timing of the enactment of HB2100 does compress the time for the Court to adjudicate these issues, it leaves the Court with sufficient time to adjudicate these claims on an expedited basis and issue a preliminary injunction precluding the Defendants from certifying, printing, and distributing ballots containing HB2100's proposed amendment for the November 3, 2026 general election.³ Illustrating the point, in *Montgomery County v. Bd. of Supervisors of Elections for Montgomery County*, 311 Md. 512, 513–14 (1988), the Supreme Court of Maryland entered an order on September 19, 1986, enjoining a county board from printing two proposed charter amendments on the official ballots to be used at the November 4, 1986, election—almost three weeks beyond the August 31, 1986, certification deadline set forth in EL § 9-207(b). It did so after finding the proposed charter amendments conflicted with public general laws and were therefore legally invalid. *Id.* at 520.

IV. The Public Interest Favors An Injunction.

The public interest supports an injunction here. The public interest is served by injunctions

³ In the event these claims cannot be decided before the election, Plaintiffs request the Court preserve the issues and rule on them after the election “as if heard and decided prior to the election.” *McDonough*, 277 Md. at 294–95 (“The complaint here was filed by the property owners 32 days before the scheduled referendum, and the case was at issue before the election” but the trial court “preserved the issues ‘as if heard and decided prior to the election,’ and adjudicated the matter as if tried prior to the election.”); *see also Tyler v. Sec’y of State*, 230 Md. 18, 22 (1962) (rejecting the “enrolled bill rule” which prevents legal recourse after a bill is passed in an election and stating prior Maryland decisions are compatible with courts “preserving an issue, if necessary, as in this case, until after the election, reserving the right to determine, on the merits, the validity of the” proposed amendment).

that prevent violations of constitutional rights. *See, e.g., Giovani Carandola, Ltd. v. Bason*, 303 F.3d 507, 521 (4th Cir. 2002) (“upholding constitutional rights surely serves the public interest”); *Dakotans for Health v. Anderson*, 677 F. Supp. 3d 977, 1001 (D.S.D. 2023) (deeming public-interest factor satisfied based on violation of First Amendment rights).

The public interest is also served by an injunction that “is [] grounded in ‘maintaining the integrity of our elections’” and fairness. *Ademiluy*, 466 Md. at 135. There are strong “public interests of maintaining integrity, avoiding confusion, deception, and frustration” in Maryland elections, *see id.* at 136, all of which would be offended by allowing the unconstitutional and misleading constitutional amendment proposed by HB2100 onto the November 3, 2026 ballot.

Indeed, “many pages of the Maryland Reports are filled with decisions adjudicating election disputes” and granting injunctive relief to “protect the integrity of the electoral process.” *In re Emergency Remedy by Md. State Bd. of Elections*, 483 Md. 371, 400 (2023). That Court cited many examples. *See, e.g., Ademiluyi*, 466 Md. at 136–37 (enjoining State Board from certifying a general election ballot where candidate was not qualified for ballot); *Oglesby v. Williams*, 372 Md. 360, 364 (2002) (affirming order barring certification of candidate to ballot for failure to satisfy constitutional residency requirement); *Bd. of Supervisors of Elections for Montgomery County*, 311 Md. at 513–17 (enjoining Board of Supervisors of Elections from placing proposed questions amendment a county charter on the general election ballot because they conflicted with a public general law); *Valle v. Pressman*, 229 Md. 591, 596–99 (1962) (affirming invalidation of nomination of State’s Attorney candidate made by a body lacking the power to nominate).

This case is no different. The public interest is not served by the Maryland General Assembly’s shameful attempt to strip voters of rights afforded by Maryland’s Constitution, Declaration of Rights, and Election Law Article, on the basis of misleading and confusing ballot

language. Plaintiffs and all Maryland voters demand better, and the public interest favors issuance of an injunction here.

V. The Court Should Dispense With The Bond Requirement.

Finally, Plaintiffs request that the Court dispense with the requirement, under Md. Rule 15-503(c), that an injunction be conditioned on the posting of bond. That Rule allows the Court to dispense with the bond requirement if “(1) the person is unable to provide surety or other security for the bond, (2) substantial injustice would result if an injunction did not issue, and (3) the case is one of extraordinary hardship.” *Id.* These elements are plainly satisfied here.

As for the first, it is unclear that there will be a quantifiable amount for the bond. Moreover, any bond requirement here would “effectively force [Plaintiffs] to pay a monetary cost to enforce their right to vote,” and “[s]uch financial burdens on the right to vote are inappropriate.” *Drenth*, 2020 WL 2745729, at *7 (citing *Harper v. Va. State Bd. of Edn.*, 383 U.S. 663, 666 (1966) (finding poll taxes unconstitutional)).

Moreover, as for the second and third elements, for the reasons set forth above, HB2100 infringes Maryland’s Constitution and statutes and violates the rights of Plaintiffs and others. Permitting the election to proceed with HB2100’s proposed amendment on the ballot would work substantial injustice and impose extraordinary hardship on Plaintiffs and the public. *See* West Aff. ¶¶ 21-30; Wheatley Aff. ¶¶ 12-17; Mautz Aff. ¶¶ 15-20; Carozza Aff. ¶¶ 14-19; Adams ¶¶ 14-19. Notably, courts around the country customarily waive the bond requirement in voting-rights cases, especially where—as here—voters are seeking to vindicate fundamental constitutional rights. *See, e.g., Drenth*, 2020 WL 2745729, at *7; *Thomas v. Andino*, 613 F. Supp. 3d 926, 956 (D.S.C. 2020); *Fla. State Conf. of Branches and Youth Units of the NAACP v. Byrd*, 680 F. Supp. 3d 1291, 1321 (N.D. Fla. 2023). The fact this case is brought to serve the public interest is an equally compelling reason to dispense with the bond requirement. *See Dakotans for Health*, 677 F. Supp. 3d at 1001.

The Court should accordingly enter a temporary restraining order and a preliminary injunction without bond.

CONCLUSION

For the foregoing reasons, the Court should issue a temporary restraining order until the Court can hold a hearing, after which the Court should issue a preliminary injunction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of August, 2026, the foregoing Plaintiffs' Memorandum of Grounds and Authorities in Support of Their Motion for Temporary Restraining Order and Preliminary Injunction Against Defendants was filed and served on Defendants' counsel via the Court's MDEC system and emailed to Defendants' counsel at dkobrin@oag.maryland.gov.

/s/ Strider L. Dickson

Strider L. Dickson

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