

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND

MICHAEL L. HOWELL, *et al.*

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Plaintiffs,

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v.

Case No. C-02-26-001986

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MARYLAND STATE BOARD OF
ELECTIONS, *et al.*

*

Defendants.

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**MEMORANDUM IN SUPPORT OF COMPLAINT FOR DECLARATORY
JUDGMENT AND PETITION FOR JUDICIAL REVIEW UNDER
ELECTION LAW § 12-202 AND IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Plaintiffs Michael L. Howell, James Matthew Morgan, Robin L. Grammer, Jr., Kathryn Szeliga, Brian Alan Chisholm, Mark Nicholas Fisher, Lauren Arian, Ryan Michael Nawrocki, Stephen S. Hershey, and Justin D. Ready, each in their personal capacity as a resident and registered voter of the State of Maryland (collectively, “Plaintiffs”), by and through undersigned counsel, hereby respectfully file this Memorandum in Support of Petition for Judicial Review and in Support of Plaintiffs’ Motion for Summary Judgment, along with an accompanying Affidavit, together with Exhibits and a Proposed Order also filed today, and state for cause to this Honorable Court:

INTRODUCTION

On August 6, 2026, Plaintiffs brought this action for declaratory judgment and injunctive relief and petition for judicial review under Md. Code Ann., Elec. Law § 12-202 (“EL”) against Defendants Maryland State Board of Elections, Jared DeMarinis, in his

official capacity as Administrator of the Maryland State Board of Elections, Susan C. Lee, in her official capacity as Secretary of State of Maryland, Anthony G. Brown, in his official capacity as Attorney General of Maryland, and Westley Watende Omari Moore, in his official capacity as Governor of Maryland (collectively, “Defendants”). The Complaint and Petition for Judicial Review challenges the placement of the proposed constitutional amendment articulated in House Bill 2100 of the Special Session of 2026 on the November 3, 2026 general election ballot as a statewide ballot question. Following this Court’s issuance of an expedited scheduling order for the prompt resolution and anticipated appeal of this action, the questions presented in Plaintiffs’ challenge are now before the Court on an agreed-upon cross-summary judgment posture.

Based on the reasons that follow, Plaintiffs respectfully ask this Court to grant their Motion for Summary Judgment and prayer for relief in their entirety, or at least to the fullest extent necessary, in order to declare unlawful and prevent, *inter alia*: **(1)** the certification of the proposed constitutional amendment contained in House Bill 2100 as a statewide ballot question; **(2)** the placement of the proposed constitutional amendment contained in House Bill 2100 on the November 3, 2026 general election ballot; **(3)** any further implementation and/or enforcement of House Bill 2100; **(4)** the tabulation, canvassing, or certification of any vote or the results of any vote on the proposed constitutional amendment contained in House Bill 2100 in the November 3, 2026 general election; and **(5)** the purported supersession, exemption, and/or waiver—via a *Non Obstante* Clause—of all of the provisions of Maryland Election Law (or other law) as to

the proposed constitutional amendment contained in House Bill 2100 for the November 3, 2026 general election.

LEGAL STANDARDS

Judicial Review Petition. In an action for judicial review under Md. Code Ann., Election Law (“EL”) § 12-202, “the party seeking relief must prove four elements for each claimed violation of the Election Law Article: (1) the ‘absence’ of another adequate remedy in the Article; (2) an ‘act or omission relating to an election’; (3) that the act or omission contravened a ‘law applicable to the elections process’; and (4) that the act or omission ‘may change or has changed the outcome’ of an election.” *Maryland State Bd. of Elections v. Ambridge*, 489 Md. 404, 446 (2025) (quoting *Suessmann v. Lamone*, 383 Md. 697, 714 (2004) (in turn quoting EL § 12-202(a))).

Summary Judgment. “A court may grant summary judgment in the moving party’s favor if the motion and response demonstrate that there is no genuine dispute regarding any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.” *Kennedy Krieger Inst., Inc., v. Partlow*, 460 Md. 607, 632 (2018); Rule 2-501(f). The purpose of summary judgment is “to dispose of cases where there is no genuine factual controversy.” *Harris v. Stefanowicz Corp.*, 26 Md. App. 213, 218 (1975). In deciding the motion, the trial court “determines issues of law; it makes rulings as a matter of law, resolving no disputed issues of fact.” *Beatty v. Trailmaster Prods., Inc.*, 330 Md. 726, 737 (1993) (citing *Heat & Power v. Air Products*, 320 Md. 584, 591 (1990)). “‘That, as a general rule, the construction or interpretation of all written instruments is a question of law [rather than of fact] for the court is a principle of law that

does not admit of doubt.” *Olde Severna Park Improvement Ass’n, Inc. v. Gunby*, 402 Md. 317, 329 (2007) (quoting *Gordy v. Ocean Park, Inc.*, 218 Md. 52, 60 (1958)) Relatedly, issues before a court such as whether a determination made by a government official or entity was correct, or whether a government official or entity had authorization for a particular act or omission done, are “purely legal” with often no material facts legitimately in dispute. *Town of Bel Air v. Bodt*, 487 Md. 354, 367 (2024).

“[I]n order to defeat a motion for summary judgment, the opposing party must show that there is a genuine dispute as to a material fact by proffering facts which would be admissible in evidence.” *Id.* at 737–38 (collecting cases). The ““mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no *genuine* issue of *material* fact.”” *Id.* at 738 (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247–48 (1986) (only bold emphasis added)). To that end, where a summary judgment movant has carried its burden, the party opposing summary judgment ““must do more than simply show there is some metaphysical doubt as to the material facts.”” *Id.* (quoting *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986)). Accordingly, “while a court must resolve all inferences in favor of the party opposing summary judgment, ‘[t]hose inferences . . . must be *reasonable* ones.’” *Id.* at 739 (quoting *Clea v. City of Baltimore*, 312 Md. 662, 678 (1988) (only bold emphasis added)).

Declaratory Judgment. “A circuit court may grant a declaratory judgment ‘if it will serve to terminate the uncertainty or controversy giving rise to the proceeding,’” *Coates v. Charles Cnty. Bd. of Comm’rs*, 266 Md. App. 266, 291 (2025) (quoting Md. Code Ann.,

Cts. & Jud. Proc. (“CJP”) § 3-409(a)), “and if one of the following circumstances also applies:”

- (1) An actual controversy exists between contending parties;
- (2) Antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation; or
- (3) A party asserts a legal relation, status, right, or privilege and this is challenged or denied by an adversary party, who also has or asserts a concrete interest in it.

Id. (quoting CJP § 3-409(a)(1)–(3)). “Declaratory relief can issue only for justiciable disputes.” *Id.* at 289 (citation omitted). A dispute is justiciable “when there are interested parties asserting adverse claims based on a slate of facts that have transpired and from which a legal decision is sought or demanded.” *Id.* (cleaned up).

Justiciability encompasses the requirement that plaintiffs have standing to bring a lawsuit, which can be satisfied on the basis of a statutory private right of action. *See id.* at 290 (citations omitted). EL § 12-202 “provides statutory standing to voters, in certain instances, to challenge aspects of elections including procedure and the results.” *Ademiluyi v. Egbuonu*, 466 Md. 80, 115 (2019).

Permanent Injunction. A court considers whether to issue a permanent injunction in an action ***only after*** it has made a determination on the merits of a petitioner’s claims in his or her favor. *See El Bey v. Moorish Sci. Temple of Am., Inc.*, 362 Md. 339, 354–55 (2001) (cleaned up). Permanent injunctive relief cannot be granted unless the petitioner demonstrates that he or she “will sustain substantial and irreparable injury as a result of the alleged wrongful conduct.” *Id.* (citations omitted). “Such injury, however, need not ‘be

beyond all possibility of compensation in damages, nor need it be very great.” *Id.* (quoting *Maryland–Nat’l Capital Park & Planning Comm’n v. Washington Nat’l Arena*, 282 Md. 588, 615 (1978)). Rather, “irreparable injury is suffered whenever monetary damages are difficult to ascertain or are otherwise inadequate.” *Maryland–Nat’l*, 282 Md. at 615; *see also Dudley v. Hurst*, 67 Md. 44, 52 (1887) (“An injury may be said to be irreparable when it cannot be measured by any known pecuniary standard.”). “[I]n other words, where, from the nature of the act, or from the circumstances surrounding the person injured, or from the financial condition of the person committing it, it cannot be readily, adequately, and completely compensated for with money.” *Coster v. Dep’t of Personnel*, 36 Md. App. 523, 526 (1977) (citation omitted).

This Court has previously held that “not only would the named plaintiffs suffer irreparable harm, but so would all citizens of the State of Maryland, if an illegal election is held.” Mem. Op. at 17, *Capozzi, et al. v. Maryland*, No. C – 06 – 115807 (Anne Arundel Cnty. Md. Cir. Ct. 2006), *available at* <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/200B000164/000000/000001/restricted/capozzi.pdf>. Thus, “an election that is carried out by unconstitutional means is something that is wrongful and needs to be enjoined.” *Id.* (citing 43A C.J.S. Injunctions § 212. (“Moreover, injunction will lie to restrain the conduct of an election which is affected by illegal conduct on the part of the election officers, or is conducted pursuant to an illegal statutory procedure.”)). And “[t]o the extent that this Court may be required to balance the rights of the parties, . . . the need to preserve the integrity of the election process consistent with constitutional principles is paramount.” *Id.* (explaining that when it comes to halting the administration

of certain election proceedings via injunctive relief, “[a]ny waste of resources is regrettable but does not justify allowing unconstitutional procedures to be implemented” at the plaintiff-voters’ expense).

STATEMENT OF UNDISPUTED MATERIAL FACTS

The following material facts are not in dispute and entitle Plaintiffs to judgment as a matter of law. *See generally* Exhibit 1, Affidavit of Marshall Yates in Support of Plaintiffs’ Motion for Summary Judgment (filed pursuant to Md. R. Civ. P. 2-501(c), as this Motion for Summary Judgment is filed in advance of the Defendants’ “initial pleading or motion”) [hereafter “Affidavit”].

1. On May 12, 2026, Senate Bill 29 (hereinafter, “SB 29”) was enacted into law upon receiving the approval of Defendant Governor Moore. *See* Exhibit A, 2026 Md. Laws, ch. 439 (S.B. 29) [hereinafter “Ex. A”].

2. Section 2 of SB 29 expressly provided that SB 29 “shall take effect June 1, 2026,” *id.* § 2, and so became “effective June 1, 2026.” Exhibit D, Thomas S. Elder, MD. DEP’T OF LEGIS. SERVS., FISCAL AND POLICY NOTE: FIRST READER, H.B. 2100, 2026 Sess., at 3 (2026) [hereinafter “Ex. D”].

3. SB 29 amended EL § 7-103 so as to modify State law requirements governing the content of ballot questions (*including those proposing constitutional amendments*) to require that a ballot question include:

- a brief title that describes the topic, goal, or outcome of the ballot question;
- a condensed statement describing the change in policy to be adopted in plain and clear language that (i) a voter can easily understand; (ii) does not explain the

legal mechanism providing for the policy change; and (iii) does not contain legal jargon or use double negatives or the passive voice; and

- a brief statement explaining what the practical outcome of each voting choice would be.

Ex. D at 3; Ex. A § 1; *see* EL § 7-103(b).

4. SB 29 amended EL §§ 7-103 & 7-105 to establish overarching procedures for referenda. Specifically, Sections 7-103 and 7-105 established and/or modified State law requirements governing certain deadlines relating to the preparation of the text of ballot questions as well as the availability of ballot question text and related information to the public, prior to a general election, including the following:

- The Secretary of State (here, Defendant Secretary Lee) must prepare and certify the required information and content of a statewide ballot question to the State Board of Elections (here, Defendant SBE) by *the July 1 immediately preceding the general election (here, July 1, 2026, for the November 3, 2026 general election)*;
- Defendant SBE must make the required information and content submitted by Defendant Secretary Lee available to the public for a *15-day comment period*; and
- Defendant SBE and local boards must make widely accessible to the public, for *at least 90 days before a general election (here, August 5, 2026, for the November 3, 2026 general election)*, (1) the complete text of a proposed

amendment to the Maryland Constitution that will be a ballot question at the election and (2) a link to the General Assembly webpage for the legislation.

Ex. D at 3; Ex. A § 1; *see* EL §§ 7-103(c)(1) & (5), 705(e)(1)–(2).

5. Readopted in SB 29, EL § 7-105 requires that local boards provide notice of any statewide ballot question on a proposed amendment to the Maryland Constitution to the voters of their respective counties, *see* EL § 7-105(a), which must contain the information required in EL § 7-103(b), “and a brief statement, prepared in clear and concise language, devoid of technical and legal terms to the extent practical, summarizing the question.” EL § 7-105(b)(1). EL § 7-105(b) further requires that this statement be prepared by the Department of Legislative Services, approved by the Attorney General (here, Defendant Attorney General Brown), and submitted to the State Board (here, Defendant SBE) by the *first Monday in August (here, August 3, 2026*, for the November 3, 2026 general election).

6. SB 29 also amended EL § 9-207 so as to clarify that certification of a ballot layout under that section “may not be construed to be a certification of the ballot language required to be certified under [EL] § 7-103 of this article, including the plain language condensed statement required under [EL] § 7-103(b)(4) of this article.” Ex. A § 1; *see* EL § 9-207(f).

7. ***On July 17, 2026***, Defendant Governor Moore issued a proclamation convening the General Assembly on an untimely basis in an Extraordinary Session “[c]ommencing ***August 3, 2026.***” Exhibit B, Md. Exec. Order No. 01.01.2026.14 (July 17, 2026) [hereinafter “Ex. B”] (emphasis added).

8. According to the Proclamation, the General Assembly was being convened in Extraordinary Session “for the purpose of passing 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.* No mention in the Proclamation was made of amending state procedural law governing constitutional referenda.

9. ***On August 3, 2026***, House Bill 2100 (“HB 2100”) was originally introduced and first considered by the House in the special session. *See* Exhibit C, HB2100, 448th Gen. Assemb., Spec. Sess., *available at* <https://mgaleg.maryland.gov/2026RS/bills/hb/hb2100f.pdf> (as originally introduced by the House on Aug. 3, 2026) [hereinafter, “Ex. C”].

10. Section 1 of HB 2100 (hereinafter, the “Proposed Amendment”) provides that “it be proposed that the Maryland Constitution read” as follows:

13

Article III – Legislative Department

14 4.

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

19 **62.**

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

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

Ex. C § 1.

11. The Proposed Amendment seeks to modify the text of Article III of the Maryland Constitution in multiple ways: **First**, by modifying Section 4 of Article III to specify 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. **Second**, by adding a new section (i.e., Section 62) to Article III including two subsections. **Third**, by adding in the first subsection under the new Section 62 a provision that would permit the General Assembly to grant to the Maryland Supreme Court original jurisdiction to review the State’s congressional plan. **And fourth**, by adding in the second subsection under the new Section 62 a provision that would render the requirements of the Maryland Constitution, including the Declaration of Rights, inapplicable to the State’s congressional plan. Ex. C § 1.

12. Section 3(a) of HB 2100 provides that the Proposed Amendment “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.” Ex. C § 3(a).

13. Section 3(b)(1) of HB 2100 provides: “At that general election, the vote on the proposed amendment to the Constitution shall be by ballot, and on each ballot there shall be printed the words ‘For the Constitutional Amendment’ and ‘Against the Constitutional Amendment’, as now provided by law.” Ex. C § 3(b)(1).

14. As originally introduced and considered by the House, Section 3(b)(2) of HB 2100 provided: “At that general election, a question substantially similar to the following shall be submitted to the qualified voters of the State:”

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

Ex. C § 3(b)(2).

15. Section 3(c) of HB 2100 provides: “Immediately after the election, all returns shall be made to the Governor of the vote for and against the proposed amendment, as directed by Article XIV of the Maryland Constitution, and further proceedings held in accordance with Article XIV.” Ex. C § 3(c).

16. The Department of Legislative Services provided a Fiscal and Policy Note for HB 2100 as originally introduced and considered by the House, which conceded that HB 2100 and the Proposed Amendment do not comply with applicable Maryland law governing statewide ballot questions:

Additional Comments: The Department of Legislative Services notes that the new statutory deadline of July 1 for certification of ballot questions by SOS and SBE has passed. Even so, the bill specifies language for the ballot question. Further, as noted above under Current Law, SBE and local boards of elections must publicly post the text of any proposed constitutional amendment at least 90 days before the general election. The 2026 special session is scheduled to end on August 5, 2026, exactly 90 days before the general election, which is scheduled for November 3, 2026.

Ex. D at 3 (emphasis added). In short, the Fiscal and Policy note admitted that the July 1 certification date was violated while noting that a different 90-day deadline for publicly posting the text of any proposed constitutional amendment could still be met.

17. **On August 3, 2026**, the House adopted Amendment 923921, which revised Section 3(b)(2) of HB 2100. *Compare* Ex. C § 3(b)(2), *with* Exhibit E, Amend. 923921 HB2100, 448th Gen. Assemb., Spec. Sess., *available at* https://mgaleg.maryland.gov/2026RS/amds/bil_0000/HB2100_92392101.pdf [hereinafter “Ex. E”].

18. As amended by Amendment 923921, HB 2100 was passed by the House and Senate of the General Assembly on **August 4, 2026**.

19. As amended and adopted by both Houses of the General Assembly, Section 3(b)(2) of HB 2100 provides: “***Notwithstanding any other provision of law***, at [the November 3, 2026] general election, the following question shall be submitted to the qualified voters of the State:”

15 “Question ____ – Constitutional Amendment

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

Exhibit F, HB 2100, 448th Gen. Assemb., Spec. Sess., *available at* <https://mgaleg.maryland.gov/2026RS/bills/hb/hb2100t.pdf> (as amended by the House on Aug. 3, 2026) [hereinafter, “Ex. F”] (emphasis added).

20. The Fiscal and Policy Note provided by the Department of Legislative Services for HB 2100, as amended and adopted by the General Assembly, observed that:

The bill also specifies language for the ballot question and requires the question to be included on the ballot at the November 2026 general election, ***notwithstanding any other provision of law***; thus, ***it effectively exempts*** the

ballot question from *existing statutory requirements* governing the *timing and content* of ballot questions.

Exhibit G, Thomas S. Elder, MD. DEP'T OF LEGIS. SERVS., FISCAL AND POLICY NOTE: THIRD READER, H.B. 2100, 2026 Sess., at 1 (2026) [hereinafter "Ex. G"] (emphasis added).¹

21. **On August 5, 2026**, HB 2100 was purportedly approved by Defendant Governor Moore and assigned Chapter 881 as an "enactment subject to constitutional referendum," even though Article XIV's constitutional referendum process does not authorize or require gubernatorial assent. Exhibit H, 2026 Md. Laws, ch. 881 (H.B. 2100) [hereinafter "Ex. H"].

22. **On August 6, 2026**, Plaintiffs brought this action for declaratory judgment and injunctive relief and petition for judicial review under EL § 12-202 against Defendants, challenging, *inter alia*, the placement of the Proposed Amendment on the November 3, 2026 general election ballot. *See* Compl. ¶ 1.

23. Plaintiffs are each a resident and registered voter of the State of Maryland. Affidavit ¶ 4.23.

24. When Plaintiffs brought this action on **August 6, 2026**, it was earlier than 10 days after the undisputed material facts contained and/or referenced in ¶¶ 9-22, *supra* and ¶¶ 29–37, *infra* occurred and became known to Plaintiffs.

¹ Note that it is a provision of HB 2100 that is said to exempt the constitutional referendum from "existing statutory requirements governing the timing and content of ballot questions." The Department of Legislative Services did not assert that this exemption was a self-executing feature of Article XIV of the Maryland Constitution.

25. Because Plaintiffs are registered voters of Maryland and brought this action within 10 days of acquiring knowledge of the undisputed material facts contained and/or referenced in ¶¶ 9-22, *supra* and ¶¶ 29-37, *infra*, Plaintiffs have standing to bring, and this Court has jurisdiction to adjudicate, this Complaint and Petition for Judicial Review of HB 2100 and the Proposed Amendment, along with Defendants’ implementation and enforcement thereof, relating to the November 2026 general election on grounds that they are inconsistent with the laws applicable to the elections process and may change the outcome of the November 2026 general election. *See* EL § 12-202.

26. This Court additionally has jurisdiction to enter a declaratory judgment in this action under CJP § 3-409, both because an actual controversy exists between Plaintiffs and Defendants concerning the lawfulness of placing the Proposed Amendment on the November 3, 2026 general election ballot, and because a declaration will terminate that controversy.

27. This Court has authority to grant preliminary and permanent injunctive relief in this action under Md. Rule 15-501, *et seq.*

28. This Court is the proper venue for this action because Defendants maintain their principal offices in Anne Arundel County, while the complained of acts and omissions detailed by the foregoing undisputed material facts have occurred—and the follow-on acts and omissions detailed in part by the remaining undisputed material facts occurred or will occur—in Anne Arundel County.

29. Defendant SBE’s official “Ballot Questions for the November 3, 2026 Election” webpage was not static *after August 5, 2026*—i.e., the statutory deadline by when the

complete text of any proposed constitutional amendment appearing as a ballot question was required to be made widely accessible to the public. *See* EL § 7-103(c)(5). To the contrary, contemporaneous snapshots and downloads of the webpage and its linked documents—captured (i) *on August 6*, (ii) *on August 7*, (iii) *between August 7 and August 11*, (iv) *on or after August 11*, and (v) *August 14, 2026*—show that Defendant SBE *continued materially revising* the content, form, and substance of the ballot questions displayed to voters for more than a week after the constitutional deadline had passed. *See* Affidavit at ¶¶ 4.24–4.62; Exs. I, J, K, L, M, N, O.

30. *As of August 6, 2026*, the day this action was filed, the webpage listed three ballot questions—none of which referenced HB 2100, its assigned chapter number, or the Proposed Amendment (Chapter 881); instead, “Question 2” duplicated “Question 1” (both captioned “Arbitration Reform for State Employees Act of 2026,” referencing Chapters 155 and 156, respectively), and “Question 3” addressed an unrelated Commission on Judicial Disabilities amendment. Affidavit at ¶¶ 4.24–4.25; Exhibit I, Maryland State Board of Elections, *Ballot Questions for the November 3, 2026 Election*, Internet Archive: Wayback Machine, (Aug. 6, 2026), https://web.archive.org/web/20260806014411/https://elections.maryland.gov/elections/2026/ballot_questions.html [hereinafter “Ex. I”]. The linked “State Ballot Question Summaries” document likewise omitted any question corresponding to HB 2100, notwithstanding that it purported to reflect Defendant Attorney General Brown’s approval *as of July 22, 2026* and submission to Defendant SBE *as of July 29, 2026*—dates that necessarily predate the Proposed Amendment’s own passage via HB 2100 *on August 4, 2026*. *See* Affidavit at ¶¶ 4.26–4.27; Exhibit K, Letter from Jodie

L. Chilson, Senior Manager, Dep’t of Leg. Servs. to Jared DeMarinis, State Adm’r. of Elections (July 29, 2026) [hereinafter, “Ex. K”].

31. ***On or about August 7, 2026***, the content of Defendant SBE’s official “Ballot Questions for the November 3, 2026 Election” webpage changed: it displayed a different set of three statewide ballot questions on proposed constitutional amendments than what was displayed ***on or before August 6, 2026***. Compare Ex. I, with Exhibit J, Maryland State Board of Elections, *Ballot Questions for the November 3, 2026 Election* (downloaded by Affiant Marshall Yates on August 7, 2026) [hereinafter “Ex. J”]; Affidavit at ¶¶ 4.25, 4.29, 4.31. One of these, “Question 3” entitled “Election Districts,” referenced and included a one-paragraph summary of the Proposed Amendment in HB 2100 on Defendant SBE’s webpage for the first time. See Affidavit at ¶¶ 4.28–4.29; Ex. J. However, the listed statewide question purporting to provide information on the Proposed Amendment in HB 2100 did ***not*** provide the correct corresponding chapter number assigned to HB 2100—i.e., Chapter 881. Affidavit at ¶ 4.30; Compare Ex. J, with Ex. H. Rather, the webpage’s information concerning the Proposed Amendment directed voters to Chapter 878.

32. ***On or about August 7, 2026***, Defendant SBE’s official “Ballot Questions for the November 3, 2026 Election” webpage again linked to an “Amendment Text” document purporting to contain the full text of three statewide ballot questions on proposed constitutional amendments, but the three questions referenced in this “Amendment Text” document did ***not*** match the statewide ballot questions on proposed constitutional amendments referenced in the “State Ballot Question Summaries” document or displayed on Defendant SBE’s official “Ballot Questions for the November 3, 2026 Election”

webpage itself. *Compare* Ex. K, with Ex. J, and Exhibit L, Maryland State Board of Elections, *Amendment Text* (downloaded by Affiant Marshall Yates on August 7, 2026) [hereinafter “Ex. L”]; *see* Affidavit at ¶¶ 4.28–4.38, 4.49.

33. ***By August 13, 2026***, the webpage had changed again: “Question 3” now read “Election Districts” and, for the first time, ***correctly*** referenced the accurate corresponding chapter number assigned to HB 2100 (i.e., Chapter 881)—however, the one-paragraph summary provided for the Proposed Amendment still did ***not*** match the webpage as it had appeared ***on either August 6 or August 7***. Exhibit M, Maryland State Board of Elections, *Ballot Questions for the November 3, 2026 Election* (downloaded by Affiant Marshall Yates on August 13, 2026) [hereinafter “Ex. M”]; *compare* Ex. M, with Exs. I, J; *see* Affidavit at ¶¶ 4.39–4.42.

34. The webpage’s “Note” field nonetheless stated “Updated August 4” throughout this period—a representation belied by the version history reflected in Exhibits I, J, and M, each captured ***after August 4, 2026*** and each materially different from the others. *Compare* Affidavit at ¶ 4.43; Ex. M, with Affidavit at ¶ 4.32; Ex. J, and Ex. I.

35. ***Sometime between August 7 and August 11, 2026***, Defendant SBE’s official “Ballot Questions for the November 3, 2026 Election” webpage linked to the ***same*** version of the “State Ballot Question Summaries” document that ***still*** reflected Defendant Attorney General Brown’s approval ***as of July 22, 2026*** and submission ***as of July 29, 2026***—again predating the Proposed Amendment’s passage, and again ***failing*** to match the questions posted on the webpage during that window. *See* Ex. K; *compare* Ex. K, with Ex. M; *see* Affidavit at ¶ 4.44–4.46.

36. *On or after August 11, 2026*, Defendant SBE posted a *different* version of the “State Ballot Question Summaries” document to its official “Ballot Questions for the November 3, 2026 Election” webpage than the version posted *from on or before August 6, 2026 to then*—this one reflecting Defendant Attorney General Brown’s approval *on August 7, 2026* and submission to Defendant SBE *on August 11, 2026*, and expressly acknowledging that, during the Special Session, the General Assembly had withdrawn the amendment proposed by Chapter 156 and proposed a new amendment through Chapter 881. Affidavit at ¶¶ 4.55–4.57; Exhibit O, Letter from Jodie L. Chilson, Senior Manager, Dep’t of Leg. Servs. to Jared DeMarinis, State Adm’r. of Elections (Aug. 11, 2026) [hereinafter, “Ex. O”].

37. Only as of this date—i.e., *on or after August 11, 2026*, six days after the *August 5, 2026* statutory deadline—did the three statewide ballot questions on proposed constitutional amendments listed on Defendant SBE’s official “Ballot Questions for the November 3, 2026 Election” webpage, the “State Ballot Question Summaries” document publicly displayed thereon, and the “Amendment Text” document displayed thereon, finally *all* align with one another following the enactment of HB 2100. Ex. O; *compare* Ex. L, *with* Ex. O; *compare* Exs. M & N, *with* Ex. O; *see* Affidavit at ¶¶ 4.54–4.61.

38. *By August 14, 2026*, Defendant SBE’s official “Ballot Questions for the November 3, 2026 Election” webpage displayed the current, final version of the three ballot questions, including the correct HB 2100/Chapter 881 language and chapter number, a one-paragraph summary, and a Spanish translation for “Question 3” concerning the Proposed Amendment. Exhibit N, Maryland State Board of Elections, *Ballot Questions for the*

November 3, 2026 Election (downloaded by Affiant Marshall Yates on August 14, 2026) [hereinafter “Ex. N”]. That version nonetheless still bore the same unchanged “Updated August 4” notation, notwithstanding the string of intervening substantive revisions documented above. Affidavit at ¶¶ 4.50–4.52, 4.54; Ex. N.

39. Throughout the period *from on or about August 7, 2026 to on or about August 14, 2026*—spanning at least three different versions of statewide ballot “Question 3” concerning the Proposed Amendment—the statewide ballot “Question 3” on Defendant SBE’s official “Ballot Questions for the November 3, 2026 Election” webpage continuously displayed a one-paragraph summary of the Proposed Amendment and, below that, *two one-line notes that read*: “For the Constitutional Amendment”; and “Against the Constitutional Amendment.” Ex. J; Ex. M; Ex. N; *see* Affidavit at ¶¶ 4.29, 4.40, 4.51. Throughout the same duration, the display of statewide ballot “Question 1” and statewide ballot “Question 2” on Defendant SBE’s same webpage each included *two one-paragraph descriptions that explain*: (1) what “A vote FOR” the respective constitutional amendment “means”; and (2) what “A vote AGAINST” the respective constitutional amendment “means”. Ex. J; Ex. M; Ex. N; *see* Affidavit at ¶¶ 4.29, 4.40, 4.51.

40. Throughout the period *from on or about August 7, 2026 to on or about August 14, 2026*—spanning at least four distinct, materially different versions of the statewide ballot-question content—Defendant SBE’s official “Ballot Questions for the November 3, 2026 Election” webpage continuously represented to the public that the statutory public-comment period authorized under EL § 7-103(c)(5)(i) “closed on July 30, 2026.” Ex. J; Ex. M; Ex. N; *see* Affidavit at ¶ 4.62.

ARGUMENT

I. THERE IS NO GENUINE DISPUTE AS TO ANY MATERIAL FACT.

The dates on which (1) HB 2100 was introduced, amended, passed, and signed; (2) the text of the *Non Obstante* Clause; (3) the certification and notice deadlines in EL §§ 7-103(c)(1) and 7-105(b); (4) the Department of Legislative Services’ own Fiscal and Policy Note; (5) Senator Kagan’s floor statement; and (6) the fact that Defendant State Board of Elections had already certified three other statewide ballot questions for the November 3, 2026 general election, are all matters of public legislative and administrative record, drawn from the enacted statute, the certified legislative history, and Defendants’ own public filings. None of these facts are subject to genuine dispute, and Defendants have identified no admissible evidence that could create one. *See Beatty*, 330 Md. at 737–39. What remains is a question of law—whether these undisputed facts establish the statutory and constitutional violations pleaded in Counts I through VI—such that this Court should now resolve on summary judgment and then grant the requested relief.

II. PLAINTIFFS ARE ENTITLED TO JUDGMENT AS A MATTER OF LAW ON EACH COUNT OF THE COMPLAINT.

The Complaint pleads six independent and alternative counts. Because the respective material facts are undisputed, Plaintiffs are entitled to judgment as a matter of law on each. Those counts fall into four groups, moving from the constitutional to the structural: Count I rests on due process and free-elections guarantees; Counts II and III rest on the missed statutory certification and notice deadlines; Count IV rests on the ballot question’s failure to disclose the practical effect of the Proposed Amendment; and Counts

V and VI rest on the invalidity of the *Non Obstante* Clause itself, which was the secret ingredient (from the voters in November, that is) to allow the entire scheme of House Bill 2100 to even try to get off the ground.

A. Violation of Due Process of Law

Count I (violation of the Maryland Declaration of Rights) ties the statutory and structural violations described below to the constitutional due-process and free-elections guarantees of Article 7 and Article 24 of the Declaration of Rights.

The Due Process Clause of the Maryland Declaration of Rights provides, in relevant part, that “no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or . . . in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.” Md. Const., Decl. of Rights art. 24 (emphasis added). Furthermore, the Suffrage Clause of the Declaration of Rights provides that “the right of the People to participate in the Legislature is the best security of liberty and the foundation of all free Government; for this purpose, elections ought to be free and frequent; and every citizen having the qualifications prescribed by the Constitution, ought to have the right of suffrage.” *Id.* art. 7. Relatedly, Article I, § 7 of the Maryland Constitution independently requires the General Assembly to enact such laws as are necessary to preserve “the purity of Elections.” Md. Const. art. I, § 7.

Maryland courts construe these three constitutional provisions together as guaranteeing and protecting an eligible Maryland citizens’ right to vote and participate in the electoral process freely and fairly on an equal basis. *See Suessmann*, 383 Md. at 710. Accordingly, Plaintiffs have a liberty interest in their right to freely and fairly vote and

participate in a statewide referendum on a proposed constitutional amendment—including with respect the Proposed Amendment in HB 2100 here. Since that liberty interest is at stake in the November 3, 2026 general election, Defendants are obligated to afford Plaintiffs the due process of law they are entitled to in the exercise of this liberty interest. *See Ulman v. Baltimore*, 72 Md. 587, 593 (1890) (recognizing that “[d]ue process of law is not confined to judicial proceedings, but extends to every case which may deprive a citizen of life, liberty, or property, whether the proceeding be judicial, administrative or executive in nature”). Yet Defendants have afforded Plaintiffs anything but that.

“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 v. State Bd. of Elections*, 424 Md. 163, 192 (2012) (citing *Anne Arundel County v. McDonough*, 277 Md. 271, 282 (1976)); *see also Ulman*, 72 Md. at 593 (“Due process of law is . . . a restraint on the legislative as well as on the executive and judicial powers of the government, and cannot be so construed as to leave the legislature free to make any process due process of law by its mere will and pleasure.”). This fair notice requirement encompasses both “the adequacy of the prior notice which was provided to voters” and “the sufficiency of the information with which the electorate has been provided.” *Stop Slots MD 2008*, 424 Md. at 192.

These fundamental fair notice principles have been crystallized into the concrete, bright-line constitutional rules that are provided in the statutory scheme comprising EL Sections 7-103 and 7-105. Maryland’s highest court has explicitly recognized as much: “As we have seen, the ***Constitutional provisions*** providing for voter input by

amendment or referendum, **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[.]’” *Id.* at 189 (quoting *McDonough*, 277 Md. at 300) (emphasis added). When assessing the adequacy of the notice of a referendum on a proposed constitutional amendment provided to the voting public, then, the high court instructs that courts “look to the notice prescribed by the statutory scheme and the well-settled principles of Due Process of Law, which underlie any notice inquiry.” *Stop Slots MD 2008*, 424 Md. at 192 (citing *Ulman*, 72 Md. at 593). Violations of the procedural rules codified under EL Sections 7-103 and 7-105 are therefore **also** constitutional due process violations *per se*. *See id.* at 193 (“Specifically, the rule is, when election procedures are challenged before the election is held, election officials being required to ‘do what the law tells them to do,’ [and] a court will require compliance with their statutorily **and** constitutionally imposed **duty**.” (quoting *Dutton v. Tawes*, 225 Md. 484, 491 (1961)) (emphasis added)). In other words, there is **no daylight** between the procedural fair notice guardrails that Plaintiffs and the rest of the voting public are entitled to under EL Sections 7-103 & 7-105 and under the Maryland Constitution.

Here, Defendants fail to honor the bright-line constitutional due process rules crystallized by EL Sections 7-103 and 7-105 in their attempt to implement HB 2100 by placing the Proposed Amendment before voters as a statewide ballot question in the November 3, 2026 general election—in total disregard of the certification and notice deadlines that the General Assembly **itself** had amended and re-enacted in SB 29, just months earlier, in order to protect the very liberty interest of Plaintiffs that Defendants now

seek to deprive without due process. *See* Ex. A. What the General Assembly that passed both SB 29 and HB 2100 did was to profess electoral purity and respect for Plaintiffs’ voting rights in the former enactment, and then to sully ***both*** in the latter enactment coming just three months later.

The combination of a missed certification deadline, a missed notice deadline, an incomplete ballot question, and a structurally invalid override clause is not, as Plaintiffs allege, accidental or insignificant (nor is it harmless error), and independently support declaratory and injunctive relief in order to remediate Defendants’ current and continued deprivation of Plaintiffs’ due process rights under the Maryland Constitution.

Paralleling this due process violation—and just as straightforward for the Court to resolve on the basis of the undisputed material facts at bar—are the discrete statutory and structural defects identified and addressed in Counts II through VI below, beginning with the missed certification deadline that is, standing alone, dispositive. For the reasons that follow, the Proposed Amendment in HB 2100—and Defendants’ implementation and/or enforcement thereof—violate ***both*** constitutional and statutory due process rules that have neither been validly repealed nor rendered inapplicable to the subject matter of HB 2100. Therefore, HB 2100 and the actions taken to implement and/or enforce it ***do not and never did*** carry the force or effect of law. They are void *ab initio*.

B. The Statutory Standards Cannot be Disregarded.

Count II (violation of Section 7-103(c)(1)) rests on the plain text of a mandatory deadline. Presumptively, statutory deadlines phrased in mandatory terms—as Section 7-103(c)(1) is, providing the Secretary of State “shall” certify ballot-question text by a date

certain—are mandatory, not directory. *State v. Rice*, 447 Md. 594, 626 (2016); *Walzer v. Osborne*, 395 Md. 563, 580 (2006).

This statutory scheme is clear and unambiguous. Statutory deadlines phrased in mandatory terms—as Section 7-103(c)(1) is, providing that Defendant Secretary of State Lee “shall” certify ballot-question text by a date certain—are presumptively mandatory, not directory. *Rice*, 447 Md. at 626; *Walzer*, 395 Md. at 580. Maryland courts have repeatedly enforced ballot-content and election-administration deadlines as mandatory, with no discretion left to election officials to excuse noncompliance, even on sympathetic facts. *See, e.g., Andrews v. Sec’y of State*, 235 Md. 106, 108 (1964); *McGinnis v. Bd. of Supervisors of Elections*, 244 Md. 65, 68 (1966); *Lamone v. Lewin*, 460 Md. 450, 474 (2018).

This deadline is not a soft or discretionary target: Section 7-103(c)(1) applies the July 1 deadline structure to “all statewide ballot questions and all questions relating to an enactment of the General Assembly which is petitioned to referendum,” EL § 7-103(c)(1), with no exception or alternative path for the General Assembly comparable to the extended timelines Section 7-103(c)(2)–(4) affords state and local boards. *Compare id.* with EL § 7-103(c)(2)–(4). Defendants are bound by the same July 1st deadline as everyone else. Sections 7-103(d) and 7-105(b)–(e) confirm, rather than qualify, this reading: they define additional requirements for enactments subject to referendum, but they do not create—and cannot be read to create—an alternative path around the Section 7-103(c)(1) deadline for the General Assembly’s own enactments. *See* EL §§ 7-103(d), 7-105(b)–(e).

Here, the Department of Legislative Services’ Fiscal and Policy Note confirmed the July 1 deadline “has passed,” Ex. D, and Senator Kagan confirmed on the Senate floor that compliance was never even attempted, *See* MGA – Session – Senate (@mgasession-senate445), Senate Floor Session, 8/4/2026 #2, YOUTUBE, at 1:58:00–2:05:00 (Aug. 4, 2026), <https://www.youtube.com/watch?v=VSLfY1Br4bU> (statement of Senator Kagan that “[t]here is no time to comply with the plain language of the law with our new law because July 1st is in the rearview mirror. There’s no time to have the Secretary of State draft language, to have it published, to have a comment period, to have it modified, it’s just not an option.”). Because the deadline had already lapsed, with no enacted Proposed Amendment in existence to certify, and before HB 2100 was *even* introduced, the attempted certification of the Proposed Amendment as a statewide ballot question in the November 3, 2026 general election is void *ab initio*—not merely voidable.²

Nor does HB 2100’s own “notwithstanding any other provision of law” language, added on August 3, 2026, cure the defect. That language is embedded in the subsection governing ballot-question wording, not in any provision addressing certification timing. Moreover, Section 7-103 provides no savings clause for a late statewide certification; Section 9-207(f), adopted in the same SB 29 legislation that tightened the Section 7-103(c)(1) deadline, *see* Ex. A, forecloses any argument that a later Section 9-207 layout certification can substitute for the missed content certification; and in any event, HB 2100

² As with the analogous distinction the Federal Vacancies Reform Act draws between void and voidable governmental action, the legislative maneuver here cannot be cured by ratification or by any subsequent legislative act. *See* 5 U.S.C. § 3348(d).

was not enacted as an emergency law under Md. Const. art. XVI, § 2—which requires an express emergency-law declaration by a three-fifths vote—and therefore does not take effect until the following June 1, 2027, *after* the very election it purports to govern. Neither does HB 2100 “otherwise expressly declare[] therein” that it shall become effective at any time “the first day of June next after the session at which it may be passed,” as required under Md. Const. art. III, § 31. *A fortiori*, that same General Assembly expressly declared an effective date in its earlier SB 29 legislation. *See* Ex. A at § 2. Count II, resting entirely on these undisputed dates and the General Assembly’s own admissions, is sufficient, standing alone, to entitle Plaintiffs to judgment as matter of law against Defendants.

The process of determining whether a statute is plain on its face begins with the language of the statute. In *Walzer*, the Court of Appeals stated that courts must first look to the plain language of a statute, giving the statute its natural and ordinary meaning. 395 Md. at 572 (citing *State Dep’t of Assessments & Taxation v. Maryland-National Capital Park & Planning Comm’n*, 348 Md. 2, 13 (1997)); *Montgomery Cnty. v. Buckman*, 333 Md. 516, 523 (1994) (collecting cases). The methodology is to apply everyday meaning and usage to everyday words, phrases, and grammar. Use common sense and non-legal dictionaries. *See Ishola v. State*, 404 Md. 155, 169 (2008); *Allen v. State*, 402 Md. 59, 76 (2007).

Maryland courts have repeatedly enforced ballot-content and election-administration deadlines as mandatory, reposing no discretion in election officials to excuse noncompliance, even on sympathetic facts. *Andrews*, 235 Md. at 108; *McGinnis v. Bd. of Supervisors of Elections*, 244 Md. at 68; *Lewin*, 460 Md. at 474. This deadline is

clear because it binds all enactments of the General Assembly unless it is changed by valid legislative action adopted in full compliance with the Maryland Constitution’s provisions. Section 7-103(c)(1) applies the July 1st deadline structure to “*all* statewide ballot questions and *all* questions relating to an enactment of the General Assembly which is petitioned to referendum.” EL § 7-103(c)(1) (emphasis added). The plain meaning of the statute is clear. Likewise, this statute is straightforward because it does not provide an exception or alternative path for Defendants or the General Assembly, such as that offered to county and local boards under EL § 7-103(c)(2)–(4). Therefore, Defendants and the General Assembly are bound by the July 1st deadline.

Further statutory analysis of Section 7-103 confirms the application of Section 7-103(c)(1) as it applies to Section 7-103(d). The limitations set forth in Section 7-103(c)(1) necessarily limit the scope of enactments of the General Assembly as designed under Section 7-103(d). Thus, Section 7-103(d) is not an exception that provides the General Assembly an alternative path for referendums, but defines the requirements previously set. The rule is, when election procedures are challenged before the election is held, that election officials being required to “do what the law tells them to do.” In those settings, a court will require compliance with their statutorily and constitutionally imposed duty. *Stop Slots MD 2008*, 424 Md. at 193 (quoting *Dutton*, 225 Md. at 491).

Here, Plaintiffs’ argument harmonizes with that standard. Accordingly, we request that the Court hold that the law imposes certain deadlines as a key part of Maryland’s Election Laws and Defendants thus cannot simply ignore previously established compliance deadlines. Independent of the certification deadline—and even if Defendants

could somehow cure the Count II violation—Count III supplies a second, wholly separate basis for judgment. Count III (violation of EL § 7-105(b)) presents an independent, equally mandatory statutory (and *per se* constitutional due process) violation: notice of the ballot question, including the Defendant Attorney General-approved plain-language summary, was required by the first Monday in August 2026, a deadline HB 2100 also missed. Compliance with Section 7-105(b) protects a distinct interest—advance public notice—from the interest Section 7-103(c)(1) protects, and its violation independently supports relief under EL § 12-202(a)(1)-(2).

This notice requirement is not a mere technicality; Maryland courts have recognized that it implements and concretely articulates the notice that due process demands. In *Stop Slots MD 2008*, the Court explained that the notice provisions of the statutory scheme are informed by “the well-settled principles of Due Process of Law, which underlie any notice inquiry.” 424 Md. at 192 (citing *Ulman*, 72 Md. at 593). “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.” *Id.* (quoting *McDonough*, 277 Md. at 282)

Here, the notice was not “submitted to the State Board by the first Monday in August” as required by due process of law under Section 7-105(b)(2)(iii), EL § 7-105(b)(2)(iii), nor did it include all of “the information specified in § 7-103(b)” as Section 7-105(b)(1) requires, EL § 7-105(b)(1). Given the constitutional due process interests the notice requirement protects, Defendants cannot excuse this second, independent statutory failure. Furthermore, because the protections afforded by due process have been recognized

as taking concrete form in this statutory scheme previously, the General Assembly cannot simply attach the “notwithstanding” clause to HB 2100 to cure Defendants’ statutory failures.

Here, Defendants failed to have the language submitted to Defendant SBE by the first Monday in August as required under Section 7-105(b)(2)(iii). Defendants doubly failed to ensure the language includes all of the information specified in Section 7-103(b) as part of the required notice under Section 7-105(b)(1). Therefore, there is no exception for the State’s failure to comply with the statutory schemes because of the well-settled principles of due process that the statute elucidates and satisfies.

C. The “Short Statement” Explaining ‘FOR’ or ‘AGAINST’ Cannot be Omitted.

Count IV supplies a third, independent statutory ground, which addresses the content of the ballot question language itself, rather than its timing. Section 7-103(b)(6) requires that “[e]ach question shall appear on the ballot containing,” among other things, “a brief statement explaining what the practical outcome of each voting choice would be.” The statewide ballot question HB 2100 would place before Plaintiffs and the rest of the Maryland electorate contains no such statement.

This omission is neither a technical nor an insignificant oversight. In determining the sufficiency of a ballot question, Maryland courts inquire not only whether the question itself sufficiently apprised voters of the proposed amendment’s purpose, but also “whether or not its publication ... permitted, in a meaningful manner, an intelligent decision, by an average voter . . . in voting either ‘FOR’ or ‘AGAINST’” the proposed amendment. *Stop Slots MD 2008*, 424 Md. at 193 (quoting *McDonough*, 277 Md. at 291–92). The statutorily

mandated summary under Section 7-103(b)(6) exists precisely to make that intelligent decision possible for the average voter.

An omission of this kind is disqualifying where it “frustrate[s] or tend[s] to prevent a free expression of the electors’ intention or otherwise mislead[s] them.” *Stop Slots MD 2008*, 424 Md. at 194 (internal quotation marks omitted). Maryland courts apply a materially more forgiving standard to ballot questions *after* an election than before one, see *Pickett v. Prince George’s County*, 291 Md. 648, 652 (1981), which is precisely why this defect should be addressed now, before the November 3, 2026 general election, rather than left for post-election review under a more stringent standard of judicial review.

The omission under Section 7-103(b)(6) is significant because it could affect the average voter’s understanding of the scope and substance of the Proposed Amendment itself. Nevertheless, if the Court does not consider the omission of the “brief statement” required by Section 7-103(b)(6) alone sufficient, this Court should still assess whether any additional factors could result in misleading the average voters.

The Constitution’s provisions for voter input by amendment or referendum, 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 require that the proposed amendment’s contents and purpose be set forth, in understandable language, “with that clarity and objectivity required to permit an average voter . . . to exercise an intelligent choice.” *McDonough*, 277 Md. at 300–02. The ballot question must “be 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.* at 301–02 (quoting *Markus v. Trumbull Cnty. Bd. of Elections*, 22 Ohio St. 2d 197, 202–03 (1970)); *Stop Slots MD 2008*, 424 Md. at 189–91.

As proposed, the ballot question conveys neither the scope nor the import of what the Proposed Amendment accomplishes. The language merely says the following (with Plaintiffs’ inclusion of bracketed language showing all of the questions the ballot question description begs and glosses over):

Question 3

Constitutional Amendment (Ch. 878 of the 2026 Legislative Session (PDF))

Election Districts

The proposed Constitutional Amendment clarifies [*compared to what? what was the prior law?*] that certain standards in the Maryland Constitution [*which standards are those exactly?*] apply only to districts used to elect members of the General Assembly [*as compared to what again — what else could they apply to?*]; authorizes the General Assembly to grant original jurisdiction to the Supreme Court of Maryland to review the congressional districting plan of the State [*why was the topic switched between General Assembly districts and federal congressional districts?*]; and requires the criteria for boundaries of congressional districts to be determined by applicable federal laws [*what are those federal boundary standards and how do they differ from Maryland district-drawing standards?*].

(Amending Article III of the Maryland Constitution)

- For the Constitutional Amendment
- Against the Constitutional Amendment

Ex. N. Accordingly, we count five questions that the vaguely defined Question 3 beg.

Maryland courts have created a clear standard that should be followed here: “The standard by which the question’s validity will be judged . . . is whether the question posed, accurately and in a non-misleading manner, apprises the voters of the true nature of the

legislation upon which they are voting.” *Kelly v. Vote Know Coal. of Maryland, Inc.*, 331 Md. 164, 172 (1993) (quoting *McDonough*, 277 Md. at 296); *Stop Slots MD 2008*, 424 Md. at 192. Applying that standard, the sufficiency of “the brief summary of the contents or purpose” turns on “whether [it], accurately and in a non-misleading manner, apprises the voters of the true nature of the legislation upon which they are voting.” *McDonough*, 277 Md. at 296 (quoting *Morris v. Governor*, 263 Md. 20, 24 (1971)); *Stop Slots MD 2008*, 424 Md. at 198. Measured against that standard, the ballot question here fails.

The publicly stated purpose of the General Assembly’s extraordinary session, which Defendant Governor Moore assigned to the Proposed Amendment, confirms the point. In Defendant Governor Moore’s own words, he called the General Assembly into special session for the purpose of “passing legislation to amend the state constitution to clarify and reaffirm that provisions which govern the requirements of our state legislative districts do not apply to Maryland’s Congressional Districts.” Ex. B. Even that administration-drafted description by Defendant Governor Moore does not apprise the average voter of the Proposed Amendment’s actual ramifications, or what is being clarified.

The statewide ballot question which Defendants have attempted to certify, approve, submit, and publish fares no better: it states only that the Proposed Amendment in HB 2100 “clarifies that certain standards of the Maryland Constitution apply only to districts used to elect members of the General Assembly;” without identifying which standards, or what is clarified. Ex. N. The average voter reading that language has no way to know for certain, and is simply left to wonder “what exactly is being clarified?”

Plaintiffs contend that Defendants are hiding behind legalese in hopes to hide the real issue that would be plopped onto the ballot. So, let's cut through legalese and be direct with this Court: The clarity the ballot question withholds is that the standard allegedly being clarified is Article III, § 4 of the Maryland Constitution, which currently requires legislative and congressional districts alike to "consist of adjoining territory." This would not be a small or technical change for a State whose geography is archetypally and by dint of the Free State's history characterized by the Chesapeake Bay. The practical effect of the so-called clarification would be, if it passes, to let the General Assembly draw congressional districts that are not joined by land at all, but only by water crossing the Bay. Voters deciding whether to approve that change are entitled to be told, in the ballot question itself, what the practical effects of the change. *See* Section 7-103(b).

This Court should analyze this case based on the factors from *McDonough*, 277 Md. at 296, which held that the sufficiency of a ballot summary is judged by "whether [it], accurately and in a non-misleading manner, apprises the voters of the true nature of the legislation upon which they are voting," *id.* at 296 (citing *Morris*, 263 Md. at 24). Applying that standard, the Court held:

"Question D," as it appeared on the voting machines, and as it was advertised, in calling upon a voter to make a choice either "FOR" or "AGAINST" the "rezoning" of certain parcels within the Fourth Assessment District 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 298.

The Court's reasoning about the word "rezone" itself is the passage most directly useful here:

The general word “rezone,” as used in the proposition, obviously had a psychological appeal to those who consider such term as connoting a detrimental change in the current and visible use of property. *Nowhere in “Question D” is there any indication of the nature of such “rezoning.”* As conceded by counsel for the appellants in argument, from the wording of “Question D” one is unable to tell whether such “rezoning” up-graded or downgraded the zoning uses.

Id. at 298–99 (emphasis added).

Comparing HB 2100’s effect and how it is described to what was found wanting in *McDonough*, there is no way for the voter to know here: **(1)** what would the Proposed Amendment clarify exactly?; **(2)** what are the “certain standards” (they are actually *quite uncertain* as described to the voters) that would be clarified by the Proposed Amendment?; **(3)** the voter is told the Proposed Amendment will generally apply to General Assembly districts, but what are the possible alternatives?; **(4)** why is a new topic of amending Maryland Supreme Court jurisdiction introduced?; and **(5)** what is the undefined body of federal law referenced in the description of the Proposed Amendment to the voters?

The *McDonough* decision separately held the pre-election notice constitutionally inadequate, rejecting the county’s argument that a year of prior news coverage of the underlying zoning fight satisfied due process: “[T]hose articles would not continue to have any informative viability in November, 1974, in apprising the voters of the nature of the question they were called to vote upon in ‘Question D.’” *Id.* at 305, and further that public hearings held before enactment “can, in no way, be considered a substitute for the publication of the ‘contents and purpose’ of the referendum.” *Id.* The Court’s ultimate conclusion: “An ordinary voter, of average intelligence, could not, in a meaningful and

comprehending manner, have knowledgeably exercised his franchise when called upon to vote either ‘FOR’ or ‘AGAINST’ that question.” *McDonough*, 277 Md. at 307–08.

McDonough condemned “rezone” because it “had a psychological appeal” as a neutral-sounding term, while concealing whether the change was favorable or unfavorable—voters “[were] unable to tell whether such ‘rezoning’ up-graded or downgraded the zoning uses.” *Id.* at 298–99. HB 2100’s ballot question uses the same device: it states, using a loaded term, that the Proposed Amendment “clarifies” that certain districting standards “apply only to districts used to elect members of the General Assembly,” without stating what that “clarification” does to congressional districts. *See* Ex. N. In fact, the effect is to eliminate the existing requirement of Md. Const., art. III, § 4 that congressional districts, like legislative districts, “consist of adjoining territory.” The average voter reading “clarifies” has no more ability to determine the Proposed Amendment’s actual effect than a *McDonough* voter did reading “rezone.” In fact, given the extensive legal baseline that the voter is presumed to have here concerning legislative redistricting, the situation the Maryland General Assembly just teed up for this Court is far worse than the *McDonough* “rezone” situation.

McDonough’s core complaint about “Question D” was that it never told voters the practical outcome of a “FOR” vote—*i.e.*, which of five zoning classifications would result. *McDonough*, 277 Md. at 297–99. Section 7-103(b)(6) has since codified exactly that fair notice guardrail, requiring “a brief statement explaining what the practical outcome of each voting choice would be.” HB 2100’s ballot question contains no such statement. *McDonough* is therefore not merely persuasive authority for the constitutional argument in

Count I; it is the doctrinal ancestor of the constitutional and statutory due process requirement Count IV seeks to enforce, and it supplies pre-codification, on-point language for why the omission matters as a practical constitutional matter.

McDonough is not a dated outlier; it is the Supreme Court of Maryland's foundational statement of the ballot-question-sufficiency standard, and it has never been overruled, limited, or questioned in the half century since it was decided. To the contrary, it has been repeatedly and approvingly applied by the State's highest court across five decades, which is precisely what makes it controlling rather than merely persuasive authority for a circuit court bound by the high court's precedent:

- *Kelly v. Vote Know Coalition of Maryland, Inc.* does not distinguish *McDonough* away; it adopts *McDonough*'s "accurately and in a non-misleading manner" standard as the governing test and applies it directly to uphold the ballot question at issue. 331 Md. at 175–76. A case that supplies the operative legal standard, rather than merely citing an older case in passing, is, by definition, still controlling law.
- *Stop Slots MD 2008*, reaffirms and applies the same sufficiency framework nearly 40 years after *McDonough* was decided, confirming that the standard had not been superseded, narrowed, or replaced by any intervening decision or statute in the interim. 424 Md. 163.
- *Town of La Plata v. Faison-Rosewick LLC* continues to invoke *McDonough*'s framework in resolving a referendum-ballot dispute, extending the unbroken line of approving citation into the last decade before this case. 434 Md. 496 (2013).

- *Surratt v. Prince George’s County*, 320 Md. 439, 447 (1990), and *Pickett v. Prince George’s County*, 291 Md. 648, 652 (1981), likewise apply the *McDonough* framework in the span between *McDonough* and *Kelly*, further confirming continuity rather than any gap or retreat.

No reported Maryland decision has ever distinguished *McDonough* on its core holding, questioned its reasoning, or substituted a different standard for ballot-question sufficiency. The Maryland Attorney General’s office has likewise treated *McDonough* as the controlling articulation of the standard when advising the State Board on ballot-question sufficiency under the predecessor statute. *See* 79 Op. Att’y Gen. 154 (1994) (applying *McDonough*, *Kelly*, and *Surratt* to advise on ballot-title sufficiency under former Art. 33, § 16-6(a)). Taken together, this is not a single 50 year-old case being stretched to fit new facts—it is the continuously reaffirmed rule of decision that this Court, sitting in the same county where *McDonough* itself was litigated and decided, is bound to apply.

Therefore, the omission of the Section 7-103(b)(6) statement is, standing alone, sufficient to defeat the ballot question. Nevertheless, this omission is compounded because the Section of the Maryland Constitution purports to modify, and the practical consequence of that modification cannot be discerned from the ballot language itself. On undisputed facts—the text of the ballot question, compared against the text of the constitutional provision it amends—no reasonable factfinder could conclude that the ballot question satisfies Section 7-103(b)(6) or the constitutional due process standard of clarity that

provision implements. That is a question of law for the Court, and it should be resolved in Plaintiffs' favor.³

D. The General Assembly's *Non Obstante* Clause is Invalid.

Turning from the statutory violations in Counts II through IV to the structural defect at the root of all of them, Count V confirms that the very mechanism the General Assembly used to attempt an end-run around those statutes is itself invalid—and therefore renders HB 2100 and Defendants' implementation and/or enforcement thereof void. Count V (violation of bicameralism and presentment) presents a structural defect independent of timing. The *Non Obstante* Clause is a shell game: Defendants may ask this Court to treat it as whichever kind of law is convenient at the moment—an implicit constitutional override when statutory compliance is impossible, ordinary legislation when a public vote on a constitutional amendment would be politically inconvenient—while satisfying the legal requirements of neither. Defendants cannot mix and match the Article XIV referendum question process and the Article II, Section 17 requirements for the passage of new legislation. Their approach here has been acrid with the smell of a sophisticated effort to avoid political accountability.

The *Non Obstante* Clause purports to override Sections 7-103, 7-105, and 9-207—statutes of general applicability—but it was never presented to voters as a constitutional

³ Plaintiffs press Count IV independently, not merely in the alternative: the omission of the Section 7-103(b)(6) statement and the ballot question's failure to disclose that the Proposed Amendment eliminates the existing compact-and-contiguous requirement for congressional districts are, standing alone, sufficient defects. But even if the Court were to conclude that Maryland's ordinary deference to condensed ballot language, *see Stop Slots MD* 2008, 424 Md. at 174, forecloses relief on Count IV standing alone, that deference does not touch Counts I, II, III, V, and VI, each of which independently entitles Plaintiffs to judgment.

amendment (it is not phrased in amendatory language and is not included in the ballot question), and Defendant Governor Moore’s approval cannot convert a constitutional-amendment referral, which by its own terms under Article XIV does not involve the Governor, into ordinary legislation capable of overriding a prior statute through bicameralism and presentment. On either available characterization, the *Non Obstante* Clause fails: as a purported constitutional amendment, it was never put to the voters; and as purported ordinary legislation, it was never validly enacted because it contains no emergency-law declaration or express effective date declaration that would allow it to take effect before June 1, 2027 (far too late to support the constitutional referendum the Defendants want to put to Maryland voters in November 2026). *See* Md. Const. art. XVI, § 2; *id.* art. III, § 31.

The Maryland Constitution has long been clear that the exercise of legislative power is tightly cabined. ***Either*** that power is exercised (on a nondelegable basis) by the General Assembly via bicameralism and presentment (*see, e.g., Brawner v. Curran*, 141 Md. 586 (1922)) ***or*** it is exercised directly by the People under a constitutional provision (such as Article XIV’s amendatory process). The Maryland Supreme Court has made clear for over 100 years that this is an either-or proposition—there is no way to chop up legislative power and bake a bespoke legislative soufflé. And of course, that makes good sense. One of the key purposes of bicameralism and presentment is to forge clear lines of democratic accountability; those are vitiated by a bespoke process which too often devolves into a shell game of accountability.

HB 2100 is void *ab initio* in violation of state constitutional and statutory law that has never been repealed or rendered inapplicable to the subject matter of HB 2100. HB 2100 accordingly does not and never did carry the force or effect of law. The Maryland Constitution requires clarity in this area. Adopting such a *Non Obstante* Clause via constitutional amendment may well be lawful if adopted using an ordinary legislative vehicle passing both chambers of the Maryland General Assembly and being subjected to the requisite waiting period (or alternatively, by qualifying as valid emergency legislation defined by the Maryland Constitution), but in this instance the failure to follow the clear requisite procedures for such is fatal and the *Non Obstante* Clause passed as part of HB 2100 is thus void *ab initio* as a matter of Maryland constitutional law.

What Plaintiffs have tried to do here is deploy the method of legal thaumatrope:

A Thaumatrope is a device in which two objects are painted on opposite sides of a card, for example, a man and a horse or a bird and a cage, and the card is fitted into a frame with a handle. When the handle is rotated rapidly, the onlooker sees the two objects combined into a single picture — the man on the horse's back or the bird in the cage.

Leon S. Lipson, *The Allegheny College Case*, 23 YALE L. REP. NO. 3, 11 (1977) (noting the criticisms of Justice Cardozo for using thaumatrope tactics).

On one side of the legal card here, as it were, Defendants have put a proposed constitutional amendment using Article XIV processes (which require supra-majorities in both Houses, but no action by the Governor), whereas on the other side of the legal card, they have an ordinary piece of attempted legislation (albeit one that was not adopted as emergency legislation or as legislation with an expressly chosen effective date) that the Governor purported to sign. Defendants cannot wield the two sides of the legal card to

create the illusion that they can transform a late-baked referendum for constitutional amendment into a timely referendum for a constitutional amendment—the single picture of the thaumatrope—via the twirling around of a *Non Obstante* Clause the voters never get to vote on.

Or, if the analogy of the thaumatrope (though common in legal academic circles) is not felicitous, consider a different analogy: Defendants cannot adopt the equivalent of a constitutional cafeteria approach, where they take a heaping of Article XIV amendment process and then add in a few servings of ordinary legislation (sprinkled with the seasoning of a *Non Obstante* Clause), and poof, expect to have built a constitutional meal of their own choosing. If that ill-combined set of mechanisms were lawful as executed in HB 2100, there is no real limit, except the date of the election and the practicalities of printing ballots, on how late the 2026 Special Session could have commenced—a *reductio ad absurdum*.

The ballot question HB 2100 would place before voters contains no statement explaining the practical outcome of the *Non Obstante* Clause—an omission of particular significance because that Clause purports to override Maryland’s entire statutory ballot-certification scheme. That the same requirement has been satisfied for every other proposed constitutional amendment question on the November 3, 2026 ballot confirms both that compliance is feasible and that the omission here is not incidental. The Maryland Constitution requires clarity in this area. Adopting such a *Non Obstante* Clause via constitutional amendment may well be lawful, but in this instance the failure to follow the clear requisite procedures is fatal and the *Non Obstante* Clause passed as part of HB 2100 is therefore void *ab initio* as a matter of Maryland constitutional law.

Count VI supplies an independent, alternative ground for invalidating the same *Non Obstante* Clause. The clause is entirely unrelated to HB 2100’s stated subject—clarifying districting standards, authorizing Supreme Court of Maryland review of the congressional plan, and specifying the criteria governing congressional-district boundaries. A clause suspending the operation of Maryland’s ballot-certification statutes has nothing to do with that subject, and its inclusion violates the requirement that a proposed constitutional amendment “embrace[] only a single subject.” Md. Const. art. XIV, § 2. That the Clause was tucked into a bill about legislative districting maps—the last place a voter, legislator, or member of the public would think to look for the suspension of the State’s entire ballot-certification regime—is itself evidence of the shell game, the thaumatrope, or the cafeteria approach (pick the metaphor): bury the override where scrutiny is least likely to find it, then quick draw it once scrutiny arrives. The result is massive voter confusion, which is the purpose the single-subject requirement seeks to avoid.

Taken together, Plaintiffs’ six counts present, at an absolute minimum, undisputed facts establishing each element of each count as a matter of law. On Counts II and III in particular, resting on decades of settled mandatory-deadline precedent and confirmed by the General Assembly’s own fiscal analysts and a sponsor’s floor admission, Plaintiffs’ entitlement to judgment against Defendants is not a close question.

Maryland courts, including this Court, have already adjudicated substantially similar claims—challenging both the validity of legislation accompanying a proposed constitutional amendment and the sufficiency of the resulting ballot question—in the same

pre-election posture Plaintiffs invoke here, and have done so on a schedule that permitted final resolution before the relevant election, without the need for a trial on disputed facts.

In *Smigiel v. Franchot*, legislators and other petitioners sought declaratory and injunctive relief challenging contingent legislation enacted alongside a constitutional amendment referred to the November 2008 ballot; because the ballot question had not yet been drafted, the companion ballot-language challenge was held unripe, but the contingent-legislation challenge was resolved on the merits, by *per curiam* order, before that election. 410 Md. 302 (2009). Once the ballot language had been finalized, the same plaintiffs renewed both challenges in the Circuit Court for Anne Arundel County—this Court, wherein this action is filed—which reached a decision on the merits before the November 2008 election. The Court of Appeals again resolved the appeal by *per curiam* order, with a full opinion to follow. *See Stop Slots MD 2008*, 424 Md. 163.

This history confirms both that Plaintiffs' claims are the kind of justiciable, cognizable challenge Maryland courts routinely resolve well before an election, on undisputed legislative-record facts, and that this Court is well-positioned to do the same here. And Defendants' purported statewide ballot language for the Proposed Amendment in HB 2100, unlike the language at issue in *Smigiel*, is already finalized, so no comparable ripeness obstacle exists in this situation.

III. DECLARATORY AND PERMANENT INJUNCTIVE RELIEF ARE APPROPRIATE REMEDIES UNDER THE CIRCUMSTANCES.

Having established that no genuine dispute of material fact exists and that Plaintiffs are entitled to judgment as a matter of law on at least one, and likely all six, of counts of the Complaint, the only remaining question is relief.

The relief Plaintiffs seek is narrow and absolutely necessary to prevent irreparable injury: a declaratory judgment as to Counts I through VI and a permanent injunction against Defendants' continued implementation and/or enforcement HB 2100 and certification, printing, distribution, tabulation, or canvassing of any single vote or the results of any vote on the Proposed Amendment as a statewide ballot question in the November 3, 2026 general election. It would not disturb any other race or ballot question at the November 3, 2026 general election, including the three other statewide ballot questions Defendant SBE has already certified on the ordinary timeline, and it is fully severable from the remainder of that election's administration. *See* EL § 12-203.

Once votes are cast and canvassed on an unlawfully certified, improperly noticed, or incompletely described ballot question, that harm cannot be undone, and no award of monetary damages or other relief at law is capable of remediating the injury to fundamental constitutional rights which Plaintiffs—along with the rest of the voting public (and citizenry as a whole) of Maryland—would sustain as a result of an unlawfully conducted referendum on a proposed amendment to the Maryland Constitution. *See* Mem. Op. at 17, *Capozzi*, No. C – 06 – 115807 (holding that “not only would the named plaintiffs suffer

irreparable harm, but so would all citizens of the State of Maryland, if an illegal election is held.”).

The asymmetry between pre-election and post-election judicial review confirms the necessity of relief now: before an election, courts require election officials to “do what the law tells them to do” and will enforce strict compliance; after an election, courts apply a markedly more deferential standard, declining to disturb the result absent proof that the deviation “interfered with the full and fair expression of the will of the voters.” *Dutton*, 225 Md. at 491. If this action is not resolved before November 3, 2026, Plaintiffs’ injuries would in practical effect become far more difficult for the judicial power to vindicate— notwithstanding the merits of Plaintiffs claims as a matter of law—precisely because of the limited scope of review available to courts once an election has already concluded.

This injury is constitutional in character, not merely statutory. *See id.* (“Clearly, an election that is carried out by unconstitutional means is something that is wrongful and needs to be enjoined.”); *Stop Slots MD 2008*, 424 Md. at 192; *Ulman*, 72 Md. at 593. Missing the constitutional/statutory notice and certification deadlines also places Defendants’ actions in tension with the federal Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), as amended by the Military and Overseas Voter Empowerment (“MOVE”) Act, which independently requires timely transmission of ballots to military and overseas voters. *See* 52 U.S.C. § 20302.

Any administrative burden on Defendants from omitting or holding this one question is self-inflicted, the direct result of the General Assembly convening a Special Session and adding the *Non Obstante* Clause to HB 2100 with less than an hour’s notice,

more than a month after the statutory certification deadline and after the statutory notice deadline had already expired—a fact the General Assembly’s own fiscal analysts and a bill sponsor confirmed on the record before passage. Because Defendants are sued in their official capacities and this action implicates governmental interests, this Court is not bound by the strict requirements of traditional private-party equity practice in fashioning relief, *Fogle v. H & G Rest., Inc.*, 337 Md. 441, 457 (1995), and may weigh the public’s interest in a lawful and accurately described referendum alongside any inconvenience to Defendants.

Maryland has a “paramount” public interest in ensuring the integrity of its constitutional-amendment referendum process and in compliance with the ballot-question certification and notice deadlines that the Maryland Constitution *requires*, the General Assembly *enacted*, just months before HB 2100 was passed. Mem. Op. at 17, *Capozzi*, No. C – 06 – 115807 (“To the extent that this Court may be required to balance the rights of the parties, as argued by the Defendants, the need to preserve the integrity of the election process consistent with constitutional principles is *paramount*.” (emphasis added)). Those deadlines exist, in part, to provide finality and to ensure voters, including military and overseas voters protected by federal law, receive adequate advance notice. *See* 52 U.S.C. § 20302; *Lewin*, 460 Md. at 458. That interest is heightened where, as Plaintiffs allege, the underlying purpose of the Proposed Amendment is to overrule a judicial decision construing the existing compact-and-contiguous requirement for congressional districts, *see Szeliga v. Lamone*, No. C-02-CV-21-001816, 2022 WL 2132194 (Md. Cir. Ct. Anne Arundel Cnty. Mar. 25, 2022), and the ballot question does not disclose that purpose or the

practical effect of the *Non Obstante* Clause to voters. *Cf. Stop Slots MD 2008*, 424 Md. at 174, 193.

CONCLUSION

In light of the foregoing, there is no genuine dispute as to any material fact and Plaintiffs are entitled to judgment as a matter of law on Counts I through VI of their Complaint and Petition for Judicial Review in this action. Accordingly, Plaintiffs respectfully request that the Court grant their Motion for Summary Judgment and prayer for relief against Defendants in their entirety, or at least to the fullest extent necessary, in order to declare unlawful and prevent, *inter alia*: **(1)** the certification of the proposed constitutional amendment contained in House Bill 2100 as a statewide ballot question; **(2)** the placement of the proposed constitutional amendment contained in House Bill 2100 on the November 3, 2026 general election ballot; **(3)** any further implementation and/or enforcement of House Bill 2100; **(4)** the tabulation, canvassing, or certification of any vote or the results of any vote on the proposed constitutional amendment contained in House Bill 2100 in the November 3, 2026 general election; and **(5)** the purported supersession, exemption, and/or waiver—via a late-breaking *Non Obstante* Clause—of all of the provisions of Maryland Election Law (or other law) as to the proposed constitutional amendment contained in House Bill 2100 for the November 3, 2026 general election.

Dated: August 17, 2026

Respectfully submitted,

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**Rule 19-217 Motion for Special Admission
Filed and Pending*

Attorneys for Plaintiffs

RULE 1-322.1 CERTIFICATION

I hereby certify pursuant to Rule 1-322.1 that none of the foregoing filings contain personal information as defined by that Rule.

/s/ Samuel Everett Dewey

Samuel Everett Dewey, Counsel for Plaintiffs

RULE 20-201 CERTIFICATION

I hereby certify pursuant to Rule 20-201(h)(2) that none of the foregoing filings contain restricted information.

/s/ Samuel Everett Dewey

Samuel Everett Dewey, Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that, on this 17th day of August, 2026, a copy of the foregoing Motion for Summary Judgment was filed and served electronically via MDEC upon:

Daniel Kobrin
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/s/ Samuel Everett Dewey

Samuel Everett Dewey, Counsel for Plaintiffs