

IN THE SUPREME COURT OF MARYLAND

SEPTEMBER TERM, 2026

No. 21

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

Appellants,

v.

MICHAEL L. HOWELL, *et al.*,

Appellees.

ON APPEAL FROM THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY
(The Honorable Robert J. Thompson, Judge)

BRIEF OF APPELLEES

SAMUEL EVERETT DEWEY
(AIS No. 1003040002)
CHAMBERS OF SAMUEL EVERETT DEWEY, LLC
2200 12th Court North Apt. 609
Arlington, VA 22201
(410) 207-8513
SamueleDewey@sedchambers.com

KYLE PATRICK BROSNAN
(AIS No. 1412160110)
JEFFREY BOSSERT CLARK, SR.
(DC Bar No. 455315)
MARSHALL YATES
(AL Bar No. 9600B58E)
ANTHONY CHARLES LICATA
(CT Bar No. 446215)
ERIC NEAL CORNETT
(DC Bar No. 1660201)
THE OVERSIGHT PROJECT
211 North Union Street,
Alexandria, VA 22314
Litigation@itsyourgov.org

Counsel for Appellees

TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	iv
INTRODUCTION	1
STATEMENT OF THE CASE.....	6
QUESTIONS PRESENTED	7
STATEMENT OF FACTS.....	8
I. THE 2026 STATUTORY AMENDMENTS TO SECTIONS 7-103, 7-105, AND 9-207	8
II. THE SPECIAL SESSION AND HB 2100.....	10
III. THE STATE’S FLAWED IMPLEMENTATION OF HB 2100	14
IV. PROCEDURAL HISTORY	16
STANDARD OF REVIEW	16
ARGUMENT.....	16
I. THE MARYLAND CONSTITUTION BARS APPELLANTS FROM CIRCUMVENTING ELECTION LAW RULES ON PROPOSED CONSTITUTIONAL AMENDMENT BALLOT QUESTIONS <i>AND</i> BARS THE LEGISLATURE FROM CHANGING ELECTION LAW AFTER JUNE 1 OF A SESSION ABSENT THE DECLARATION OF AN EMERGENCY	18
A. Appellants’ Entrenchment Theory Is a Red Herring	20
B. The Timing Statutes at Issue Here Implement and Do Not Constrain Article XIV of the Maryland Constitution.....	22
C. Article XIV Does Not Grant the Legislature Power to Override General Laws Regarding Ballot Referendums	26
D. The Internal Contradiction in Appellants’ Various Positions Is Fatal.....	29
E. The <i>Non Obstante</i> Clause Cannot Do the Work the Legislature Sought to Have It Do, Because It Is Neither a Validly Enacted Statute, Nor a Validly Proposed Constitutional Amendment.	30
F. The Single-Subject and Bicameralism Defects Independently Confirm that the <i>Non Obstante</i> Clause Cannot Be Harmonized with Article XIV	31

II. THE CIRCUIT COURT’S DECISION SHOULD BE AFFIRMED BECAUSE APPELLANTS HAVE IMPLEMENTED HB 2100 IN VIOLATION OF MULTIPLE BINDING PROVISIONS OF THE ELECTION LAW.....	32
A. The Plain Text of EL §§ 7-103 and 7-105 Admits of No Exception for General Assembly-Authored Ballot Questions	32
B. The Legislative History of SB 29 Confirms the General Assembly Intended These Requirements to Apply Universally.....	34
C. Section 7-105(b) Is a Narrow Exception for the DLS Summary-Statement Function, Not a Blanket Exemption	35
D. The General Assembly’s Own Admissions Refute Appellants’ “Never Applied” Theory	37
III. THE CIRCUIT COURT’S DECISION SHOULD BE AFFIRMED BECAUSE THE WHOLESALE OMISSION OF ANY “PRACTICAL OUTCOME” STATEMENT ON THE CERTIFIED BALLOT QUESTION FOR THE PROPOSED AMENDMENT IS FATAL	38
A. Section 7-103(b)(6) Imposes Mandatory Content Requirements, and Question 3 Satisfies None of Them.....	38
B. The Question Also Fails the Controlling <i>McDonough</i> Standard Because the Average Voter Cannot Determine What the Amendment Does.....	39
C. That Questions 1 and 2 Comply Confirms Both That Compliance Was Feasible and the Purposefulness in the Omission in Question 3	42
IV. THE CIRCUIT COURT’S DECISION SHOULD ALSO BE AFFIRMED BECAUSE APPELLANTS’ IMPLEMENTATION OF THE PROPOSED AMENDMENT IN HB 2100 ON THE NOVEMBER 2026 GENERAL ELECTION BALLOT VIOLATES THE MARYLAND CONSTITUTION	42
A. Appellants’ Implementation of the Proposed Amendment Violates the Single-Subject Requirement.....	43
B. Appellants’ Implementation of the Proposed Amendment Deprives Appellees and the Rest of Maryland’s Voters of Their Right to Vote Without Due Process of Law.....	44
V. THE CIRCUIT COURT CORRECTLY GRANTED APPELLEES RELIEF AGAINST HB 2100’S PROPOSED AMENDMENT ON THE NOVEMBER 2026 BALLOT	48
A. Pre-Election Review Cannot Be Legislated Away.....	48

B. Appellees Meet the Clear-and-Convincing Standard	48
CONCLUSION	49
CERTIFICATE OF WORD COUNT AND COMPLIANCE WITH RULE 8-112 ..	51
CITATION AND VERBATIM TEXT OF PERTINENT AUTHORITIES	52
CERTIFICATE OF SERVICE	65

TABLE OF AUTHORITIES

CASES

<i>Andrews v. Governor of Maryland</i> , 294 Md. 285 (1982).....	43, 44
<i>Andrews v. Sec’y of State</i> , 235 Md. 106 (1964).....	38
<i>Anne Arundel County v. McDonough</i> , 277 Md. 271 (1976).....	38, 39, 41, 46
<i>Atkinson v. Sapperstein</i> , 191 Md. 301 (1948)	26
<i>Brawner v. Curran</i> , 119 A. 250 (1922)	31
<i>Cabrera v. Penate</i> , 439 Md. 99 (2014).....	48
<i>Cnty. Council for Mont. Cnty. v. Montgomery Ass’n, Inc.</i> , 274 Md. 52 (1975)	24
<i>Colandrea v. Wilde Lake Community Ass’n, Inc.</i> , 361 Md. 371 (2000).....	41
<i>Dashiell v. Meeks</i> , 396 Md. 149 (2006).....	41
<i>Dutton v. Tawes</i> , 225 Md. 484 (1961)	46
<i>Hillman v. Stockett</i> , 183 Md. 641 (1944).....	43, 44
<i>In re Emergency Remedy by Maryland State Bd. of Elections</i> , 483 Md. 371 (2023).....	34
<i>Kelly v. Vote Know Coal. of Md., Inc.</i> , 331 Md. 164 (1993)	39
<i>Kennedy Krieger Inst., Inc. v. Partlow</i> , 460 Md. 607 (2018).....	16
<i>Kerby v. Luhrs</i> , 44 Ariz. 208, 34 P.2d 1067 (1934)	44
<i>Koshko v. Haining</i> , 398 Md. 404 (2007)	30, 32
<i>Lamone v. Capozzi</i> , 396 Md. 53 (2006).....	24
<i>Lamone v. Lewin</i> , 460 Md. 450 (2018).....	38
<i>Lamone v. Szeliga</i> , No. COA-REG-65-2021 (Md. Apr. 4, 2022)	41
<i>Markus v. Trumbull Cnty. Bd. of Elections</i> , 22 Ohio St. 2d 197 (1970)	39
<i>Mayor & City Council of Balt. v. Chase</i> , 360 Md. 121 (2000)	26
<i>Md. Comm. for Fair Rep. v. Tawes</i> , 229 Md. 406 (1962)	23
<i>Md. State Bd. of Elections v. Ambridge</i> , 489 Md. 404 (2025).....	16, 48
<i>McGinnis v. Bd. of Supervisors of Elections</i> , 244 Md. 65 (1966)	38
<i>Montgomery Cnty. Comm’rs v. Henderson</i> , 122 Md. 533 (1914).....	47
<i>Morris v. Governor of MD.</i> , 263 Md. 20 (1971)	25
<i>Munroe v. Wells</i> , 83 Md. 505 (1896).....	27
<i>Nordheimer v. Montgomery County</i> , 307 Md. 85 (1986).....	30
<i>Pickett v. Prince George’s Cnty.</i> , 291 Md. 648 (1981)	39
<i>Roley v. Nat’l Pro. Exch., Inc.</i> , 474 F. Supp. 3d 708 (D. Md. 2020), <i>aff’d</i> , 860 F. App’x 264 (4th Cir. 2021)	4
<i>Smigiel v. Franchot</i> , 410 Md. 302 (2009)	21
<i>Spevak v. Montgomery Cnty.</i> , 480 Md. 562 (2022)	34
<i>State ex rel. Atty. Gen. v. Burning Tree Club, Inc.</i> , 301 Md. 9 (1984).....	3
<i>Stop Slots MD 2008 v. State Bd. of Elections</i> , 424 Md. 163 (2012).....	26, 37, 39, 42, 46
<i>Suessmann v. Lamone</i> , 383 Md. 697 (2004).....	45, 48
<i>Surratt v. Prince George’s Cnty.</i> , 320 Md. 439 (1990).....	39
<i>Szeliga v. Lamone</i> , No. C-02-CV-21-001816, 2022 WL 2132194 (Md. Cir. Ct. Anne Arundel Cnty. Mar. 25, 2022).....	40, 41, 49
<i>Town of La Plata v. Faison-Rosewick LLC</i> , 434 Md. 496 (2013).....	39

<i>Tracey v. Tracey</i> , 328 Md. 380 (1992)	26
<i>Twin Lakes v. Kraft</i> , 12 Md. App. 457 (1971).....	32
<i>Ulman v. Baltimore</i> , 72 Md. 587 (1890)	46
<i>Warfield v. Vandiver</i> , 101 Md. 78 (1905).....	22, 24, 27, 31
<i>Whiting-Turner Contracting Co. v. Fitzpatrick</i> , 366 Md. 295 (2001).....	37
<i>Whitman v. Am. Trucking Ass’n</i> s, 531 U.S. 457 (2001)	36
<i>Williams v. Morgan State Univ.</i> , 484 Md. 534 (2023)	4

CONSTITUTIONAL PROVISIONS

Md. Const., Decl. of Rts. art. 7	45
Md. Const., Decl. of Rts. art. 8	31
Md. Const., Decl. of Rts. art. 24	45
Md. Const. art. I, § 7	45
Md. Const. art. III, § 4	10, 15, 43
Md. Const. art. III, § 31	14, 30
Md. Const. art. III, § 49	23, 27
Md. Const. art. III, § 56	23
Md. Const. art. XIV	<i>passim</i>
Md. Const. art. XVI, § 2	14, 30

STATUTES

Md. Code Ann., Elec. Law § 7-101	4, 26, 33
Md. Code Ann., Elec. Law § 7-103	<i>passim</i>
Md. Code Ann., Elec. Law § 7-105	<i>passim</i>
Md. Code Ann., Elec. Law § 9-207	5, 8, 10
Md. Code Ann., Elec. Law § 12-202	6, 48, 49
Md. Code Ann., Elec. Law § 12-203	6
Md. Code Ann., Cts. & Jud. Proc. § 3-409	6
1896 Md. Laws, ch. 202	25
2026 Md. Laws, ch. 439 (S.B. 29).....	<i>passim</i>
2026 Md. Laws, ch. 881 (H.B. 2100)	14, 30, 31, 40
Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20302.....	21

RULES

MD. Rule 8-112	51
MD. Rule 8-503	51
MD. Rule 8-504	52
MD. Rule 19-217	50

OTHER AUTHORITIES

NOAH WEBSTER, AN AMERICAN DICTIONARY OF THE ENGLISH LANGUAGE (rev. ed. 1844)	24
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23 Op. Md. Att’y Gen. 218 (1938)	25
33 Op. Md. Att’y Gen. 178 (1948)	25
Thomas S. Elder, MD. DEP’T OF LEGIS. SERVS., FISCAL AND POLICY NOTE, H.B.	
2100, 2026 Sess. (2026)	2, 12, 13, 35, 38
Md. Exec. Order No. 01.01.2026.14 (July 17, 2026)	10, 41
Md. Gen. Assemb., Sen. Floor Sess., Aug. 4, 2026 (statement of Sen. Kagan).....	2, 13, 14, 34, 35
Md. Gen. Assemb., House Floor Proc. No. 72 (statement of Del. Fair).....	2
Resp.’s Br., <i>Smigiel v. Franchot</i> , No. 2007-121, 2008 WL 905291 (Md. Feb. 23, 2008) 21	

INTRODUCTION

In May 2026, the General Assembly enacted Senate Bill 29 (“SB 29”) to govern how ballot questions reach Maryland voters. (E.99-107). For the upcoming November 3, 2026 general election, it fixed a July 1 deadline for the Secretary of State to prepare and certify requisite information and content of statewide ballot questions to the State Board of Elections (“SBE”); required the certified information and content to be made available for a 15-day public comment period; required every question to include a brief statement explaining the practical outcome of a “FOR” and an “AGAINST” vote; fixed an August 3 deadline for the Attorney General’s approval and submission of a brief summary of every question to SBE; and fixed an August 5 deadline for SBE’s publication of the complete text of every proposed constitutional amendment appearing as a statewide ballot question, along with a link to the General Assembly webpage for the underlying legislation. *Id.* Three months later, the same General Assembly convened in Special Session and the Appellants disregarded each of those requirements. (E.108-271).

The Legislature introduced House Bill 2100 (“HB 2100”), which proposed an amendment to the Maryland Constitution, on August 3, 2026. It cleared both chambers the next day, more than one month after the July 1 certification deadline had passed. (E.111-34). The 15-day public comment period for the upcoming general election closed on July 30. (E.98). The August 5 publication deadline expired the same day the Governor purportedly approved HB 2100. (E.131-34). The August 3 summary submission deadline expired more than a week before submission of an approved summary statement for HB 2100’s proposed amendment on August 11. (E.265-271). And the ballot question the

General Assembly wrote for HB 2100’s proposed amendment omitted the practical-outcome statement appearing on every other proposed amendment question on the same general election ballot. (E.114,235-39).

Appellants and the General Assembly understood what they were doing. Its own nonpartisan staff reported that “the new statutory deadline of July 1 for certification of ballot questions by SOS and SBE has passed.” (E.119). The sponsor of SB 29 told the Senate there was “no time to comply with the plain language of the law.”¹ The floor leader described the governing committee amendment as a way to “bypass the normal process.”² The Legislature amended HB 2100 and inserted a clause it thought was its panacea: “Notwithstanding any other provision of law,” the question “shall be submitted to the qualified voters of the State.” (E.120-25). (hereinafter the “*Non Obstante* Clause”). The Fiscal and Policy Note on the amended HB 2100 explained that the clause “effectively exempts the ballot question from existing statutory requirements.” (E.127). No legislature need bypass, or exempt officers from, a law that never applied to them.

Appellants nonetheless argue that the Election Law Article never applied to them because the General Assembly wrote the ballot language itself. The State’s shifting litigation positions make its source of law hard to pin down, but Appellees fairly read the

¹ 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> [hereinafter Sen. Floor Sess. at 1:58:00–2:05:00].

² House Proc.72 at 42:02.

argument to rest on some combination of Article XIV and Md. Code Ann., Election Law (“EL”) §§ 7-103 and 7-105.

Taking each in turn, nothing in Article XIV indicates that when the General Assembly (alternatively, “Legislature”) writes a proposed constitutional amendment referendum question itself, the procedural requirements the Election Law prescribes for placing it on the general election ballot are switched to the “off” position. *See* Op’ng Br.47. Article XIV is wholly silent on the issue of the rules governing when the Legislature writes a referendum itself. Moreover, the State concedes throughout its brief that the Legislature can delegate formulating a constitutional referendum to executive officials, yet argues that neither is subject to election statutes of general applicability when the Legislature itself pens the question posed to voters. *E.g., id.* 3, 18 (calling this “undisputed”).

Because Article XIV is silent on delegating referendum writing, it is equally silent in creating different consequences for delegated question writing as compared to when the Legislature writes the question itself. One hunts for that mirage in Article XIV in vain. Thus, the Maryland Constitution does not render *ultra vires* the plain-meaning application of Sections 7-103 and 7-105 to the constitutional amendment referendum process. The fact that the Attorney General now calls these provisions into question is, frankly, shocking. He has *a duty* to defend the full constitutional validity of these statutes, which, step-by-step in this litigation, he has abdicated. *See State ex rel. Atty. Gen. v. Burning Tree Club, Inc.*, 301 Md. 9, 36–37 (1984). Conversely, the Election Law provisions at issue do not limit Article XIV, but supply the machinery Article XIV presupposes.

Nor do Sections 7-103 and 7-105 provide a general statutory escape-hatch screaming “please ignore these requirements” whenever the Legislature opts to draft a constitutional referendum question itself, rather than by delegation. Instead, reflecting the canon that the Legislature knows how to do things when it wants to,³ only one of those provisions turns “off” subcomponents of otherwise generally applicable procedures, under limited circumstances that give the State nothing like the blank check it asserts here.

That disposes of the State’s main defense—that drafting the ballot question itself frees the Legislature to ignore Sections 7-103 and 7-105. The State must thus face the plain-text statutory music. Title 7 defines its own scope and reaches “an amendment pursuant to Article XIV of the Maryland Constitution” and “a question referred to the voters pursuant to an enactment of the General Assembly.” EL § 7-101(1)(ii), (6). Section 7-103(c)(1) covers “all statewide ballot questions.” Section 7-103(b) covers “[e]ach question.” Section 7-105(e) covers every “amendment under Article XIV.” The single provision Appellants rely on, Section 7-105(b)(3), is a sufficiency rule for one item (the one that’s the best evidence of the “knows how when it wants to”)—a summary statement prepared by the Department of Legislative Services (“DLS”). It says nothing about deadlines, comment-periods, publication, or ballot content.

³ See *Williams v. Morgan State Univ.*, 484 Md. 534, 554 (2023) (Legislature knows how to waive sovereign immunity when it wants to); *Roley v. Nat’l Pro. Exch., Inc.*, 474 F. Supp. 3d 708, 721 (D. Md. 2020), *aff’d*, 860 F. App’x 264 (4th Cir. 2021) (“The fact that the Maryland General Assembly knew how to exclude travel reimbursements from the term ‘wages’ but declined to do so in the [statute at issue] reveals that it did not intend to do so.”).

That leaves the *Non Obstante* Clause, which fails under either of two possible conceptual characterizations. If it is part of the constitutional amendment, it will never be submitted to the voters, as Article XIV requires. Alternatively, if it is ordinary legislation, it did not go through bicameralism and presentment and carries no emergency declaration or express effective date, and therefore does not take effect until June 1, 2027—seven months after the general election it purports to govern. Appellants’ brief does not address that problem. Nor does it address EL § 9-207(f), also enacted in SB 29, which forecloses their argument that a tardy ballot certification can cure the earlier failure.

The ballot question is independently defective. It omits the practical-outcome statement Section 7-103(b)(6) requires. It says the amendment “clarifies” the law when HB 2100’s preamble concedes that two circuit court decisions held the opposite—a reversal of the *status quo*, not a clarification. (E.132). It says, vaguely, “certain standards” will apply only to legislative districts when the amendment strips congressional districting of every state constitutional criterion, including the Declaration of Rights. And it joins the foregoing to an unrelated investment in the Legislature of optional constitutional authority to confer original jurisdiction on this Court, in violation of Article XIV’s single-subject constraint.

Two Circuit Courts, on separate records and reasoning, reached the same conclusion. The merits of congressional redistricting are not before this Court. Only the process owed to the voters of this State is, and that process is defective. The relief sought removes one question from the ballot and disturbs nothing else. The judgments should be affirmed.

STATEMENT OF THE CASE

This is an expedited appeal, pursuant to EL § 12-203(a)(3), from a judgment of the Anne Arundel County Circuit Court in an action for declaratory judgment, injunctive relief, and judicial review under EL § 12-202 and Md. Code Ann., Cts. & Jud. Proc. § 3-409. Appellees, each suing personally as a Maryland resident and registered voter, challenged below the placement of the proposed constitutional amendment in HB 2100 of the 2026 Special Session on the November 3, 2026 general election ballot as statewide “Question 3.” The Circuit Court granted Appellees declaratory and injunctive relief (but stayed its injunction pending appeal) and Appellants appealed.

Appellees commenced this action on August 6, 2026, and moved for summary judgment on August 17, 2026, on an agreed cross-summary-judgment posture following the Circuit Court’s issuance of an expedited scheduling order. The Circuit Court heard argument on the cross-motions beginning August 25, 2026, and issued a Memorandum Opinion and Order granting Appellees summary judgment the following day. The Circuit Court reached three independent holdings: **(1)** Appellants’ enactment and implementation of HB 2100 did not comply with the ordinary due process (notice) and procedural requirements the General Assembly defined and codified in Sections 7-103 and 7-105 for submission of constitutional amendments to the State’s voters, rendering it “legally deficient”; **(2)** Question 3’s use of the word “clarifies” was misleading and disqualifying under the applicable standards in this Court’s jurisprudence; and **(3)** Question 3 impermissibly combined more than one subject into a single question. The Circuit Court enjoined Appellants from including Question 3 on the November 3, 2026 general election

ballot, but stayed relief pending appeal. This Court then entered an expedited briefing and argument day. *See* Order at 1–2, *Maryland State Bd. of Elections v. Howell*, No. SCM-REG-21-2026 (Md. Aug. 26, 2026).

QUESTIONS PRESENTED

1. Does Article XIV of the Maryland Constitution preclude or instead authorize the Legislature to have enacted SB 29’s recent reforms, especially those embodied in Sections 7-103 and 7-105? **Appellees answer: “No, Article XIV does not preclude SB 29; it and other constitutional Articles *authorize* those statutory provisions.”**

2. Did the Circuit Court err in ruling that Appellants’ implementation of the Proposed Amendment in HB 2100 on the November 3, 2026 general election ballot violates multiple provisions of the Maryland Election Law? **Appellees answer: “No, the Circuit Court was correct.”**

3. Does Appellants’ wholesale omission from Question 3 of any brief statement explaining the practical outcome of each voting choice—in conjunction with Appellants’ finalized ballot-question language for Question 3—violate the Constitution and Election Code by failing to adequately apprise Maryland’s voters of the true nature of the Proposed Amendment in HB 2100, and its purpose and practical effect, contrary to this Court’s precedents? **Appellees answer: “Yes.”**

4. Does Appellants’ implementation of the Proposed Amendment in HB 2100 on the November 3, 2026 general election ballot transgress the single-subject and due process of law constraints that the Free State’s Constitution imposes on their authority to

implement proposed constitutional amendments on a statewide general election ballot?

Appellees answer: “Yes.”

5. Did the Circuit Court afford Appellees appropriate relief against Appellants’ implementation of the Proposed Amendment in HB 2100 on the November 3, 2026 general election ballot? **Appellees answer: “Yes, in a pre-election challenge, applicable state election statutes using mandatory language are not mere optional suggestions.”**

STATEMENT OF FACTS

I. THE 2026 STATUTORY AMENDMENTS TO SECTIONS 7-103, 7-105, AND 9-207

On May 12, 2026, Governor Moore signed SB 29 into law and it took effect June 1, 2026. (E.99-107).

SB 29 amended Section 7-103 to establish new content requirements for statewide ballot questions—including for any question proposing a constitutional amendment to Maryland voters. These include: **(1)** a brief title that describes the topic, goal, or outcome of the ballot question; **(2)** a condensed statement describing the change in policy to be adopted in plain and clear language that a voter can easily understand, that does not explain the legal mechanism for the policy change, and that does not contain legal jargon, use double negatives, or the passive voice; and **(3) *critically***, a “brief statement explaining what the practical outcome of each voting choice would be.” (E.100-07,118); EL § 7-103(b). These requirements were designed to ensure notice, and thus, an ***informed electorate***.

SB 29 further amended Sections 7-103 and 7-105 to establish and modify pre-election deadlines governing the preparation of ballot question text and the availability of that text and related information to the public. Those deadlines likewise apply to any

question proposing a constitutional amendment to Maryland’s voters, including: **(1)** Secretary Lee must prepare and certify the required information and content of a statewide ballot question to SBE by the July 1 preceding the general election—*here, July 1, 2026* (the “July 1 certification deadline”); **(2)** SBE must make the required information and content submitted by Secretary Lee available to Appellees and the rest of the public for a *15-day* comment period (hereinafter, the “15-day public comment period”); and **(3)** SBE and local boards must make widely accessible to the public, for at least 90 days before a general election—*here, August 5, 2026*—**(A)** the complete text of a proposed amendment to the Maryland Constitution that will be a ballot question at the election; and **(B)** a link to the General Assembly webpage for the applicable legislation (hereinafter, the “August 5 publication deadline”). (E.100-07, E.118); EL §§ 7-103(c)(1), (5), 7-105(e)(1)–(2).

Section 7-105(b), as readopted by SB 29, 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* Section 7-105(a), which must contain the information required in Section 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). Section 7-105(b) further requires that this statement be prepared by DLS, approved by the Attorney General, and submitted to SBE by the first Monday in August preceding the general election—*here, August 3, 2026* (the “August 3 summary submission deadline”). EL § 7-105(b)(2).

SB 29 also amended Section 9-207 to add a subsection (f) clarifying that certification of a ballot layout under that section is not a substitute for the ballot-content certification required under Section 7-103. (E.100-07); EL § 9-207(f).

II. THE SPECIAL SESSION AND HB 2100

On July 17, 2026, Governor Moore issued a proclamation convening the General Assembly in Extraordinary Session “[c]ommencing August 3, 2026,” (E.108-110), by which time three statutory deadlines had already been blown by the State. The Proclamation states that Governor Moore convened the Legislature in Extraordinary Session 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.*

The Speaker of the House introduced HB 2100 on August 3, 2026—more than one month after the July 1 certification deadline had already expired, on the same day the August 3 summary submission deadline expired, and two days before the August 5 publication deadline was set to expire. (E.111-14).

The *status quo* in Maryland, in general and as specifically applied to this case based on a binding judgment between Delegate Szeliga (also a Plaintiff here) and the State, is that **both** state legislative districts and congressional districts must abide by Article III, § 4 of the Maryland Constitution and be compact, contiguous, and of substantially equal population, with due regard shown to political subdivisions and natural boundaries.

Section 1 of HB 2100 proposes, in relevant part: **(1)** to upend the *status quo* by confining **only** state legislative districts to Article III, § 4 requirements; **(2)** the addition of

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.”.

(E.114).

DLS published a Fiscal and Policy Note for HB 2100, as *originally* introduced, which expressly conceded that HB 2100, and Appellants’ prospective attempts to implement the Proposed Amendment therein on the November 3, 2026 general election ballot, would *not comply* with the July 1 certification deadline or the August 5 publication deadline prescribed in the Maryland Election Law statutes governing statewide ballot questions on proposed constitutional amendments:

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.

(E.118) (bold/italics emphasis in original).

Section 3(b)(2) of HB 2100 was thereafter amended in Committee on August 3, 2026. *Compare* (E.114) *with* (E.121, E.125). Following this amendment, both Houses of the General Assembly passed HB 2100 on August 4, 2026—more than one month after the July 1 certification deadline had already expired, one day after the August 3 summary

submission deadline had already expired, and only one day before the August 5 publication deadline was set to expire.

As amended and adopted by both Houses of the General Assembly, Section 3(b)(2) of HB 2100 (emphasis added) now provides that: “***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.”.

(E.125,133-34).

DLS published a Fiscal and Policy Note for HB 2100, *as amended and adopted by the General Assembly*, which 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.***

(E.127) (emphasis added). Nevertheless, on August 4, 2026, Senator Kagan stated on the Senate floor during its debate on HB 2100 that there was “***no time to comply with the plain language of the law with our new law*** because July 1st is in the rearview mirror,” and that

there was “no time to have Secretary [Lee] draft language, to have it published, to have a comment period, [or] to have it modified, it’s just not an option.”⁴

HB 2100 was purportedly approved by Governor Moore and assigned Chapter 881 as an “enactment subject to constitutional referendum” on August 5, 2026—more than one month after the July 1 certification deadline had already expired, two days after the August 3 summary submission deadline had already expired, and on the same day the August 5 publication deadline expired. *See* (E.131-34).

HB 2100 does not contain the express emergency-law declaration required to be enacted as emergency legislation under Md. Const. art. XVI, § 2. *See id.* Nor does HB 2100 otherwise expressly provide an effective date to override the generally applicable rule under Md. Const. art. III, § 31 that it will take effect on the following June 1, 2027, distinguishing it from SB 29, which expressly declared (and was constitutionally capable of declaring) a June 1, 2026 effective date. *Compare id. with* (E.107).

III. THE STATE’S FLAWED IMPLEMENTATION OF HB 2100

On or about August 7, 2026, the webpage displayed a revised Question 3, entitled “Election Districts,” referencing the Proposed Amendment for the first time, but citing an incorrect chapter number. (E.86-87, E.164-67). The webpage did not display the accurate and complete text of the Proposed Amendment until on or about the same day—two days after the August 5 publication deadline had passed. (E.86-89, E.93, E.164-67, E.194-204). Weeks after the same deadline, the webpage still has not publicly displayed a link to the

⁴ Sen. Floor Sess. at 1:58:00–2:05:00 (emphasis added).

General Assembly webpage for HB 2100. *See* (E.236-239) (providing only a bill-text PDF link for Question 3, unlike the General Assembly webpage links for Questions 1 and 2). Attorney General Brown did not approve the brief summary statement for the Proposed Amendment ballot question and submit it to SBE until August 11, 2026, more than a week after the August 3 summary submission deadline. (E.96-97, E.266-271).

Throughout the period from on or about August 7 to on or about August 14, 2026, statewide ballot Question 3 (unlike Questions 1 and 2) did not include any statement explaining what a vote “FOR” or “AGAINST” the Proposed Amendment would mean—only the bare labels “For the Constitutional Amendment” and “Against the Constitutional Amendment.” (E.86-87, E.90-91, E.94-95, E.164-67, E.205-08, E.235-39). Concurrently, SBE’s webpage continuously represented that the 15-day public comment period “closed on July 30, 2026,” before the Proposed Amendment was ever enacted. (E.98, E.165, E.206, E.236).

The final ballot-question language for Question 3 states that the Proposed Amendment “clarifies that certain standards in the Maryland Constitution apply only to districts used to elect members of the General Assembly,” without identifying the standards at issue, disclosing that the practical effect is to remove the existing requirement that congressional districts (like legislative districts) “consist of adjoining territory” under Md. Const. art. III, § 4, or explaining the relationship between the districting-standards provision and the investment in the Legislature of constitutional authority to grant original jurisdiction to this Court over congressional-plan review. (E.235-39).

Further errors misinforming Maryland voters in the two weeks after HB 2100's passage are detailed in the record. *See generally* (E.74-98) (Yates Aff.).

IV. PROCEDURAL HISTORY

Appellees commenced this action in the Circuit Court on August 6, 2026, within ten days of learning of the facts set forth above. *See* (E.26-53, E.83). On August 26, 2026, the Circuit Court issued its Memorandum Opinion and Order granting Appellees' Motion for Summary Judgment, denying Appellants' Motion for Summary Judgment, and enjoining Appellants from including statewide ballot Question 3 on the Proposed Amendment on the November 3, 2026 general election ballot. *See* (E.414-24). That same day, the State noticed its appeal from the final judgment. (E.24-25). Later that day, this Court ordered expedited briefing, argument, and decision. *See* Order at 1–2, *Howell*, No. SCM-REG-21-2026.

STANDARD OF REVIEW

The question of whether the Circuit Court's "grant of summary judgment was proper is a question of law subject to *de novo* review on appeal." *Kennedy Krieger Inst., Inc., v. Partlow*, 460 Md. 607, 632 (2018) (cleaned up). The Circuit Court's "interpretation of the Maryland Constitution, the Election Code, and [this Court's] case law" are also subject to "*de novo* review" by this Court. *Maryland State Bd. of Elections v. Ambridge*, 489 Md. 404, 435 (2025).

ARGUMENT

This Court should affirm the Circuit Court's decision below for the following reasons:

- **(Part I)** Article XIV does not allow Appellants to circumvent the Election Law’s generally applicable procedural rules for proposed constitutional amendment ballot questions; and while the General Assembly might have overridden those deadlines by emergency legislation or an express immediate effective date, it did not try to do so, leaving it bound under Article XVI, Section 2 to the law it passed months earlier in SB 29;⁵
- **(Part II)** Appellants have implemented HB 2100 in violation of multiple binding provisions of the Election Law;
- **(Part III)** Appellants’ wholesale omission of any “practical outcome” statement on the certified ballot question for the Proposed Amendment is fatal to putting Question 3 on the ballot in November;
- **(Part IV)** Appellants’ implementation of the Proposed Amendment on the November 2026 general election ballot transgresses the Maryland Constitution’s Article XIV single-subject constraint and Declaration of Rights Article 24 (“Law of the Land” Clause) due process constraint on their authority; and
- **(Part V)** the Circuit Court granted Appellees the appropriate relief against Appellants’ implementation of the Proposed Amendment in HB 2100 on the November ballot.

⁵ Nor did the Legislature put the *Non Obstante* Clause to the voters, which might have turned off the Election Law’s deadlines had the referendum passed and no pre-election suit been filed.

I. THE MARYLAND CONSTITUTION BARS APPELLANTS FROM CIRCUMVENTING ELECTION LAW RULES ON PROPOSED CONSTITUTIONAL AMENDMENT BALLOT QUESTIONS AND BARS THE LEGISLATURE FROM CHANGING ELECTION LAW AFTER JUNE 1 OF A SESSION ABSENT THE DECLARATION OF AN EMERGENCY.

The State argues that the Legislature has ultimate power in enacting constitutional Amendments: They submit that Sections 7-103(c)(1), 7-103(b), and 7-105(e) do not apply because the General Assembly has unbridled power under Article XIV to press a ballot question by any mechanism it wants, any law of general applicability notwithstanding. Those statutes, they say, cannot “constrain or diminish the constitutional process” of Article XIV. Op’ng Br.24. In the State’s view, to conclude otherwise would allow one legislature to bind another. *See, e.g., id.* at 23 (Attorney General arguing that under Appellees’ interpretation of the law, “through the enactment of Election Law § 7-103[,] the General Assembly has categorically prohibited itself from proposing constitutional amendments after July 1st of an election year.”). This is specious.

To start, Appellants appear to attack a strawman. Appellees are not arguing that the Election Law *ipso facto* prevents constitutional amendments. We instead argue: **(1)** the process followed must be constitutional, for instance by passing a *Non Obstante* Clause via bicameralism and presentment, which did **not** occur here, because the Governor’s signature on HB 2100 was superfluous, as the State concedes, *see* Op’ng Br.10; or **(2)** alternatively, the Legislature could have **(a)** adopted HB 2100 as Article XVI, Section 2 emergency legislation, which it did not try, or **(b)** embedded the *Non Obstante* Clause in the ballot question itself, which, absent a pre-election challenge, would have sanitized the Election Law violations had Maryland’s voters passed the Proposed Amendment on November 3,

2026.

The General Assembly chose to follow none of the constitutionally compliant paths. What it did in HB 2100 was unconstitutional as a matter of the constitutional restrictions it faced *after passing SB 29, which is not the same as SB 29 overthrowing Article XIV*, under **(1)** Article XVI, Section 2's restriction on the effective date of non-emergency legislation; and **(2)** Article III, Section 28 (bicameralism), Section 30 (presentment) and Article II, Section 17 (also part of presentment). The invalidity of HB 2100 is not an invalid elevation of a mere statute over the Maryland Constitution; it is instead a constitutional enforcement of Articles XVI, III, and II in the wake of the extant procedural rules of general applicability set in the Election Code. The State wrongly equates these two things. What tied the Legislature's hands on Question 3 are other parts of the Maryland Constitution. Article XIV does not exist as a constitutional island.

Appellants' submission really boils down to this: Does the Legislature's Article XIV power automatically override (or put differently, suspend or dispense) any law of general applicability that the State wishes to cast as inconsistent with Article XIV?

The Circuit Court for Anne Arundel County correctly rejected Appellants' parliamentary supremacy argument when it held the Legislature's Article XIV power is not all-encompassing. (E.420). Specifically, that: **(1)** "The General Assembly of Maryland, working within the confines of the Maryland Constitution, has enacted certain laws which cover the means, mode, and method of proposing ballot referenda for the purposes of amending the very Constitution under which it operates"; and **(2)** that "the legislature itself must follow the means and methods those laws describe when it chooses to refer a ballot

question to a vote by the citizens at a general election.” *Id.* Two days later, the Dorchester County Circuit Court distilled the point: “The General Assembly passed election laws to provide a statutory process for the placing of Constitutional amendment questions on the ballot, not as a mechanism to limit the General Assembly’s constitutional power pursuant to Article XIV to propose amendments to the Constitution.” (E.433).⁶

A. Appellants’ Entrenchment Theory Is a Red Herring.

The State’s argument that we are somehow submitting that one legislature can entrench against another via electoral laws of general applicability is just wrong. Appellees have never disputed that the General Assembly can simply pass a new law to wipe out the old. *It can*. For example, if the General Assembly wished to dispense with the July 1, 2026 deadline in Section 7-103(c)(1) (or exempt itself or certain legislation from it), it can simply do so by ordinary legislation (or, if the limited circumstances for doing so permit, via emergency legislation). There is no entrenchment; just the rule that a law is in effect until repealed, consistent with other provisions of the Maryland Constitution. This is why, as the Circuit Court correctly noted, Appellees’ theory is entirely *consistent with* the notion that “the constitution does not impose a period of exclusion on the legislature’s ability to

⁶ *Accord* (E.433-34) (“The laws are not a limitation to the General Assembly’s constitutional authority but are an enacted process for the exercise of that authority.”). Channeling legislative authority through the Election Law is not without consequence: when those election powers are validly wielded, they bring Constitution Articles II, III, and XVI limitations into play. Those provisions, as part of interpreting the Maryland Constitution as a whole, restrict the Legislature’s maneuvering room—not the Election Law *qua* Election Law. This is not a case of the Constitution being forced to bow to the Election Law; it is one where Article XIV cannot be elevated above other constitutional provisions requiring that statutory law be followed unless and until validly amended.

propose constitutional amendments”; the prior laws of “ordinary process and procedure” can be repealed. (E.420); *cf.* Op’ng Br.22 (erroneously suggesting this case involves a statute “precluding its repeal by a subsequent legislature”).⁷

Indeed, there is considerable irony to the State’s arguments on this point. *Cf.* Op’ng Br.27. In *Smigiel v. Franchot*, 410 Md. 302 (2009), the Plaintiffs there challenged the adoption of a constitutional amendment governing commercial gambling because “the General Assembly could have enacted all of the provisions in House Bill 4 through regular legislation instead of an unnecessary amendment to the Maryland Constitution.” *Id.* at 314. The State rejoined, arguing that proceeding by constitutional amendment was necessary because *they wanted to entrench* limitations on the General Assembly’s future power. Only a constitutional amendment could lawfully ““limit the General Assembly’s future power to legislate on the subject of commercial gaming”” *Smigiel*, 410 Md. at 315. If the General Assembly had proceeded by mere legislation, there would be no entrenchment precisely because one act of the Legislature can repeal or modify another. *See* Resp.’s Br.22–24, *Smigiel v. Franchot*, No. 2007-121, 2008 WL 905291 (Md. Feb. 23, 2008). *Smigiel* shows the State blows hot and cold. In that case, ordinary legislation could not entrench; here the State abandons defending SB 29 on an entrenchment theory.

⁷ Of course, the Maryland Constitution does impose such limits (absent retroactive constitutional amendment) in Article XIV’s publication requirements. And in any event, “from a practical standpoint, the calendar” *does* “impose a period of exclusion on the legislature’s ability to propose constitutional amendments” insofar as the State must prepare ballots and must do so in time to comply with Federal mandates under the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), 52 U.S.C. § 20302.

B. The Timing Statutes at Issue Here Implement and Do Not Constrain Article XIV of the Maryland Constitution.

Appellants badly misconstrue the intersection between Article XIV and legislation of general applicability governing ballot questions.

1. To be sure, Article XIV grants the Legislature direct constitutional authority to propose constitutional amendments and to mandate the manner of their submission to the voter. *See, e.g., Warfield v. Vandiver*, 101 Md. 78 at 91–92 (1905). We have no quarrel with Appellants’ observation (Op’ng Br.24) that Article XIV contains the mandatory language “shall be submitted, . . . to the qualified voters of the State.” Md. Const. art. XIV § 1 (note the ellipses). But Appellants are wrong when they argue that “[t]he constitutional text contains no qualifiers or conditions as to when or whether the General Assembly’s proposal ‘shall be submitted’ at ‘the next ensuing general election.’ Art. XIV.” Op’ng Br.24. There *is* such a qualifier—the material the State omits from its quotations—“shall be submitted, *in a form to be prescribed by the General Assembly*, to the qualified voters of the State for adoption or rejection.” (emphasis added). That omission is a transparent attempt to elide two flaws in Appellants’ argument: **(1)** the General Assembly has power under Article XIV to enact laws of general applicability that regulate the ballot process; and **(2)** Article XIV permits those general laws to control over specific language in amendments.

2. The Circuit Court was correct when it held that the “legislature itself must follow the means and methods those laws describe when it chooses to refer a ballot question to a vote by the citizens at a general election.” (E.420); *accord* (E.433) (“The General

Assembly should not be able to opt out of its own statutory process, some of which process was just enacted and effective June 1, 2026”). Indeed, *the State concedes* that the General Assembly’s Article XIV power to provide for publication of a proposed amendment “in a manner provided by law” and to “prescribe” the “form” of submission may be exercised—and delegated. *See* Op’ng Br.1, 16–18. That occurs via *legislation of general applicability, of course*. *See id.* at 18.

Yet the State limits that concession, saying the “form” language authorizes only a “delegation” of the General Assembly’s authority to prescribe the *ballot form* of a proposed amendment—*i.e.*, to the Secretary to write *the text* of a ballot question. Op’ng Br.18.

To start, the Legislature’s power to legislate via rules of general applicability here is vast. “[T]he powers of the General Assembly of Maryland are plenary, except as limited by constitutional provisions.” *Md. Comm for Fair Rep. v. Tawes*, 229 Md. 406, 439 (1962). Section 56 of Article III of the Constitution of Maryland confers upon the General Assembly “power to pass all such Laws as may be necessary and proper for carrying into execution the powers vested, by this Constitution, in any Department, or office of the Government, and the duties imposed upon them thereby.” Article III, Section 49 confers similarly capacious power:

The General Assembly shall have power to *regulate by Law*, not inconsistent with this Constitution, all matters which relate to the Judges of election, time, place and manner of holding elections in this State, and of making returns thereof.

Md. Const. art. III, § 49 (emphasis added); *accord* Art. III, § 42 (“The General Assembly shall pass Laws necessary for the preservation of the purity of Elections.”). “These

provisions demonstrate that the framers of our Constitution contemplated that the regulation of elections would be the province of the State Legislature.” *Cnty. Council for Mont. Cnty. v. Montgomery Ass’n Inc.*, 274 Md. 52, 60 (1975). And “[t]he General Assembly . . . has taken seriously its responsibility to regulate all aspects of Maryland elections. The many statutes it has enacted are codified in the Election Law Article.” *Lamone v. Capozzi*, 396 Md. 53, 61 (2006); *accord Cnty. Council*, 274 Md. at 61.

Moreover, there is nothing in the words of Article XIV—“shall be submitted, in a form to be prescribed by the General Assembly,” limiting these rules of general application to writing referendum ballot text. “Form” does not admit of any inherent limitation; the definition operative in 1867 included “Manner of arranging particulars; disposition of particular things”; “Model; draught; pattern”; “Stated method; established practice; ritual or prescribed mode.” NOAH WEBSTER, AN AMERICAN DICTIONARY OF THE ENGLISH LANGUAGE 355 (rev. ed. 1844). Indeed, the unanimous then-Court of Appeals so held in *Warfield*, considering whether sections of the proposed amendment there varied from then-existing laws of general applicability and thus “were distinct legislative provision[s,] which to be effective require the signature of the Governor.” *See Warfield*, 101 Md. at 121–22 (1905). It held they were not, precisely because they repeated the standards set both in Article XIV *and in then-extant laws of general applicability*. *See id.* at 123–26. *Cf. Warfield*, 101 Md. at 100 (“had section 2 been wholly omitted, or if it were now stricken

out, *the Code would supply all the details and machinery* needed to place the amendment on the official ballot at the next general election” (emphasis added)).⁸

This Court has never departed from this conclusion. *See, e.g., Morris v. Governor of MD.*, 263 Md. 20, 26 (1971) (“From time to time since 1896 at least (Ch. 202 of the Laws of 1896), the legislature has by general legislation prescribed to some extent *the form* in which a proposed constitutional amendment is *thereafter to be submitted to the voters*. This Court seemingly has regarded such a procedure as acceptable and valid.”) (emphasis added). (E.433) (“The General Assembly passed election laws to provide a statutory process for the placing of Constitutional amendment questions on the ballot, not as a mechanism to limit the General Assembly’s constitutional power pursuant to Article XIV to propose amendments to the Constitution.”).

In other words, this Court has long treated the statutory election machinery not as extraneous to Article XIV, but as the operative mechanism through which its text is carried out.

The General Assembly plainly *intended* the Election Law to apply to “*all* ballot questions”—including constitutional amendment questions it drafted itself. (E.432). As Judge Sarbanes put it, “Title 7 of the Election Law Article provides numerous affirmative

⁸ 23 Op. Md. Att’y Gen. 218 (1938) is not to the contrary, as there the Attorney General acted to gap fill on referendum process to get the question in a useful form before the voters. That supports our claim that the Legislature may supply such machinery by law, rather than by case-by-case administration (which ensures greater regularity and predictability). So too 33 Op. Md. Att’y Gen. 178 (1948), which recognizes that Article XIV grants the General Assembly broad power to make “general provision of law” regarding the mechanics of “Constitutional Amendments.” *Id.* at 179.

statements to evidence the General Assembly’s intent that Title 7 applies to *all ballot questions*.” *Id.* (emphasis added); *see also id.* (“Section 7-101 of the Election Article states that, ‘This title applies to the following types of ballot questions: . . . (ii) an amendment pursuant to Article XIV of the Maryland Constitution . . . (6) a question referred to the voters pursuant to an enactment of the General Assembly.’ Section 7-101 also includes a catch-all that the title applies to ‘(10) any other question that will be voted on in an election conducted pursuant to this article.’”).

Indeed, Section 7-105(b)(3)—the very provision the State relies on—would be superfluous if the General Assembly could do anything it wants by incanting “Article XIV.” There would be no need to give the General Assembly the option of drafting the *ballot question* itself (*see Stop Slots MD 2008 v. State Bd. of Elections*, 424 Md. 163, 172 (2012)), if it could do so anyway under Article XIV. The Election Code is not presumed to contain superfluous provisions, and thus should be read to reject the State’s theory. *See, e.g., Mayor & City Council of Balt. v. Chase*, 360 Md. 121, 130 (2000); *Tracey v. Tracey*, 328 Md. 380, 387 (1992) (a statute should not be read to render another, or any portion of it, superfluous or nugatory). And, of course, statutes are presumed to be constitutional and thus to harmonize with the Maryland Constitution. “Every presumption favors the validity of a statute.” *Atkinson v. Sapperstein*, 191 Md. 301, 315 (1948).

C. Article XIV Does Not Grant the Legislature Power to Override General Laws Regarding Ballot Referendums.

Appellants’ absolutist construction of Article XIV—as fully occupying the field, to the exclusion of election statutes and other constitutional provisions—would create

massive confusion. The Anne Arundel Circuit Court saw this as derogatory of “the general principle that the legislature is bound-by the Constitution and the laws it enacts.” (E.419-20). How can general legislation passed in part under Article XIV’s delegated power (and under Article III, Section 49’s time/place/manner grant) be ignored at will? Legislation is in effect until repealed. *See, e.g., Warfield*, 101 Md. at 123; *id.* at 132 (Boyd, J., dissenting). Indeed, the Maryland Supreme Court long ago held as a rule of textual construction that “it cannot with propriety be said that as to one amendment the general law was to govern, whilst as to the other a totally different system was to prevail” and that “it cannot be presumed there was an intention to have two different methods in operation at the same time.” *Id.* at 123.

Moreover, without relying on *some* measure of existing law, the purported direct exercise of Article XIV simply cannot be effectuated. *Cf. Munroe v. Wells*, 83 Md. 505 (1896) (holding order of House of Delegates sitting in election contest could not be implemented, as there was no statutory scheme in effect under which to hold elections). That is *precisely* the confusion Appellants’ construction would wreak. Clear lines of accountability are required to make the machinery of constitutional amendment hum along with regularity. *See, e.g., Warfield*, 101 Md. at 123.

For these reasons, three Judges of Maryland’s then-highest court in *Warfield* squarely rejected the equivalent of the State’s position here. The majority held the language the Legislature drafted in the proposed amendment was consistent with Article XIV and relevant statutes of general applicability; the questions were therefore valid, and the Court need not reach whether Article XIV power to set the “form” of submission supersedes

existing statutes of general applicability. The dissent, however, viewed the proposed amendments as departing from existing laws of general applicability and argued the Court had to reach that question. *Id.* at 132, 134 (Boyd, J., dissenting). The dissent maintained that legislation was required to repeal “existing general laws” before a bespoke balloting procedure could be used. *See id.* at 134 (Boyd, J., dissenting) (“if the General Assembly adopts a ‘form’ which cannot be used on the ballots provided for under the General Laws, without repealing the provisions of those laws applicable to those ballots, there must be legislation to enable that to be done.”). The Boyd dissenters (reaching an issue the majority saw as unnecessary) thus directly considered and unanimously rejected Appellants’ argument.

Appellants also concede away their argument by necessary implication. In their telling, this case must—**must**—be resolved *post haste* because of a host of ballot-printing deadlines—deadlines *they* pressed in urging expedited proceedings below and here. *See, e.g.,* (E.59-64). But if the Legislature’s Article XIV powers are supreme, then why do any of these dates matter any more than the July 1 certification deadline or the August 5 publication deadline? Which procedures are retained and which are cast aside? The State cannot be allowed, consistent with any basic principles of administrative law, to pick and choose which mandatory deadlines it will follow and which it will ignore.

Every one of Appellants’ arguments for field-occupying Article XIV supremacy would apply to every date in the balloting code. The State has no answer to that contradiction. An election unmoored from the Election Law’s reticulated procedures is an

invitation to chaos and a “heads we win, tails you lose” affront to Maryland’s voters, who expect no one to be placed above the law.

D. The Internal Contradiction in Appellants’ Various Positions Is Fatal.

Appellants’ two principal theories mutually defeat one another when compared to how the General Assembly drafted the Proposed Amendment. Below and on appeal, the State contends that Sections 7-103 and 7-105 simply do not reach General Assembly-authored ballot questions as a matter of statutory construction. Yet they also contend schizophrenically that the General Assembly’s Article XIV authority is constitutionally immune from statutory constraint, because “statutes cannot constrain or diminish the constitutional process” provided therein. Op’ng Br.24. Both theories cannot cohere together. A statutory obligation that never applies to a given actor’s conduct—and cannot directly apply, by virtue of the actor’s non-executive capacity—does not need to be constitutionally overridden as to that actor; there is nothing to override. Conversely, a Legislature that believes a constitutional immunity is necessary to save its own enactment from existing statutory requirements is a Legislature that understands the statute to apply in the first instance.

Arguments in the alternative are permissible, but that is not what happened here. The General Assembly drafted a sweeping *Non Obstante* Clause purporting to waive, supersede, or override all applicable law. It would not have done so while believing—as Appellants began arguing below, in derogation of their duty to defend SB 29’s constitutionality—that there was no applicable law to override in the first place because of

Article XIV, the monolith. The text of HB 2100 as enacted and assigned Chapter 881, which is the best evidence of legislative intent, refutes Appellants' immunity argument.

This internal contradiction matters beyond rhetorical symmetry. Maryland courts construe legislative enactments, wherever reasonably possible, to avoid unnecessary constitutional confrontation. *Koshko v. Haining*, 398 Md. 404, 425 (2007). Appellants invoke *Koshko* for the proposition that Section 7-103 should be read narrowly to avoid a constitutional conflict with Article XIV. Op'ng Br.19. But that canon cuts against the State once the internal contradiction is exposed: if the narrow reading of Section § 7-103 were correct, there would be no constitutional question to avoid, and the elaborate separation-of-powers analysis in Part II of the State's brief, including the anti-entrenchment authorities (e.g., *Nordheimer v. Montgomery County*, 307 Md. 85 (1986)) would be superfluous. That the State briefed both theories at length below suggests neither was thought sufficient standing alone. This Court should resolve that tension in Appellees' favor: the Legislature itself, by enacting the *Non Obstante* Clause, signaled an unmistakable understanding that the statutes comprising SB 29 applied to this dispute.

E. The *Non Obstante* Clause Cannot Do the Work the Legislature Sought to Have It Do, Because It Is Neither a Validly Enacted Statute, Nor a Validly Proposed Constitutional Amendment.

Even assuming the Legislature could exempt a single referendum from Sections 7-103 and 7-105, the *Non Obstante* Clause is not that mechanism. As ordinary legislation, it was never validly enacted: HB 2100 contains no emergency-law declaration adopted by the three-fifths vote Md. Const. art. XVI, § 2 requires, and no clause "otherwise expressly declar[ing]" an earlier effective date under Md. Const. art. III, § 31. It thus would not take

effect until June 1, 2027, after the election it purports to govern. That the same General Assembly set an effective date for SB 29 months earlier, *see* 2026 Md. Laws, ch. 439 § 2, confirms it knew how and chose not to here.

Nor is the Clause part of the amendment submitted to voters under Article XIV. It was never phrased in amendatory language, never included in the Proposed Amendment's text, and Governor Moore's approval of it as Chapter 881 is meaningless because Article XIV assigns the Governor no role. Appellants cannot treat the Clause as constitutional-amendment material to avoid a popular vote on the override, yet as ordinary legislation to trigger gubernatorial assent and immediate operation. A clause suspending the entire ballot-certification regime must satisfy the requirements of whichever category it tries to occupy; it satisfies neither, and is void.

F. The Single-Subject and Bicameralism Defects Independently Confirm that the *Non Obstante* Clause Cannot Be Harmonized with Article XIV.

A clause suspending Maryland's ballot-certification and notice statutes has nothing to do with HB 2100's subject—districting standards and judicial review—violating Article XIV, Section 2's single-subject rule. Nor can a legislative skin-suit substitute for the popular ratification an amendment requires. *See Brawner v. Curran*, 119 A. 250, 255 (1922). Maryland's separation of powers, Md. Const., Decl. of Rts. art. 8, allows no hybrid channel blending ordinary bicameral-presented legislation with a referral's immunity from gubernatorial veto, while discarding the safeguards attached to each pathway. *See Warfield*, 101 Md. at 78. The Proposed Amendment was never validly placed on the November 3,

2026 ballot. No deference is owed to whichever procedures the General Assembly finds convenient in a given week.

II. THE CIRCUIT COURT’S DECISION SHOULD BE AFFIRMED BECAUSE APPELLANTS HAVE IMPLEMENTED HB 2100 IN VIOLATION OF MULTIPLE BINDING PROVISIONS OF THE ELECTION LAW.

At a minimum, this Court should affirm the Circuit Court’s decision on the basis of Appellants’ flagrant violations of the Election Law provisions mandating: **(1)** the July 1 certification deadline; **(2)** the August 3 summary submission deadline; **(3)** the August 5 publication deadline; and **(4)** the 15-day public comment process.

Appellants’ central argument is that the Election Law Article’s certification deadlines, content standards, and notice requirements simply do not apply when the Legislature chooses to write the ballot question itself. Op’ng Br.16–23. Putting aside the Article XIV and entrenchment arguments refuted in Part I, the argument depends on reading EL § 7-105(b)(3) as a blanket exemption from all Title VII requirements. It is not.

A. The Plain Text of EL §§ 7-103 and 7-105 Admits No Exception for General Assembly-Authored Ballot Questions.

The plain language of the statutes controls. *Koshko*, 398 Md. at 425. When the statutory text is clear, this Court “must give effect to the legislature’s intent as expressed by the statutory language.” *Twin Lakes v. Kraft*, 12 Md. App. 457, 463 (1971).

Begin with the scope provision Appellants never address. Title 7 defines its own reach: it applies to “an amendment pursuant to Article XIV of the Maryland Constitution” and to “a question referred to the voters pursuant to an enactment of the General Assembly,” with a catchall covering “any other question that will be voted on in an election

conducted pursuant to this article.” EL § 7-101 (quoted at E.432). The General Assembly named Article XIV amendments *by category*. It did not carve out the ones it drafts itself.

Section 7-103(c)(1) then provides: “On or before July 1 immediately preceding a general election, the Secretary of State shall prepare and certify to SBE the information required under subsection (b) of this section, for all statewide ballot questions and all questions relating to an enactment of the General Assembly which is petitioned to referendum.” (E.103). *The word “all” is unqualified.* Nor was July 1 a deadline the Legislature inherited: SB 29 struck a rolling 95th-day deadline and fixed a calendar date instead. (E.103). Even the superseded rule would have required certification by July 31, 2026—three days before HB 2100 was even introduced.

Appellants answer that Section 7-103(c)(1) “expressly binds only the Secretary to ‘prepare and certify’ a statewide ballot question by July 1.” Op’ng Br.21. The Secretary is the actor named, but that does not make the deadline irrelevant when the General Assembly writes the question. Certification is how ballot content reaches SBE and the voters; someone must still perform that task—machinery that Article XIV anticipates as part of its power to control the “form” of constitutional referenda put to the voters.

EL § 7-103(b) provides that “[e]ach question shall appear on the ballot containing the following information,” including “(6) a brief statement explaining what the practical outcome of each voting choice would be.” *The word “[e]ach” is not qualified.* It applies to every question—regardless of who authored it. The “question” (here drafted by the Legislature) is definitionally separate from the required “information.” The State’s complete failure to explain the referendum’s practical outcome to the people of Maryland

is fatal to HB 2100. *See infra* Part III.

Section 7-105(e)(1)(ii) requires SBE to post “the complete text” of “an amendment under Article XIV of the Maryland Constitution” “in a manner widely accessible to the public for at least 90 days before the general election.” There is no exception for amendments whose ballot questions were authored by the General Assembly. The provision applies by its terms to “an amendment under Article XIV”—full stop. Publication is *entirely* separate from drafting.

EL § 7-105(b)(1) requires that notice of any Article XIV or Article XVI question “shall contain the information specified in § 7-103(b) of this title and a brief statement . . . summarizing the question.” Again, no exception for General Assembly-authored questions.

Appellants’ argument requires this Court to read into these provisions an exception that the General Assembly did not write. This Court should decline that invitation.

“The goal of statutory construction ‘is to ascertain and effectuate the actual intent of the General Assembly.’ *In re Emergency Remedy by Maryland State Bd. Of Elections*, 483 Md. 371, 404 (2023). Courts focus on the plain language of the statute, reading the “statute as a whole . . . to ensure that no word, clause, sentence, or phrase is rendered surplusage, superfluous, meaningless, or nugatory.” *Spevak v. Montgomery Cnty.*, 480 Md. 562, 572 (2022) (internal citations omitted). The State adheres to none of that in construing EL §§ 7-103 and 7-105 to ignore the procedural requirements it flouted.

B. The Legislative History of SB 29 Confirms the General Assembly Intended These Requirements to Apply Universally.

Appellants cite Senator Kagan’s statement during the SB 29 committee hearing—

“if ballot language comes from the General Assembly, that language goes right in”—as evidence that the General Assembly understood Section 7-105(b)(3) to exempt its own questions from the statutory framework. Op’ng Br.20. Context undermines that reading.

Senator Kagan was describing the narrow operation of Section 7-105(b)(3): when the General Assembly writes the question, DLS’s drafting function is not triggered because the enacted *question* language “goes right in.” She was not addressing the July 1 certification deadline, August 3 summary submission deadline, 15-day public comment period, August 5 publication deadline, or § 7-103(b) content standards.

More tellingly, Senator Kagan’s statement on the Senate floor during the special session contradicts the “never applied” theory outright. She said there was “no time to comply with the *plain language of the law*” because “July 1st is in the rearview mirror.” (E.46) (emphasis added). The sponsor of SB 29 thus acknowledged that the “plain language of the law” applied and that there was “no time to comply.” She did not say the law was inapplicable; she said compliance was impossible. Those are fundamentally different things.

DLS confirmed that understanding in its two Fiscal and Policy Notes, quoted near the start of this brief. (E.118, E.127). The word “exempts” is critical. One exempts from something that applies, not something that does not apply.

C. Section 7-105(b)(3) Is a Narrow Exception for the DLS Summary-Statement Function, Not a Blanket Exemption.

The State collapses the narrow exception in § 7-105(b)(3) into a blanket exemption from all Title VII requirements. The text cannot sustain that reading.

Section 7-105(b)(3) is confined by its own opening words. It provides that “[t]he statement required under paragraph (1) of this subsection is sufficient if it is: (i) contained in an enactment by the General Assembly, and the enactment clearly specifies that the statement is to be used on the ballot; or (ii) consistent with some other process mandated by the Maryland Constitution.” (E.105). The antecedent of “the statement” is fixed by paragraph (1), which requires two distinct things: “the information specified in § 7-103(b)” and, *separately*, “a brief statement, prepared in clear and concise language, devoid of technical and legal terms to the extent practicable, summarizing the question.” (E.104). Paragraph (3) reaches the second item. It says nothing about the first.

Moreover, Section 7-105(b)(1) refers back to 7-105(a), which makes plain that Section 7-105 (and certainly Section 7-103(b)(3)) focuses on “specimen ballots.” The State has totally missed that the Legislature defined the term “ballot” and the term “specimen ballot” to be mutually exclusive. *Compare* EL § 1-101(d)(1) (defining “ballot”) *with* EL 1-101(d)(2)(ii) (noting that the term “ballot” “does not include . . . a specimen ballot”).

A provision about notice in connection with specimen ballots is *the tiniest of mouseholes in which to try to hide the elephant that, when the Legislature writes* a constitutional referendum itself, all the key Section 7-103 and 7-105 deadlines are switched to the “off” position. *See Whitman v. Am. Trucking Ass’n*, 531 U.S. 457, 468 (2001) (Congress does not “hide elephants” in statutory “mouseholes.”). As our Introduction explained, when the Legislature wanted to treat referenda it drafts itself differently, it knew how to say so: the cabined specimen-ballot exception in Section 7-103(b)(3) is one such provision, and indeed the only one—it is definitely not a general free pass from the Election

Code’s deadlines.

Stop Slots 2008, 424 Md. at 172, confirms this narrow reading. The Court explained that under § 7-105(b)(3), “the Secretary of State is ‘tasked’ with preparing a **ballot question** only when the General Assembly chooses not to do so.” (Emphasis added). The “tasking” refers to the specific drafting function—drafting the ballot **question**—not to the entirety of the Election Code Title VII’s certification, content, and notice framework.

Section 7-105(b)(1) confirms our reading. It requires that notice of an Article XIV question “shall contain the information specified in § 7-103(b)” —all six categories. On Appellants’ construction, that cross-reference would be meaningless whenever the General Assembly authors the question, and statutes are not read to render their own cross-references superfluous. “[S]tatutes on the same subject are to be read together and harmonized to the extent possible, reading them so as to avoid rendering either of them, or any portion, meaningless, surplusage, superfluous or nugatory.” *Whiting-Turner Contracting Co. v. Fitzpatrick*, 366 Md. 295, 303 (2001) (cleaned up).

D. The General Assembly’s Own Admissions Refute Appellants’ “Never Applied” Theory.

The most telling evidence against the “never applied” theory is the Legislature’s own conduct. If the statutes never applied, there would have been no need for the *Non Obstante* Clause. Inserting “Notwithstanding any other provision of law” is an admission that other provisions **did apply** and needed overriding. The legislative history talks about their Special Session bypassing SB 29 deadlines. One bypasses a process that **both** exists and applies. And the Fiscal and Policy Note on Third Reader said the clause “effectively

exempts” the question from “existing statutory requirements”—not that those requirements never applied. (E.127).

Appellants cannot have it both ways. The existence and described purpose of the *Non Obstante* Clause, and Section 2’s express engagement with Article XIV, are admissions that the statutes applied. *See also* (E.322) (statement of Assistant Attorney General Kobrin also using the language of “bypass”).

III. THE CIRCUIT COURT’S DECISION SHOULD BE AFFIRMED BECAUSE THE WHOLESALE OMISSION OF ANY “PRACTICAL OUTCOME” STATEMENT ON THE CERTIFIED BALLOT QUESTION FOR THE PROPOSED AMENDMENT IS FATAL.

A. Section 7-103(b)(6) Imposes Mandatory Content Requirements, and Question 3 Satisfies None of Them.

Election Law § 7-103(b) provides that “[e]ach question *shall* appear on the ballot containing,” among other required elements, “a brief statement explaining what the *practical outcome* of each voting choice would be.” EL § 7-103(b)(6) (emphasis added). “Shall” is mandatory, not aspirational, and this Court has long applied that presumption with particular force to the content and timing requirements of the Election Law. *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).

Question 3 contains no such statement. Nothing in it tells a voter what a “FOR” vote accomplishes or what an “AGAINST” vote preserves. That is no stylistic nicety. Section 7-103(b)(6) codifies an antidote to the precise defect this Court identified fifty years ago in *Anne Arundel County v. McDonough*, 277 Md. 271 (1976)—a ballot question that never discloses the practical consequence of either voting choice.

Appellants have no answer. Their argument rests entirely on the premise that Article XIV and Section 7-105(b)(3) commit ballot language to the General Assembly's unreviewable discretion. That violates both structural statutory interpretation and the notice dimension of due process, withholding from voters what the amendment would really do. That they are empowered to write the question is no defense to a mandatory statutory command; it is a fatal concession.

B. The Question Also Fails the Controlling *McDonough* Standard Because the Average Voter Cannot Determine What the Amendment Does.

The governing standard asks “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 Md., Inc.*, 331 Md. 164, 172 (1993) (quoting *McDonough*, 277 Md. at 296); accord *Stop Slots MD 2008*, 424 Md. at 192. This Court has applied that standard without narrowing it for five decades. See *Pickett v. Prince George’s Cnty.*, 291 Md. 648, 652 (1981); *Surratt v. Prince George’s Cnty.*, 320 Md. 439, 447 (1990); *Town of La Plata v. Faison-Rosewick LLC*, 434 Md. 496 (2013). A ballot question must “be complete enough to convey an intelligent idea of the scope and import of the amendment,” and must not be “clouded by undue detail” or by “misleading tendency, whether of amplification, or omission.” *McDonough*, 277 Md. at 301–02 (quoting *Markus v. Trumbull Cnty. Bd. of Elections*, 22 Ohio St. 2d 197, 202–03 (1970)).

We do not seek a prolix referendum question. But we have a right, as do the people of Maryland, to expect one that does not hide the ball as to the impact of a “FOR” vote.

Question 3 reads in full:

Constitutional Amendment (Ch. 881 of the 2026 Legislative Session (PDF))

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

(E.238) (emphasis in original).

A voter reading that text cannot answer four basic questions: **(1)** which standards are being “clarified;” **(2)** what the clarification does to congressional districts, if the standards no longer reach them; **(3)** why a question about General Assembly districts pivots to the jurisdiction of this Court over the congressional plan, given over to the General Assembly’s option in a future statute; and **(4)** what body of “applicable federal laws” would replace the state standard being displaced?

The answer to the first two questions is the one the ballot especially withholds. The standard at issue is Article III, Section 4 of the Maryland Constitution, which requires that districts “consist of adjoining territory” and “be compact in form.” This is the requirement applied by the Circuit Court for Anne Arundel County in 2022 to invalidate the General Assembly’s prior congressional map. *Szeliga v. Lamone*, No. C-02-CV-21-001816, 2022

WL 2132194 (Md. Cir. Ct. Anne Arundel Cnty. Mar. 25, 2022).⁹ The practical effect of the “clarification” is to remove that constraint from congressional districting, permitting districts joined not by land but only by water across the Chesapeake Bay. For a State defined by that geography, that is not a technical adjustment.

Governor Moore’s Executive Order 01.01.2026.14, which convened the Special Session, described the purpose as “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.” (E.108-110). Even that description does not tell a voter what is being clarified or what follows from it.

The word “clarifies” does precisely the work this Court condemned in *McDonough*. There, the term “rezone” sounded neutral and technical while concealing whether the change “up-graded or downgraded the zoning uses,” leaving voters unable to tell which way the practical consequence cut. 277 Md. at 298–99. “Clarifies” sounds equally neutral while concealing that the practical consequence is the elimination of an existing constitutional constraint. And *McDonough* forecloses the State’s attempted fallback: a year

⁹ Appellants argue that “clarify” is not misleading because *Szeliga* is not binding and two federal courts’ *Erie* guesses came out the other way. Op’ng Br.39-40. Wrong. The State is bound here by *Szeliga*’s holding that Article III, Section 4 of the Maryland Constitution applies to congressional districts, and all elements of judicial and collateral estoppel are met. *See Dashiell v. Meeks*, 396 Md. 149, 171 (2006) (judicial estoppel); *Colandrea v. Wilde Lake Community Ass’n, Inc.*, 361 Md. 371, 392 (2000) (collateral estoppel). *Szeliga* is a Plaintiff-Appellee here, and Defendant-Appellant SBE here also overlaps. Judge Battaglia ruled in her favor; that same question is directly in issue here; and the whole point of the Proposed Amendment is to **unwind** the *Szeliga* judgment. By voluntarily dismissing their appeals, the State Defendants acquiesced in *Szeliga*’s holding. *See Order at 1, Lamone v. Szeliga*, No. COA-REG-65-2021 (Md. Apr. 4, 2022). The State voluntarily made its own bed here.

of pre-enactment news coverage could not substitute for the required content of the ballot question, because such coverage “would not continue to have any informative viability” when the voter reaches the ballot. *Id.* at 305. This Court should likewise reject the State’s suggestion, Op’ng Br.32, that voters do not care because only about 150 people visited the SBE website. Public awareness of the redistricting dispute—through litigation, press, or legislative debate, or inferences from website traffic—cannot cure the omission. Section 7-103(b)(6) requires the statement to appear on the ballot, not to be reconstructed by an unusually diligent voter from outside sources.

C. That Questions 1 and 2 Comply Confirms Both That Compliance Was Feasible and the Purposefulness in the Omission in Question 3.

Questions 1 and 2 on the same ballot each explain what a vote for and against means. Question 3 alone does not. That asymmetry forecloses any impracticability claim—SBE drafted conforming practical-outcome statements twice, on the same schedule—and shows the omission falls where the stakes are highest: eliminating the adjoining-territory and compactness requirements for congressional districts. (E. 430). Pre-election review is least deferential because a correction now still informs voters; a post-election one cannot. *Stop Slots MD 2008*, 424 Md. at 174, 193. Question 3 fails Section 7-103(b)(6) and the clarity standard it codifies. Either ground requires affirmance.

IV. THE CIRCUIT COURT’S DECISION SHOULD ALSO BE AFFIRMED BECAUSE APPELLANTS’ IMPLEMENTATION OF THE PROPOSED AMENDMENT IN HB 2100 ON THE NOVEMBER 2026 GENERAL ELECTION BALLOT VIOLATES THE MARYLAND CONSTITUTION.

Placing the Proposed Amendment on the November 3, 2026 ballot transgresses two constraints the Maryland Constitution imposes on submitting proposed amendments to the

electorate: the single-subject requirement of Article XIV and due process of law.

A. Appellants' Implementation of the Proposed Amendment Violates the Single-Subject Requirement.

The Circuit Court correctly identified the governing rule: “The Maryland constitution requires that a referred question be on a single issue only.” (E.422).

Article XIV, Section 1 is explicit. It permits a single bill to embody one or more Articles of the Constitution only so long as the resulting amendment “embraces only a single subject,” and it separately commands that “[w]hen two or more amendments shall be submitted to the voters of this State at the same election, they shall be so submitted as that each amendment shall be voted on separately.” Md. Const. art. XIV, § 1. Provisions satisfy that standard only where “interlocking concepts” are “so functionally interrelated as to present a single subject;” where they instead “deal with different or dissimilar subjects and seek to reach different objectives,” the General Assembly “must submit these proposals to the electorate so as to allow the electors to vote upon each separately.” *Andrews v. Governor of Maryland*, 294 Md. 285, 296–97, 300 (1982). These commands are “mandatory upon the Legislature,” and a proposal that does not conform to them “should not be submitted to the voters.” *Hillman v. Stockett*, 183 Md. 641, 649 (1944). Their object is to prevent logrolling, which leaves the voter “bound[,] in order to secure the enactment of the provision he favors, to vote for others of which he may disapprove.” *Andrews*, 294 Md. at 292.

The Proposed Amendment bundles two independent changes. It strips congressional districts of Article III, § 4’s compactness, contiguity, and substantially-equal-population

requirements—leaving them to residual federal law—and it separately authorizes the General Assembly to vest original jurisdiction over congressional district review in this Court. *See* (E.422). Neither depends on the other to function; either could stand alone. A voter may favor one change and oppose the other, in either combination, yet must vote the package *en bloc*. *See* (E.435 (so finding)). That is logrolling.

It is also a violation of the separate-vote command in terms: the Proposed Amendment submits, in substance, two amendments at a single election, and Article XIV, Section 1 requires that each be voted on separately. Appellants’ reliance on *Hillman*’s “general subject matter” framing, Op’ng Br.44, cannot rescue provisions that are at most topically related. *Andrews* governs, as does *Kerby v. Luhrs*, cited approvingly there, where voters were “compelled either to reject all three on account of one which they may consider vicious, or else to accept two provisions they disapprove to secure the adoption of one which meets their favor.” 44 Ariz. 208, 222 (1934).

The *Non Obstante* Clause confirms the defect. It addresses a far broader set of rules—jettisoning Election Law provisions wholesale—that plainly deeply impact topics other than congressional districting or original jurisdiction.

In sum, the Proposed Amendment is constitutionally deficient under Article XIV, and this Court should affirm the injunction against its submission to the voters. *See Hillman*, 183 Md. at 649.

B. Appellants’ Implementation of the Proposed Amendment Deprives Appellees and the Rest of Maryland’s Voters of Their Right to Vote Without Due Process of Law.

The Circuit Court also correctly held that Appellants’ implementation of the

Proposed Amendment deprives Appellees and Maryland's other voters of the right to vote without due process of law:

[T]he legislature has *passed laws to codify the ordinary process and procedure* for submitting proposed constitution amendments to the people and *that procedure defines the ordinary due process (notice)* when the people are asked to weigh in on something as important as modifying the state's constitution. Because the legislature did not follow the very laws it enacted, the court finds the enactment of HB2100 to be legally deficient.

(E.420-21) (emphasis added).

Article 24 of the Declaration of Rights forbids depriving any person, "in any manner, . . . of his life, liberty or property, but by the judgment of his peers, or by the Law of the land." Md. Const., Decl. of Rts. art. 24. Article 7 declares that "the right of the People to participate in the Legislature is the best security of liberty," that "elections ought to be free and frequent," and that every qualified citizen "ought to have the right of suffrage." *Id.* art. 7. And Article I, § 7 of the Constitution independently obligates the General Assembly to enact such laws as are necessary to preserve "the purity of Elections." Md. Const. art. I, § 7.

Read together, these provisions guarantee eligible Maryland citizens the right to vote and to participate in the electoral process freely, fairly, and on an equal basis. *See Suessmann v. Lamone*, 383 Md. 697, 710 (2004). Appellees accordingly hold a liberty interest in participating in the November 3, 2026 referendum on the Proposed Amendment, and the State owes them the process due in its exercise. Due process "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."

Ulman v. Baltimore, 72 Md. 587, 593 (1890).

“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). That requirement reaches both the adequacy of the notice given and the sufficiency of the information with which the electorate is provided. *Id.* It binds the Legislature no less than the executive, and “cannot be so construed as to leave [them] free to make any process due process of law by [their] mere will and pleasure.” *Ulman*, 72 Md. at 593.

Maryland law has crystallized those principles into the bright-line rules codified at Sections 7-103 and 7-105. As this Court has explained, the constitutional 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.’” *Stop Slots MD 2008*, 424 Md. at 189 (quoting *McDonough*, 277 Md. at 300). And where election procedures are challenged before the election is held, election officials are required to “do what the law tells them to do,” and a court “will require compliance with their statutorily and constitutionally imposed duty.” *Id.* at 193 (quoting *Dutton v. Tawes*, 225 Md. 484, 491 (1961)). As both Circuit Courts essentially observed, the fair-notice guardrails in Sections 7-103 and 7-105 are ***prophylactic constitutional rules***: compliance is the *per se* guarantee that Maryland voters are not deprived of suffrage without due process whenever they are “asked to weigh in on something as important as modifying the state’s constitution.” (E.420); *see also* (E.433) (Sections 7-103 and 7-105 “establish process and procedure to guarantee the due

process of placing proposed Constitutional amendments on the ballot”). Violation is therefore a due process violation *per se*. See (E.420, E.432-33). We also cannot help but observe that since Maryland protects due process through its Law of the Land Clause, it is especially easy to classify statutes as part of an existing body of law in the land.

Appellants honored none of those rules. The discrete statutory and structural defects identified in Parts II and III, *supra*, are resolvable on the undisputed material facts: Appellants missed the July 1 certification deadline, August 3 summary submission deadline, and August 5 publication deadline, and they dispensed with the 15-day public comment period process and practical outcome statement. Each is independently dispositive. The State ***compounds*** them with an ambiguous and incomprehensible ballot question and a structurally invalid override clause.

The disregard is striking: the same General Assembly re-enacted these very fair-notice procedures in SB 29 just three months earlier, precisely to protect the liberty interest Appellants now propose to extinguish. (E.100-07). The Legislature professed electoral purity and respect for Appellees’ voting rights in SB 29, then sullied both, with Appellants, in enacting and implementing HB 2100.

These defects are neither accidental nor insignificant, as Appellants contend, nor are they harmless error. They are ***constitutional*** injuries. Separately and together, they warrant declaratory and injunctive relief. *Cf. Montgomery Cnty. Comm’rs v. Henderson*, 122 Md. 533, 533–37 (1914) (holding that an injunction had properly issued against holding a special election on a proposed ballot question because the failure to strictly observe procedural fair-notice requirements was a fatal defect).

Because HB 2100 and Appellants' implementation of it contravene constitutional and statutory due process rules that were never validly repealed or rendered inapplicable, they never carried the force or effect of law. They are void *ab initio*, and this Court should affirm the Circuit Court's decision treating them as such.

V. THE CIRCUIT COURT CORRECTLY GRANTED APPELLEES RELIEF AGAINST HB 2100'S PROPOSED AMENDMENT ON THE NOVEMBER 2026 BALLOT.

A. Pre-Election Review Cannot Be Legislated Away.

EL § 12-202 lets voters challenge an election act or omission that “may change or has changed the outcome” of an election. *Ambridge*, 489 Md. at 446. Appellants dispute only whether any applicable law was contravened, arguing that HB 2100 declared the Election Code inapplicable to this referendum. Accepting that argument would let the General Assembly immunize its own noncompliance by reciting “notwithstanding any other provision of law” in any referendum, destroying pre-election review precisely where it is needed most and, once the vote is certified, is least capable of reconstruction.

B. Appellees Meet the Clear-and-Convincing Standard.

Section 12-202(a) requires clear and convincing evidence of “a substantial probability that the outcome would have been different but for the illegality.” *Suessmann*, 383 Md. at 720. The relevant act is the Amendment's placement on the ballot, not, as Appellants suggest, whether 151 website visitors saw it. As this Court held in *Cabrera v. Penate*, ballot placement alone “may change” an election's outcome: presence creates the possibility of passage, and absence assures it cannot pass. 439 Md. 99, 112 (2014). If Question 3 appears on the ballot as Appellants would have it, passage is possible; enjoin

it, and passage is impossible. No survey research or expert modeling on web views is required—the ballot itself supplies the proof, and this suit may determine whether the Amendment can pass at all.

Maryland’s interest in the integrity of its constitutional-amendment process is paramount, because the Amendment would overrule this Court’s compact-and-contiguous construction in *Szeliga v. Lamone* without disclosing that purpose to the voters asked to ratify it—underscoring why relief here, not after the votes are cast, is what Section 12-202 demands.

CONCLUSION

For the foregoing reasons, this Court should affirm the judgment of the Circuit Court for Anne Arundel County.

Dated: September 1, 2026

Respectfully submitted,

/s/ Samuel Everett Dewey

SAMUEL EVERETT DEWEY

(AIS No. 1003040002)

CHAMBERS OF SAMUEL EVERETT DEWEY, LLC

2200 12th Court North Apt. 609

Arlington, VA 22201

Telephone: (410) 207-8513

Email: samueledewey@sedchambers.com

/s/ Kyle Patrick Brosnan

KYLE PATRICK BROSNAN

(AIS No. 1412160110)

THE OVERSIGHT PROJECT

211 North Union Street

Alexandria, VA 22314

Telephone: (845) 674-5589

Email: Kyle@itsyourgov.org

/s/ Jeffrey Bossert Clark, Sr.
JEFFREY BOSSERT CLARK, SR.
(D.C. Bar No. 455315)*
(MDEC Att’y No. 2608261002)
THE OVERSIGHT PROJECT
211 North Union Street
Alexandria, VA 22314
Telephone: (202) 279-1396
Email: Jeff@itsyourgov.org

/s/ Marshall Yates
MARSHALL YATES
(Alabama Bar No. 9600B58E)*
(MDEC Att’y No. 2608281013)
THE OVERSIGHT PROJECT
211 North Union Street
Alexandria, VA 22314
Telephone: (205) 234-0913
Email: Marshall@itsyourgov.org

/s/ Anthony Charles Licata
ANTHONY CHARLES LICATA
(Connecticut Bar No. 446215)**
THE OVERSIGHT PROJECT
211 North Union Street
Alexandria, VA 22314
Telephone: (860) 620-3695
Email: Anthony@itsyourgov.org

/s/ Eric Neal Cornett
ERIC NEAL CORNETT
(D.C. Bar No. 1660201)*
(MDEC Att’y No. 2608261001)
THE OVERSIGHT PROJECT
211 North Union Street
Alexandria, VA 22314
Telephone: (606) 275-0978
Email: Neal@itsyourgov.org

**Specially Admitted Under Rule 19-217*
***Special Admission Pending*
Counsel for Appellees

**CERTIFICATION OF WORD COUNT
AND COMPLIANCE WITH RULE 8-112**

I HEREBY CERTIFY that:

1. This brief is printed in 13-point Times New Roman font and contains 12,965 words, excluding the parts of the brief exempted from the word count by Rule 8-503.
2. This brief complies with the requirements stated in Rule 8-112.

/s/ Samuel Everett Dewey

Samuel Everett Dewey, Counsel for Appellees

CITATION AND VERBATIM TEXT OF PERTINENT AUTHORITIES

Pursuant to Rule 8-504(a)(10), the following provides the citation and verbatim text of all pertinent constitutional provisions, statutes, rules, and regulations not included in Appellants' Brief:

Constitutional Provisions

Md. Const. art. I, § 7.

SEC. 7. The General Assembly shall pass Laws necessary for the preservation of the purity of Elections.

Md. Const. art. III, § 4

SEC. 4. Each 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, § 31

SEC. 31. A Law passed by the General Assembly shall take effect the first day of June next after the session at which it may be passed, unless it be otherwise expressly declared therein or provided for in this Constitution.

Md. Const. art. III, § 49

SEC. 49. The General Assembly shall have power to regulate by Law, not inconsistent with this Constitution, all matters which relate to the Judges of election, time, place and manner of holding elections in this State, and of making returns thereof.

Md. Const. art. III, § 56

The General Assembly shall have power to pass all such Laws as may be necessary and proper for carrying into execution the powers vested, by this Constitution, in any Department, or office of the Government, and the duties imposed upon them thereby.

Md. Const. art. XIV, § 2

[. . .]

SEC. 2. It shall be the duty of the General Assembly to provide by Law for taking, at the general election to be held in the year nineteen hundred and seventy, and every twenty years thereafter, the sense of the People in regard to calling a Convention for altering this Constitution; and if a majority of voters at such election or elections shall vote for a Convention, the General Assembly, at its next session, shall provide by Law for the assembling of such convention, and for the election of Delegates thereto. Each County, and Legislative District of the City of Baltimore, shall have in such Convention a number of Delegates equal to its representation in both Houses at the time at which the Convention is called. But any Constitution, or change, or amendment of the existing Constitution, which may be adopted by such Convention, shall be submitted to the voters of this State, and shall have no effect unless the same shall have been adopted by a majority of the voters voting thereon.

Md. Const. art. XVI, § 2

[. . .]

SEC. 2. No law enacted by the General Assembly shall take effect until the first day of June next after the session at which it may be passed, unless it contains a Section declaring such law an emergency law and necessary for the immediate preservation of the public health or safety and is passed upon a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly. The effective date of a law other than an emergency law may be extended as provided in Section 3 (b) hereof. If before said first day of June there shall have been filed with the Secretary of the State a petition to refer to a vote of the people any law or part of a law capable of referendum, as in this Article provided, the same shall be referred by the Secretary of State to such vote, and shall not become a law or take effect until thirty days after its approval by a majority of the electors voting thereon at the next ensuing election held throughout the State for Members of the House of Representatives of the United States. An

emergency law shall remain in force notwithstanding such petition, but shall stand repealed thirty days after having been rejected by a majority of the qualified electors voting thereon. No measure changing the salary of any officer, or granting any franchise or special privilege, or creating any vested right or interest, shall be enacted as an emergency law. No law making any appropriation for maintaining the State Government, or for maintaining or aiding any public institution, not exceeding the next previous appropriation for the same purpose, shall be subject to rejection or repeal under this Section. The increase in any such appropriation for maintaining or aiding any public institution shall only take effect as in the case of other laws, and such increase or any part thereof specified in the petition, may be referred to a vote of the people upon petition.

Md. Const., Decl. of Rts. art. 7

Art. 7. 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.

Md. Const., Decl. of Rts. art. 8

Art. 8. That the Legislative, Executive and Judicial powers of Government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said Departments shall assume or discharge the duties of any other.

Md. Const., Decl. of Rts. art. 24

Art. 24. That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, 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.

Statutes

Md. Code Ann., Elec. Law § 1-101. Definitions.

(a) In this article the following words have the meanings indicated unless a different meaning is clearly intended from the context.

(b) “Absentee ballot” means a ballot not used in a polling place.

(b-1) “Active duty” has the meaning stated in § 9-901 of the State Government Article.

(b-2) “Address confidentiality program” means the Address Confidentiality Program administered by the Secretary of State under Title 7, Subtitle 3 of the State Government Article.

(b-3) “Administrative policy affecting voting rights” means any action relating to voter registration, provisional voting, absentee voting, or the location of a polling place or early voting center.

(c) “Authorized candidate campaign committee” means a political committee established under Title 13 of this article and authorized by a candidate to promote the candidate's candidacy.

(d)(1) “Ballot” or “official ballot” includes:

- (i) an absentee ballot;
- (ii) a provisional ballot;
- (iii) a document ballot; or
- (iv) a voting machine ballot.

(2) “Ballot” or “official ballot” does not include:

- (i) a sample ballot; or
- (ii) a specimen ballot.

(d-1) “Ballot drop box” means a secure, durable, and weatherproof container that is officially designated by a local board or the State Board exclusively for voters to deposit election-related materials in person, including:

- (1) absentee ballots;

- (2) absentee ballot applications; and
 - (3) voter registration applications.
- (e) “Ballot face” means a single side of a sheet on which are printed some or all of the contests to be voted on by a voter.
- (f) “Ballot issue committee” means a political committee that is formed to promote the success or defeat of a question or prospective question to be submitted to a vote at an election.
- (g) “Ballot style” means a unique aggregation of contests that make up the ballot for a particular group of voters identified by common characteristics of residence location, party affiliation, or both.
- (h) “Campaign finance entity” means a political committee established under Title 13 of this article.
- (i) “Campaign finance report” means a report, statement, affidavit, or other document that is:
- (1) authorized or required under this article;
 - (2) related to the campaign finance activities of a campaign finance entity or to expenses associated with a legislative newsletter; and
 - (3) filed or submitted on a form prescribed by the State Board under this article.
- (j) “Campaign manager” means a person designated by a candidate, or the candidate's representative, to exercise general overall responsibility for the conduct of the candidate's political campaign.
- (k)(1) “Campaign material” means any material that:
- (i) contains text, graphics, or other images;
 - (ii) relates to a candidate, a prospective candidate, or the approval or rejection of a question or prospective question; and
 - (iii) is published, distributed, or disseminated.
- (2) “Campaign material” includes:
- (i) a qualifying paid digital communication;

- (ii) any other material transmitted by or appearing on the Internet or other electronic medium;
- (iii) an oral commercial campaign advertisement; and
- (iv) an automated or prerecorded oral communication.

(l)(1) “Candidate” means an individual who files a certificate of candidacy for a public or party office.

(2) “Candidate” includes:

- (i) an incumbent justice of the Supreme Court of Maryland or Appellate Court of Maryland at an election for continuance in office; and
- (ii) an individual, prior to that individual filing a certificate of candidacy, if a campaign finance entity has been established on behalf of that individual.

(l-1)(1) “Central committee” means a political committee for a political party established under Title 4 of this article.

(2) “Central committee” includes a political committee for a political party that engages in campaign finance activity that is subject to Title 13 of this article.

(m)(1) “Contest” means:

- (i) the aggregate of candidates who run against each other or among themselves for nomination for, or election to, an office or multiple offices of the same category; or
- (ii) the positive and negative voting options for a question submitted to the voters.

(2) “Contest” includes, in a general election for an office, the write-in option.

(n) “Continuing political committee” means a political committee that is permitted to continue in existence from year to year.

(o)(1) “Contribution” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a campaign finance entity to:

- (i) promote or assist in the promotion of the success or defeat of a candidate, political party, question, or prospective question; and
- (ii) assist in the payment of expenses associated with contesting an election under Title 12 of this article.

(2) “Contribution” includes:

- (i) proceeds from the sale of tickets to a campaign fund-raising event; and
- (ii) a coordinated expenditure as defined in § 13-249 of this article.

(3) “Contribution” does not include the costs associated with the establishment, administration, or solicitation of voluntary contributions to a political action committee established by a corporation, limited liability company, general partnership, limited partnership, membership organization, trade association, cooperative, or corporation without capital stock as long as the political action committee only solicits contributions from employees of the organization that established the political action committee, or members of the organization that established the political action committee, and the employees or members are participating in a payroll deduction program established by the employer of the employee or member.

(p) “County” means a county of the State or Baltimore City.

(q) “Disabled” means having a temporary or permanent physical disability.

(r)(1) “Distributor” means a person engaged for profit in the distribution of campaign material by hand delivery or direct mail.

(2) “Distributor” does not include salaried employees, agents, or volunteers of the person.

(s)(1) “Document ballot” means a ballot used with a voting system in which the voter individually is issued a ballot on which to indicate one or more votes.

(2) “Document ballot” includes:

- (i) a machine-read ballot, such as an optically scanned ballot; and
- (ii) a hand-counted paper ballot.

(t) “Driver's license” includes an identification card issued by the Motor Vehicle Administration.

(u) “Elderly” means 65 years of age or older.

(v)(1) “Election” means the process by which voters cast votes on one or more contests under the laws of this State or the United States.

(2) “Election” includes, unless otherwise specifically provided in this article, all general elections, primary elections, and special elections.

- (3) “Election” does not include, unless otherwise specifically provided in this article, a municipal election other than in Baltimore City.
- (w) “Election cycle” means the period that begins on the January 1 that follows a gubernatorial election and continues until the December 31 that is 4 years later.
- (x) “Election register” means the list of voters eligible to vote:
- (1) in a precinct on election day; or
 - (2) in a county early voting center during early voting.
- (y) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (z) “Electronic storage format” means a computer disk or other information storage and retrieval medium approved by the State Board.
- (aa) “Expenditure” means a gift, transfer, disbursement, or promise of money or a thing of value by or on behalf of a campaign finance entity to:
- (1) promote or assist in the promotion of the success or defeat of a candidate, political party, question, or prospective question at an election;
 - (2) pay expenses associated with contesting an election under Title 12 of this article; or
 - (3) pay for the publication expense of a legislative newsletter under Title 13, Subtitle 4 of this article.
- (aa-1) “Historically disenfranchised communities” means racial, ethnic, or socioeconomic groups that have historically been subject to voter suppression efforts.
- (bb)(1) “Independent expenditure” means a gift, transfer, disbursement, or promise of money or a thing of value by a person expressly advocating the success or defeat of a clearly identified candidate or ballot issue if the gift, transfer, disbursement, or promise of money or a thing of value is not made in coordination, cooperation, consultation, understanding, agreement, or concert with, or at the request or suggestion of, a candidate, a campaign finance entity of a candidate, an agent of a candidate, or a ballot issue committee.
- (2) For purposes of this subsection, “clearly identified” means:
- (i) the name of the candidate appears;

(ii) a photograph or drawing of the candidate appears; or

(iii) the identity of the candidate or ballot issue is apparent by unambiguous reference.

(bb-1) “Institution of higher education” has the meaning stated in § 10-101 of the Education Article.

(bb-2) “Legislative party caucus committee” means a political committee that is established to promote the election of candidates of a single political party to one of the two Houses of the General Assembly.

(cc) “Local board” means a county board of elections.

(dd) “Majority party” means the political party to which the incumbent Governor belongs, if the incumbent Governor is a member of a principal political party. If the incumbent Governor is not a member of one of the two principal political parties, “majority party” means the principal political party whose candidate for Governor received the highest number of votes of any party candidate at the last preceding general election.

(dd-1) “Online platform” means any public-facing website, web application, or digital application, including a social network, ad network, or search engine, that:

(1) has 100,000 or more unique monthly United States visitors or users for a majority of months during the immediately preceding 12 months; and

(2) receives payment for qualifying paid digital communications.

(ee) “Partisan organization” means a combination of two or more individuals formed for the purpose of organizing a new political party.

(ff) “Political action committee” means a political committee that is not:

(1) a political party;

(2) a central committee;

(3) a slate;

(4) a legislative party caucus committee;

(5) an authorized candidate campaign committee; or

(6) a ballot issue committee.

(gg) “Political committee” means a combination of two or more individuals that has as its major purpose promoting the success or defeat of a candidate, political party, question, or prospective question submitted to a vote at any election.

(hh) “Political party” means an organized group that is qualified as a political party in accordance with Title 4 of this article.

(hh-1) “Polling place” means a physical space inside a building where in-person voting is conducted on election day.

(ii) “Precinct” includes:

- (1) an election district in a county that is not divided into precincts;
- (2) an election precinct in an election district that is divided into precincts; or
- (3) a precinct in a ward of the City of Baltimore.

(ii-1) “Precinct polling place” means a polling place designated to serve a precinct.

(jj) “Principal minority party” means the principal political party whose candidate for Governor received the second highest number of votes of any party candidate at the last preceding general election.

(kk) “Principal political parties” means the majority party and the principal minority party.

(ll) “Provisional ballot” means a ballot that is cast by an individual but not counted until the individual's qualifications to vote have been confirmed by the local board.

(ll-1) “Qualifying paid digital communication” means any electronic communication that:

- (1) is campaign material;
- (2) is placed or promoted for a fee on an online platform;
- (3) is disseminated to 500 or more individuals; and
- (4) does not propose a commercial transaction.

(mm) “Responsible officers” means the chairman and treasurer of a political committee.

(nn) “Sample ballot” means a facsimile of a ballot used for informational purposes by a person or entity other than a local board.

(oo) “Slate” means a political committee of two or more candidates who join together to conduct and pay for joint campaign activities.

(pp) “Specimen ballot” means a facsimile of a ballot used by a local board to provide notice to registered voters of the contents of the ballot.

(qq) “State Administrator” means the State Administrator of Elections.

(rr) “State Board” means the State Board of Elections.

(ss) “Transfer” means a monetary contribution that is made by one campaign finance entity to another campaign finance entity, other than one made by or to a political club.

(tt) “Treasurer” means an individual appointed in accordance with Title 13, Subtitle 2 of this article.

(tt-1) “Uniformed services” has the meaning stated in § 9-901 of the State Government Article.

(uu) “Vote” means to cast a ballot that is counted.

(vv) “Voting machine” includes:

(1) a mechanical lever machine; and

(2) a direct recording electronic voting device.

(ww) “Voting machine ballot” means a ballot posted on or in the voting machine and referred to by the voter to indicate the voting locations for each contest.

(xx) “Voting system” means a method of casting and tabulating ballots or votes.

(yy) “Write-in candidate” means an individual whose name will not appear on the ballot but who files a certificate of candidacy in accordance with § 5-303 of this article.

(zz) “Write-in vote” means a vote cast, in a contest at a general election, for an individual whose name is not on the ballot for that contest.

Md. Code Ann., Elec. Law § 9-207. Certification, display, and printing of ballots

(a) The State Board shall certify and publicly display the content and arrangement of each ballot:

- (1) for a primary election, at least 64 days before the election;
 - (2) for a general election, at least 64 days before the election;
 - (3) for a special primary election, at least 55 days before the election; and
 - (4) for a special general election, not later than a date specified in the Governor's proclamation.
- (b) The Supreme Court of Maryland, on petition of the State Board, may establish a later date in extraordinary circumstances.
- (c) The State Board shall publicly display the content and arrangement of each certified ballot on its website.
- (d) Except pursuant to a court order under § 9-209 of this subtitle, or as provided in § 9-208 of this subtitle, the content and arrangement of the ballot may not be modified after the second day of the public display.
- (e) Unless a delay is required by court order, the State Board may begin to print the ballots after certification and 3 days of public display and correct any noted errors.
- (f) The certification of a ballot under this section that includes a question may not be construed to be a certification of the ballot language required to be included on the ballot under § 7-103 of this article, including the plain language condensed statement required under § 7-103(b)(4) of this article.

Md. Code Ann., Elec. Law § 12-204. Judgment of court

- (a) The court may provide a remedy as provided in subsection (b) or (c) of this section if the court determines that the alleged act or omission materially affected the rights of interested parties or the purity of the elections process and:
- (1) may have changed the outcome of an election already held; or
 - (2) may change the outcome of a pending election.
- (b) If the court makes an affirmative determination that an act or omission was committed that changed the outcome of an election already held, the court shall:
- (1) declare void the election for the office or question involved and order that the election be held again at a date set by the court; or
 - (2) order any other relief that will provide an adequate remedy.

(c) If the court makes an affirmative determination that an act or omission has been committed that may change the outcome of a pending election, the court may:

(1) order any relief it considers appropriate under the circumstances; and

(2) if the court determines that it is the only relief that will provide a remedy, direct that the election for the office or question involved be postponed and rescheduled on a date set by the court.

(d) A determination of the court under subsection (a) of this section shall be based on clear and convincing evidence.

Md. Code Ann., Cts. & Jud. Proc. § 3-409. Declaratory judgments or decrees.

(a) Except as provided in subsection (d) of this section, a court may grant a declaratory judgment or decree in a civil case, if it will serve to terminate the uncertainty or controversy giving rise to the proceeding, and if:

(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.

(b) If a statute provides a special form of remedy for a specific type of case, that statutory remedy shall be followed in lieu of a proceeding under this subtitle.

(c) A party may obtain a declaratory judgment or decree notwithstanding a concurrent common-law, equitable, or extraordinary legal remedy, whether or not recognized or regulated by statute.

(d) Proceeding by declaratory judgment is not permitted in any case in which divorce or annulment of marriage is sought.

(e) A court may order a speedy hearing of an action of a declaratory judgment and may advance it on the calendar.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 1st day of September, 2026, a copy of the foregoing was filed and served electronically via the MDEC system on all persons entitled to service, including:

Daniel M. Kobrin
Assistant Attorney General
Office of the Attorney General
200 Saint Paul Place, 20th Floor
Baltimore, Maryland 21202
Telephone: (410) 576-6472
Email: dkobrin@oag.maryland.gov
Counsel for Appellants

/s/ Samuel Everett Dewey
Samuel Everett Dewey, Counsel for Appellees

