

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

NO. 73 MM 2022

**TOM WOLF, Governor of the Commonwealth of Pennsylvania, and
LEIGH M. CHAPMAN, Acting Secretary of the Commonwealth of
Pennsylvania**

Petitioners,

v.

**GENERAL ASSEMBLY OF THE
COMMONWEALTH OF PENNSYLVANIA,**

Respondent.

**RESPONDENT'S ANSWER TO APPLICATION FOR LEAVE TO
INTERVENE BY THE LEAGUE OF WOMEN VOTERS OF
PENNSYLVANIA, SAJDA ADAM AND SIMONE ROBERTS**

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Respondent General Assembly of Pennsylvania submits this Answer in Opposition to the Application for Leave to Intervene as co-Petitioners by the League of Women Voters of Pennsylvania (“**League**”), Sajda Adam, and Simone Roberts (collectively, “**Proposed Intervenors**”) and in support, state as follows.

I. INTRODUCTION

Proposed Intervenors’ Application mimics Petitioners’ defective protests about the General Assembly’s constitutionally authorized internal procedures and proposed constitutional amendments that may never be submitted to the electorate. Proposed Intervenors do not stop there. They tempt this Court with an inventive but fallacious hook: the *original* language—enacted in 1968—of Article VII, section 1 (Qualification of Electors), which restricted voting to “every citizen 21 years of age”¹ and established 90- and 60-day residency voting requirements. But SB 106 does nothing to this original language; it only adds a subsection “(A).” *See* SB 106, PN 1857, 4:1–15. *Compare id. with id.* at 4:16–5:1. In other words, even if SB 106 never sees the light of another day, Article VII, section 1’s original language will remain selfsame.

¹ Article VII, section 1 was superseded by the Twenty-Sixth Amendment of the United States Constitution in 1971 and modified by Section 701 of the Election Code, 25 P.S. § 2811, that same year.

In sum, through the radical distortion of the language and effect of SB 106, Proposed Intervenors conjure an injury where there is none. But hypothetical injuries cannot serve as the basis to obstruct the constitutionally authorized internal proceedings of the General Assembly. Proposed Intervenors' Application should be denied.

II. BACKGROUND

On July 28, 2022, Petitioners initiated this action by filing an Application for Invocation of King's Bench Power seeking a declaration that Senate Bill 106 of 2021² is invalid along with attendant injunctive relief. In early August, each caucus of the Senate and the House and their leaders sought leave to intervene. On August 18, 2022, each application for leave to intervene was denied. From there, the Court authorized *amici curiae* submissions on or before August 24, 2022. Respondent answered the Application for King's Bench on August 17, 2022. Proposed Intervenors applied for leave to intervene as co-petitioners on August 19, 2022.

² Printer's No. 1857.

III. ARGUMENT

A. **Proposed Intervenors Do Not Satisfy the Requirements for Intervention Under Pa. R.C.P. 2327**

Pennsylvania Rule of Civil Procedure 2327 authorizes intervention by a non-party where:

- (1) the entry of a judgment in such action or the satisfaction of such judgment will impose any liability upon such person to indemnify in whole or in part the party against whom judgment may be entered; or
- (2) such person is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof; or
- (3) such person could have joined as an original party in the action or could have been joined therein; or
- (4) the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action.

Pa. R.C.P. 2327. Proposed Intervenors seek to intervene under subsections (3) and (4). Impressively, Proposed Intervenors' alleged interests are by turns premature *and* long overdue. On the one hand, Proposed Intervenors challenge proposed constitutional amendments that may never be submitted to voters; on the other hand, they lodge a facial challenge to an existing constitutional provision that was superseded over half a century ago.

Proposed Intervenors argue that the proposed constitutional amendment in SB 106—requiring, *inter alia*, that qualified electors display identification—“asks

Pennsylvania voters to affirm” preexisting, but long superseded, language in Article VII, section 1. Appl. to Intervene ¶ 20. But SB 106 does no such thing. *See also id.* ¶ 25 (“[T]here are no changes to the actual language regarding voting and residency[.]”) And Proposed Intervenors likewise ignore that (1) the proposed constitutional amendment(s) in SB 106 has not been passed by the General Assembly a second time; (2) even if it does pass a second time, the electorate will be presented with a ballot question on the discrete constitutional change;³ and (3) the electorate will have access to the Plain English Statements that explaining the ballot question in lay terms. Proposed Intervenors’ misapprehension of the language and effect of SB 106 and Article XI, section 1’s proposed constitutional amendment process doom their attempted intervention under Pa. R.C.P. 2327.

1. Proposed Intervenors Lack Standing

Because they seek to intervene solely to advocate for an impermissible advisory opinion, Proposed Intervenors’ Application fails at the threshold. Recognizing Pennsylvania’s “jurisprudential approach that eschews advisory or abstract opinions,” a party, or a proposed intervenor seeking party status, must first demonstrate “that he or she has standing to bring an action.” *Markham v. Wolf*, 136 A.3d 134, 140 (Pa. 2016). In order to satisfy the prerequisites of Pa. R.C.P. 2327(3)

³ *See, e.g., Exhibit A* (containing the text of the ballot questions and the Attorney General’s plain English statements that were submitted to the electorate before the April 2016 primary election).

or (4), a litigant must have standing. This requires that a litigant be aggrieved—i.e., showing “a substantial, direct and immediate interest in the outcome of the litigation.” *Fumo v. City of Phila.*, 972 A.2d 487, 496 (Pa. 2009). As explained by this Court:

To have a substantial interest, the concern in the outcome of the challenge must surpass the common interest of all citizens in procuring obedience to the law. An interest is direct if it is an interest that mandates demonstration that the matter caused harm to the party interest. Finally, the concern is immediate if that causal connection is not remote or speculative. The keystone to standing in these terms is that the person must be negatively impacted in some real and direct fashion.

Markham, 136 A.3d at 140 (internal citations and quotation omitted).

As this Court declared in *Pa. Prison Soc’y v. Commonwealth*, “[t]he ***amendment process is a system entirely complete in itself, requiring no extraneous aid, either in matters of detail or of general scope to its effectual execution.***” 776 A.2d 971, 981 (Pa. 2001) (quoting *Com. ex rel. Att’y General v. Griest*, 46 A. 505, 506 (Pa. 1900)) (emphasis added). Given that the General Assembly strictly complied with the explicit requirements of Article XI, section 1, as discussed below, Proposed Intervenors cannot plausibly assert they suffered concrete harm. As a result, Proposed Intervenors’ alleged interests—including a dressed-up facial challenge to Article VII, section 1—are indistinguishable from a generalized interest of the public at large. *See, e.g., Common Cause v. Pennsylvania*, 558 F.3d 249, 262 (3d Cir. 2009) (“[A]llegations, which challenge the legislative process, are

insufficient to allege more than a generalized, abstract grievance, shared by all Pennsylvania citizens.”) And, even then, that interest, and the alleged harm, if any, is “at best conjectural” and cannot serve as the basis for intervention. *In re Pa. Crime Com*, 309 A.2d 401, 407 (Pa. 1973).

a. Proposed Intervenors Have Suffered No Injury

Voters know how state representatives voted on SB 106 so Proposed Intervenors lack standing to challenge SB 106 because no injury, or risk of injury, exists. Proposed Intervenors claim a deprived interest in “how their representatives voted on each of the proposed constitutional amendments . . . [i]n direct contravention” of Article XI, section 1. Appl. to Intervene ¶ 37; *see also id.* ¶ 9. But there is no right to know how one’s state representative voted on each proposed constitutional amendment in SB 106 (or any bill). *See, e.g.,* Resp’t Answer,⁴ Part III.A.1. Put another way, the so-called separate vote requirement applies only to ballot questions that have been submitted to the electorate—not proposed constitutional amendments in the General Assembly. *See Sprague v. Cortes*, 145 A.3d 1136, 1154 (Pa. 2016) (Article XI, section 1 requires that “discrete amendments must be submitted individually to the voters, a requirement which ensures that only specific and narrow ballot questions will be presented to the people for their approval.”); *Pa. Prison Soc’y v. Commonwealth*, 776 A.2d 971, 981 (Pa.

⁴ Respondent’s Answer to Petitioners’ Application for King’s Bench.

2001) (the separate vote requirement of Article XI, section 1 “entails an examination of whether two or more amendments have been submitted to the electorate.”).

And for good measure, a right that voters do have under Article XI, section 1—the right to know how Members of the General Assembly voted on a joint resolution proposing multiple constitutional amendments—was fully realized when the yeas and nays were taken. See Pa. Const. art. XI, § 1 (“[S]uch proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon.”). Because Article XI, section 1 is “equally devoid of any right or authority to intervene, derived from any source whatever,” *Griest*, 46 A. at 506, and the General Assembly strictly complied with its constitutional obligations, Proposed Intervenors have failed to establish a cognizable legal interest meriting intervention under Pa. R.C.P. 2327.

b. Proposed Intervenors’ Objections Are Conjectural

Turning now to Proposed Intervenors’ complaints about one proposed constitutional amendment—they are sheer speculation. As set forth at length in Respondent’s Answer to Petitioners’ Application for King’s Bench, submission to the electorate of the proposed constitutional amendments in SB 106 is purely theoretical. That is because: (1) the next General Assembly has not yet been elected, sworn in, and seated; (2) it is not known if the proposed constitutional amendments will be proposed again; (3) it is not known if the proposed constitutional

amendments will be proposed together again in a single joint resolution; and (4) it is not known if the proposed constitutional amendments will successfully pass through the next General Assembly.

The cases relied on by Proposed Intervenors to establish either association or individual standing provide them little aid. Each case involved a concrete injury caused by a fully enacted law or constitutional amendment no longer before a legislative body or by an executive official's actions contrary to preexisting law. *See Nat'l Election Def. Coal. v. Boockvar*, 266 A.3d 76 (Pa. Cmwlth. 2021) (involving certification of the electronic voting machines for use in Pennsylvania elections because the certification potentially violated multiple provisions of the Election Code and the state constitution); *Applewhite v. Commonwealth*, 2014 Pa. Commw. Unpub. LEXIS 756 (Pa. Cmwlth. Jan. 17, 2014) (challenging Act 18 of 2012 which required voter identification for in-person voting); *Arcia v. Fla. Sec'y of State*, 772 F.3d 1335 (11th Cir. 2014) (addressing propriety of a state executive official's actions *vis-à-vis* federal law); *Common Cause/Ga. v. Billups*, 554 F.3d 1340, 1351–52 (11th Cir. 2009) (addressing whether a Georgia statute requiring voter identification unduly burdened the right to vote); *Fla. State Conf. of N.A.A.C.P. v. Browning*, 522 F.3d 1153, 1165–66 (11th Cir. 2008) (challenging a Florida voter registration statute as being preempted by two different federal statutes); *League of Women Voters of Ohio, et al. v. Brunner*, 548 F.3d 463 (6th Cir. 2008) (challenging

executive officials' failure to promulgate, adopt, and enforce uniform standards related to allegedly unconstitutional aspects of Ohio's election system); *Thorsted v. Gregoire*, 841 F. Supp. 1068 (W.D.Wash.1994) (challenging constitutionality of a state law designed to set term limits upon incumbents to the U. S. Senate and House of Representatives); *U.S. Term Limits, Inc. v. Hill*, 872 S.W.2d 349 (Ark. 1994) (questioning validity an amendment to the Arkansas Constitution, which established limitations on the eligibility of candidates for the U.S. Senate and House of Representatives); *League of Women Voters v. Eu*, 7 Cal.App.4th 649 (Ct. App. 1992) (addressing whether voter initiative legislation would violate the state constitution).

Not so here. Likewise, no court found that an unpassed bill's theoretical risk of future injury sufficed to establish standing. No court found that either associations or individuals had standing to enjoin the internal deliberations of the legislature before a statute's enactment. No court found that either associations or individuals had standing to enjoin the passage of a statute, much less a proposed constitutional amendment. Proposed Intervenor's cite no case that would allow this Court to issue an advisory opinion about a purely hypothetical future injury.

Because the alleged harm is both too "remote and speculative," Proposed Intervenor's have failed to establish the standing necessary to pursue intervention under Pa. R.C.P. 2327.

c. There Is No Right to Relief for Potential Voter Confusion

Proposed Intervenors posit that “the potential for voter confusion is plain.” Appl. to Intervene ¶ 17. This position betrays Proposed Intervenors’ confusion about what the electorate votes on when voting on a constitutional amendment submitted as a ballot question. Proposed Intervenors suggest that if the proposed constitutional amendments in SB 106 eventually become ballot questions submitted to the electorate, then the electorate will expressly vote on the actual, technical language of amended Article VII, section 1. This is patently false. In truth, the General Assembly determines the technical amended wording of constitutional amendments; the electorate votes on the proposed change as formulated by the ballot question. *Sprague v. Cortes*, 145 A.3d 1136, 1142 (Pa. 2016) (“Specifically, our founders wisely delegated to the General Assembly the task of determining how voters decide on, and the ultimate amended wording of, constitutional amendments. The General Assembly, in its wisdom, delegated to the Secretary of the Commonwealth the task of formulating the ballot question, which informs the voters of the legislature’s proposed constitutional language.”)

That is not all. Within the many steps that must occur before there is even a risk of aggrievement are two requirements that condemn Proposed Intervenors’ notion of voter confusion: the drafting of the ballot question by the Secretary of the Commonwealth, and the “plain English” explanation of the proposed constitutional

amendment by the Attorney General. If any or all of the proposed constitutional amendment in SB 106 are proposed in one of the two chambers of the General Assembly next session, then considered and passed by a majority of each chamber for submission to the electorate, the Secretary of the Commonwealth would be tasked to draft a ballot question that “fairly, accurately, and clearly apprise[s] the voter of the question or issue on which the electorate must vote.” *Id.* at 1141. And, any “potential for voter confusion” is addressed more by the Attorney General’s drafting of a “statement in plain English,” explaining the ballot question’s “purpose, limitations and effects.” 25 P.S. § 2621.1. That explanation would be published as a part of the required notice and posted—in triplicate, at least—at every voting room along with “specimen ballots” and instructions. *Id.*; *see, e.g., Sprague*, 145 A.3d at 1144 (“[T]he ballot question as worded by the Secretary, in conjunction with the Attorney General’s Plain English Statement, ensures that voters will receive all the information that they need to make an informed choice: the proposed constitutional language in the ballot question, and the purpose and effect of such language in the Plain English Statement.”);⁵ **Exhibit A** (containing the text of the ballot questions

⁵ Though Proposed Intervenors’ reliance on TikTok in support of its notional claims of voter confusion may be a stylish sign of the times, *see* Proposed Pet. for Review, ¶ 20, it is hardly an actionable basis under any circumstance, and especially where there is a statutorily prescribed procedure carefully designed to thwart voter confusion.

and the Attorney General’s plain English statements that were submitted to the electorate before the April 2016 primary election).

In the end, Proposed Intervenors’ apparent lack of faith in these tried-and-true statutory fail-safes afford them no right to relief.

B. The Factors in Pa. R.C.P. 2329 Weigh Against Intervention

Even if Proposed Intervenors could satisfy a basis for intervention under Rule 2327 (they cannot), the “right to intervene is not absolute.” *Acorn Dev. Corp. v. Zoning Hearing Bd.*, 523 A.2d 436, 437 (Pa. 1987); *see also Wilson v. State Farm Mut. Auto. Ins. Co.*, 517 A.2d 944, 947 (Pa. 1986) (“[A] mere prima facia basis for intervention is not enough.”). The Court should deny the Application to Intervene under Rule 2329 because any purported interest alleged is adequately represented by the existing parties. *See* Pa. R.C.P. No. 2329(2).

Proposed Intervenors claim that their interests are not adequately represented for two reasons. First, because the interests of individuals can diverge from the interests of elected officials, *see* Appl. to Intervene ¶ 47; and, second, because Ms. Adam and Ms. Roberts are “the only litigants whose right to vote based on age is at stake.” *Id.* ¶ 48. In order to even plead the existence of a hypothetical divergence of interests, however, Proposed Intervenors misstate the contents of Petitions’ Application for King’s Bench and SB 106. But unlike the parties in *Larock v. Sugarloaf Twp. Zoning Hr’g Bd.*, 740 A.2d 308, 314 (Pa. Commw. 1999), which

held divergent “goals,” Petitioners’ and Proposed Intervenors’ goals are the same—to enjoin the General Assembly from taking further action on SB 106. *Compare* Pet’rs Appl. 2 (requesting that this Court declare SB 106 invalid and enjoin further action by the General Assembly) *with* Appl. to Intervene ¶ 50 (“The Applicants seek the relief Petitioners requested in the King’s Bench Petition[.]”). And, contrary to Proposed Intervenors’ misbegotten sensationalism, SB 106 does not amend the original age limitation in Article VII, section 1 and so the right to vote of any age group is unaffected. Indeed, Proposed Intervenors overtly admit this fact. Appl. to Intervene, ¶ 25 (“[T]here are no changes to the actual language regarding voting and residency[.]”); *id.*, Ex. 1, Proposed Pet. for Review ¶ 49 (acknowledging that “the Twenty-Sixth Amendment superseded Pennsylvania’s established voting age of 21 as set forth in Article VII, § 1 of the Pennsylvania Constitution.”).

What is more, Proposed Intervenors conveniently ignore that Governor Wolf and Acting Secretary Chapman brought their claims in both their official and individual voter capacities (even if they suffer from the same infirmities about standing as Proposed Intervenors). And because SB 106 poses no threat to the vote of 18- to 20-year-old Pennsylvanians, Ms. Adam and Ms. Roberts have no divergent interests from other voters regardless of their age. Thus, and if anyone can assert a legally cognizable interest in a speculative injury, there can be no dispute that

Petitioners, acting in their individual voter capacity, already more than adequately represent the individual Proposed Petitioners.

* * * * *

Proposed Intervenors posit a superficially gripping narrative of voter confusion regarding SB 106’s effect on the long-dormant text of Article VII, section 1. But this narrative fizzles out—and it is ultimately extinguished by Proposed Intervenors’ admission that SB 106 makes “no changes to the actual language regarding voting and residency[.]” Appl. to Intervene ¶ 25. And even accepting the faulty premise that voter confusion can exist—despite the statutory mechanisms enacted to mitigate it on the ballot—Proposed Intervenors have only a remote future injury conditioned on a hypothetical event. Having suffered no injury, Proposed Intervenors have no place here, and their Application should be denied.

IV. ANSWER TO APPLICATION FOR LEAVE TO INTERVENE

1. It is admitted that the General Assembly of the Commonwealth of Pennsylvania passed SB 106 on July 8, 2022. It is further admitted that SB 106 is a joint resolution that proposes five separate and distinct amendments to the Pennsylvania Constitution. Proposed Intervenors’ characterizations are denied.

2. Admitted in part, denied in part. It is admitted that the amendments proposed in SB 106 encompass multiple topics. By way of further response, the

avermments of this Paragraph relate to writings, which speak for themselves, and any inconsistent characterization is denied.

3. Admitted only that Governor Wolf and Acting Secretary of the Commonwealth Leigh M. Chapman applied for Invocation of King’s Bench Power on July 28, 2022. Proposed Intervenors’ characterization of it is expressly denied. By way of further answer, the General Assembly—the only branch of government granted the constitutional authority to propose amendments to the Commonwealth’s chartering document—properly passed SB 106 under its internal rules and procedures and those set forth by Article XI, section 1 of the Pennsylvania Constitution.

4. Admitted, by information and belief.

5. Respondent is without knowledge or information sufficient to form a belief as to how the League spends its resources, and thus Paragraph 5 is denied.

6. Respondent is without knowledge or information sufficient to form a belief as to the League’s goals and thus this allegation is denied.

7. Respondent is without knowledge or information sufficient to form a belief as to who or what the League supports (or does not support), and thus Paragraph 7 is denied.

8. Admitted in part, denied in part. While it is admitted, upon information and belief, that the League has members in the Commonwealth, it is expressly denied that this litigation is a forum in which it may participate to advance voting interests.

9. Denied. First, Proposed Intervenors lack any aggrievement. The General Assembly properly passed SB 106 consistent with its constitutional authority and internal rules and procedures, and any purported injury caused by proposed constitutional amendments that may never be submitted to the electorate is purely speculative. Second, Proposed Intervenors' notional allegation of potential voter confusion is premature and founded upon a misapprehension of SB 106 and the constitutional amendment process.

10. Respondent is without knowledge or information sufficient to form a belief as to how the League spends its time and money, and thus paragraph 10 is denied. By way of further answer, Proposed Intervenors' notional allegation of potential voter confusion is premature and founded upon a misapprehension of SB 106 and the constitutional amendment process.

11. While it is admitted that the League seeks to intervene, it is denied that it seeks to do so for legally enforceable interests.

12. Respondent is without knowledge or information sufficient to form a belief as to Ms. Adam's residency or age and thus these allegations are denied. It is

further expressly denied that Ms. Adam’s fundamental right to vote would be impacted by the disposition of this litigation.

13. Respondent is without knowledge or information sufficient to form a belief as to Ms. Roberts’s residency or age, and therefore these allegations are denied. It is further expressly denied that the disposition of this litigation would impact Ms. Roberts’s fundamental right to vote.

14. While it is admitted that Proposed Intervenors raise a facial challenge to the text of Article VII, section 1, it is denied that SB 106 will confuse voters. Indeed, Proposed Intervenors’ prognostications reveal the prematurity of their claims. That is, any risk of voter confusion will be averted by the Secretary’s drafting of the ballot question and the Attorney General’s Plain English Statements—steps that cannot occur until after (1) a new General Assembly is seated next year (2) any or all of the amendments in SB 106 are proposed in a chamber of the General Assembly and (3) any or all of the amendments in SB 106 are passed a second time by a majority of each chamber of the General Assembly.

15. Denied. Voters do not choose the “ultimate amended wording” of proposed constitutional amendments; the General Assembly does. *Sprague*, 145 A.3d at 1142. If any or all of the proposed constitutional amendments in SB 106 are passed by a second General Assembly for submission to the electorate, the voters will be fully apprised of the issue on which they will vote—whether to require

qualified electors to provide identification—by the ballot question and the Plain English Statement. Respondent incorporates its answer to Paragraph 14 as though set forth fully herein.

16. Denied. Voters will not be asked to affirm voting age or residency requirements. Respondent incorporates its answers to Paragraphs 14 and 15 as though set forth at length herein.

17. Denied. Proposed Intervenors inaccurately portray the constitutional amendment process and how proposed amendments (i.e., ballot questions) are submitted to, and voted upon by, the electorate. Respondent incorporates its answers to Paragraphs 14 through 16 as though set forth at length herein.

18. Denied. SB 106 cannot, and does not, impact 18- to 20-year-olds' established right to suffrage.

19. Denied. Proposed Intervenors' notional allegation of potential voter confusion is premature and founded upon an inaccurate portrayal of SB 106 and the constitutional amendment process in its entirety. Respondent incorporates its answers to Paragraphs 14 through 16 as though set forth at length herein.

20. Denied. Proposed Intervenors' notional allegation of potential voter confusion is premature and founded upon an inaccurate portrayal of SB 106 and the constitutional amendment process as a whole. Respondent Incorporates its answers to Paragraphs 14 through 16 as though set forth at length herein. By way of further

answer, even if the League “will have to spend considerable time and resources attempting to educate voters,”⁶ the ballot question and Plain English Statement can fairly tell voters about what they will be voting upon.

21. Denied. Proposed Intervenors inaccurately portray the constitutional amendment process and how proposed amendments (i.e., ballot questions) are submitted to and voted upon by the electorate. If the proposed amendment to Article VII, section 1 of the Pennsylvania Constitution in SB 106 is passed by a second General Assembly, then voters will be presented with one question—whether to require qualified electors to provide identification—and will be fully apprised of the purpose, limitations, and effect of that single question. Respondent incorporates its answers to Paragraphs 14 through 16 as though set forth at length herein.

22. Admitted in part, denied in part. It is admitted that an informed electorate is foundational. By way of further response, the existing constitutional amendment process dictates a procedure by which the electorate is informed about the amendments submitted for their consideration. It is denied that the League has any standing here or that there is any imminent risk of disenfranchisement.

23. Denied. Respondents incorporate their response to Paragraph 20 as though set forth at length herein.

⁶ This is an odd grievance; it is exactly what the League describes as an integral part of its organizational mission. *See* Appl. to Intervene ¶¶ 4–7.

24. Denied.

25. Respondent is without knowledge or information sufficient to form a belief as to Ms. Adam's misinterpretation of Article VII, section 1 or SB 106, and thus Paragraph 25 is denied.

26. Denied as stated, as this Paragraph implies a right under Article XII, section 1 that does not exist and relies on a misrepresentation of Article VII, section 1 and SB 106. The General Assembly properly passed SB 106 in accordance with its internal rules and procedures, and the yeas and nays were properly recorded. Neither Ms. Roberts nor any other elector has a constitutional right to know how legislators would have voted on each proposed constitutional amendment in SB 106. Finally, no legislator voted on voting age or residency requirements.⁷

27. Denied. The General Assembly properly passed SB 106 under its internal rules and procedures, and the yeas and nays were properly recorded. The proposed amendment to Article VII, section 1 does not contravene any fundamental rights bestowed by the Pennsylvania or United States Constitutions.

⁷ The final July 8, 2022 Senate roll call is publicly available on the General Assembly website: https://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2021&sess_ind=0&rc_body=S&rc_nbr=709 (last visited Aug. 17, 2022).

The final July 8, 2022 House roll call is also publicly available on the General Assembly website: https://www.legis.state.pa.us/CFDOCS/Legis/RC/Public/rc_view_action2.cfm?sess_yr=2021&sess_ind=0&rc_body=H&rc_nbr=1156 (last visited Aug. 17, 2022).

28. Denied. Neither the League nor the individual Proposed Intervenors have standing to intervene, nor have they articulated a *legally enforceable* interest.

29. Admitted in part, denied in part. While it is admitted that it Proposed Intervenors purport to seek the relief stated, it is expressly denied that Proposed Intervenors (or Petitioners, for that matter) are entitled to *any* relief. The age and residency requirements of electors under Pennsylvania and federal law are not impacted, in any way, by the proposed amendments in SB 106. Moreover, SB 106 requires no further action, as it is a completed legislative action. Any further action on any or all of the amendments proposed in SB 106 would occur by separately introduced bill in the next General Assembly.

30. Admitted in part, denied in part. It is admitted that Proposed Intervenors vaguely summarize standards for intervention under Pennsylvania Rules of Civil Procedure 2327 and 2329. Any inference that Proposed Intervenors have any standing or legally enforceable interest to intervene is expressly denied.

31. Denied. Proposed Intervenors lack standing, they plead no legally enforceable interests, and their interests are otherwise adequately represented by Petitioners.

32. Denied. Proposed Intervenors are not aggrieved and therefore lack standing to intervene. Instead, Proposed Intervenors' complaints here are purely

conjectural, misconstruing the constitutional amendment process, and the proposed constitutional amendments that may never be submitted to the electorate.

33. Denied as stated. The League may have standing in other contexts, where actual aggrievement may exist, but they lack standing here. The proposed constitutional amendments in SB 106, do not infringe voters' rights. And, the League's purported diversion of its resources is of its own choosing rather than of necessity. Moreover, no matter how the League chooses to spend its time and resources, the ballot questions and Plain English Statements will apprise voters as to what, exactly, they will be voting upon if the amendments in SB 106 are passed for a second time by the next General Assembly.

34. Admitted in part, denied in part. While it is admitted that, in principle, individual voters can have standing to challenge laws that disenfranchise their voting rights, any inference from it is denied. The League and the individual Proposed Intervenors lack standing.

35. Denied as stated. While Respondent does not dispute that Ms. Adam or Ms. Roberts are qualified electors, it is expressly denied that SB 106 impacts electors' age or residency requirements. Any alleged "risk" to Ms. Adam's or Ms. Roberts's right to vote in Pennsylvania is fiction and misrepresents the constitutional amendment process and how proposed amendments are submitted to and voted upon by the electorate.

36. Denied. Proposed Intervenors lack standing.

37. Denied. Voters' rights under Article XI, section 1, at this stage, have been satisfied: the right to know how Members of the General Assembly voted on a joint resolution proposing multiple constitutional amendments as contemplated by the plain language of Article XI, section 1. *See* PA. CONST. art. XI, § 1 (“[S]uch *proposed* amendment or *amendments* shall be entered on their journals with the yeas and nays taken thereon.”) (emphasis added).

38. Denied. No matter how the League chooses to spend its time and resources, it lacks an actual injury or even a risk of it. If any or all of the amendments in SB 106 pass a second time, then the ballot questions and Plain English Statement can fairly inform voters as to what they will be voting upon.

39. Denied as stated. This litigation does not implicate Ms. Adam's and Ms. Roberts's right to vote.

40. Respondent is without knowledge or information sufficient to form a belief as to how the League expends its resources or its measure or as to its goals, and therefore Paragraph 40 is denied. By way of further answer, no matter how the League chooses to spend its resources, it is expressly denied that this litigation, or SB 106 itself, injures or risks injury to the League in any way.

41. Respondent is without knowledge or information sufficient to form a belief as to the League's expectations, how League chooses to spend its resources or

the League's budget. In any event, if the proposed constitutional amendments in SB 106 are passed by a second General Assembly for submission to the electorate, the voters will be fully apprised of the issue on which they will vote—whether to require qualified electors to provide identification—by the ballot question and the Plain English Statements, so any expenditure by the League of its own resources will be of its own choosing rather than necessity.

42. Denied. Proposed Intervenors lack standing.

43. Denied. The League's members lack standing, and therefore the League lacks standing.

44. It is admitted that Proposed Intervenors seek the same relief as Petitioners. By way of further answer, Proposed Intervenors' interests, even if not legally enforceable, are still adequately represented by Petitioners.

45. Denied. Proposed Intervenors neglect to acknowledge that Petitioners simultaneously advance their claims in their capacities as voters. Proposed Intervenors' interests are adequately represented by Petitioners.

46. Denied. Proposed Intervenors' interests are adequately represented by Petitioners.

47. Denied as stated. In any event, if the proposed constitutional amendments in SB 106 are ever passed by a second General Assembly for submission to the electorate, there is no risk of voter confusion because the ballot

question and the Attorney General's Plain English Statements will fully inform voters that they are only being asked whether to require qualified electors to provide identification. Given the lack of voter confusion, any expenditure by the League of its resources would be voluntary and unnecessary.

48. Denied. The right to vote based on age is not at stake.

49. It is admitted that no scheduling order has been issued, nor has any hearing been scheduled. The remaining allegations are denied.

50. Admitted in part, denied in part. Respondent does not dispute that Proposed Intervenors adopt Petitioners' claims as their own and add errant allegations of their misinterpretation of Article VII, section 1, SB 106, and the constitutional-amendment process generally. Even so, it is denied that they may intervene and seek any relief.

51. Denied.

v. CONCLUSION

For these reasons, the Application for Leave to Intervene by the League of Women Voters of Pennsylvania, Sajda Adam, and Simone Roberts should be denied.

Respectfully submitted,

POST & SCHELL PC

Dated: Aug. 24, 2022

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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: Aug. 24, 2022

/s/ Erik R. Anderson
Erik R. Anderson

CERTIFICATE OF SERVICE

I certify that I served the foregoing document on the individuals and in the manner reflected below, which service satisfies the requirements of Pa. R.A.P. 121:

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/s/ Erik R. Anderson
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EXHIBIT A

PROPOSED AMENDMENTS TO THE CONSTITUTION OF PENNSYLVANIA

The following are true and correct copies of joint resolutions of the General Assembly of Pennsylvania proposing two amendments to the Constitution of Pennsylvania. Consistent with the procedures prescribed by Article XI, Section 1 of the Constitution, the General Assembly first proposed the amendments during the 2013 session and approved them for a second time during the 2015 session of the legislature. As required by Article XI, Section 1 of the Constitution and statutory law, the Secretary of the Commonwealth has caused the proposed amendments to be published here.

Pursuant to law, the Secretary of the Commonwealth will submit the proposed amendments to the electors of Pennsylvania in the form of two ballot questions at the General Primary to be held on April 26, 2016. If a ballot question is approved by a majority of electors voting on it, the corresponding amendment becomes part of the Constitution.

Those parts of the joint resolutions that appear in **bold print** are the words of the Constitution that are proposed by the General Assembly for addition or deletion. If an amendment were approved, the words **underlined** would be added to the Constitution and the words in brackets (e.g., [Constitution]) would be deleted. The unbolded words would remain unchanged in the Constitution.

Following the proposed amendments is the text of the questions that will be placed on the ballot. Below each question is a "Plain English Statement" prepared by the Office of Attorney General, and published as required by law, indicating the purpose, limitations and effects of the ballot question upon the people of this Commonwealth.

Anyone who needs help reading this advertisement or who needs the text of the proposed amendments in an alternative format may call or write the Pennsylvania Department of State, Bureau of Commissions, Elections and Legislation, Room 210 North Office Building, Harrisburg, PA 17120, (717) 787-5280, ra-BCEL@pa.gov.

Pedro A. Cortés, Secretary of the Commonwealth

JOINT RESOLUTION 2015-1

Proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for compensation and retirement of justices, judges and justices of the peace.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI:

That section 16(b) of Article V be amended to read:

§ 16. Compensation and retirement of justices, judges and justices of the peace.

(b) Justices, judges and justices of the peace shall be retired on the last day of the calendar year in which they attain the age of [70] 75 years. Former and retired justices, judges and justices of the peace shall receive such compensation as shall be provided by law. Except as provided by law, no salary, retirement benefit or other compensation, present or deferred, shall be paid to any justice, judge or justice of the peace who, under section 18 or under Article VI, is suspended, removed or barred from holding judicial office for conviction of a felony or misconduct in office or conduct which prejudices the proper administration of justice or brings the judicial office into disrepute.

Section 2. (a) Upon the first passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment.

(b) Upon the second passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment. The Secretary of the Commonwealth shall submit this proposed constitutional amendment to the qualified electors of this Commonwealth at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.

PROPOSED CONSTITUTIONAL AMENDMENT 1 AMENDING THE MANDATORY JUDICIAL RETIREMENT AGE

Ballot Question

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges and justices of the peace (known as magisterial district judges) be retired on the last day of the calendar year in which they attain the age of 75 years, instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70?

Plain English Statement of the Office of Attorney General

The purpose of the ballot question is to amend the Pennsylvania Constitution to require that justices, judges and justices of the peace (known as magisterial district judges) be retired on the last day of the calendar year in which they attain the age of 75 years.

Presently, the Pennsylvania Constitution provides that justices, judges and justices of the peace be retired on the last day of the calendar year in which they attain the age of 70 years. Justices of the peace are currently referred to as magisterial district judges.

If the ballot question were to be approved, justices, judges and magisterial district judges would be retired on the last day of the calendar year in which they attain the age of 75 years rather than the last day of the calendar year in which they attain the age of 70 years.

This amendment to the mandatory retirement age would be applicable to all judges and justices in the Commonwealth, including the justices of the Pennsylvania Supreme Court, judges of the Commonwealth Court, Superior Court, county courts of common pleas, community courts, municipal courts in the City of Philadelphia, and magisterial district judges.

The ballot question is limited in that it would not amend any other provisions of the Pennsylvania Constitution related to the qualification, election, tenure, or compensation of the justices, judges or magisterial district judges.

The effect of the ballot question would be to allow all justices, judges, and magisterial district judges to remain in office until the last day of the calendar year in which they attain the age of 75 years. This would permit all justices, judges, and magisterial district judges to serve an additional five years beyond the current required retirement age.

JOINT RESOLUTION 2015-2

Proposing integrated amendments to the Constitution of the Commonwealth of Pennsylvania, eliminating the Traffic Court of Philadelphia.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following integrated amendments to the Constitution of Pennsylvania are proposed in accordance with Article XI:

(1) That section 1 of Article V be amended to read:

§ 1. Unified judicial system.

The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of the Supreme Court, the Superior Court, the Commonwealth Court, courts of common pleas, community courts, municipal [and traffic] courts in the City of Philadelphia, such other courts as may be provided by law and justices of the peace. All courts and justices of the peace and their jurisdiction shall be in this unified judicial system.

(2) That the heading and subsection (c) of section 6 of Article V be amended to read:

§ 6. Community courts; Philadelphia Municipal Court [and Traffic Court].

(c) In the City of Philadelphia there shall be a municipal court [and a traffic court]. The number of judges and the jurisdiction [of each] shall be as provided by law. [These courts] This court shall exist so long as a community court has not been established or in the event one has been discontinued under this section.

(3) That subsection (d) of section 10 of Article V be amended to read:

§ 10. Judicial administration.

(d) The Chief Justice and president judges of all courts with seven or less judges shall be the justice or judge longest in continuous service on their respective courts; and in the event of his resignation from this position the justice or judge next longest in continuous service shall be the Chief Justice or president judge. The president judges of all other courts shall be selected for five-year terms by the members of their respective courts[, except that the president judge of the traffic court in the City of Philadelphia shall be appointed by the Governor]. A Chief Justice or president judge may resign such position and remain a member of the court. In the event of a tie vote for office of president judge in a court which elects its president judge, the Supreme Court shall appoint as president judge one of the judges receiving the highest number of votes.

(4) That subsection (b) of section 12 of Article V be amended to read:

§ 12. Qualifications of justices, judges and justices of the peace.

(b) [Judges of the traffic court in the City of Philadelphia and justices] Justices of the peace shall be members of the bar of the Supreme Court or shall complete a course of training and instruction in the duties of their respective offices and pass an examination prior to assuming office. Such courses and examinations shall be as provided by law.

(5) That subsection (a) of section 15 of Article V be amended to read:

§ 15. Tenure of justices, judges and justices of the peace.

(a) The regular term of office of justices and judges shall be ten years and the regular term of office for judges of the municipal court [and traffic court] in the City of Philadelphia and of justices of the peace shall be six years. The tenure of any justice or judge shall not be affected by changes in judicial districts or by reduction in the number of judges.

Section 2. (a) Upon the first passage by the General Assembly of these proposed constitutional amendments, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments.

(b) Upon the second passage by the General Assembly of these proposed constitutional amendments, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments. The Secretary of the Commonwealth shall submit the proposed constitutional amendments under section 1 of this resolution to the qualified electors of this Commonwealth as a single ballot question at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendments are passed by the General Assembly.

PROPOSED CONSTITUTIONAL AMENDMENT 2 ABOLITION OF THE PHILADELPHIA TRAFFIC COURT

Ballot Question

Shall the Pennsylvania Constitution be amended to abolish the Philadelphia Traffic Court?

Plain English Statement of the Office of Attorney General

The purpose of the ballot question is to amend the Pennsylvania Constitution to abolish the Traffic Court in the City of Philadelphia.

Presently, the Pennsylvania Constitution provides for the Traffic Court in the City of Philadelphia as part of the unified judicial system. If the ballot question were to be approved, the Traffic Court in the City of Philadelphia would be abolished by removing all references to the Traffic Court and the judges of the Traffic Court in the City of Philadelphia from the Pennsylvania Constitution.

Legislation enacted in 2013 transferred the functions performed by the Traffic Court to the Philadelphia Municipal Court. As a result, violations of the Vehicle Code previously adjudicated by the Traffic Court are presently being adjudicated by the Philadelphia Municipal Court. The proposed amendment would officially abolish the Traffic Court by removing all references to the Traffic Court and its judges from the Pennsylvania Constitution.

This ballot question is limited to whether the Traffic Court in the City of Philadelphia should be abolished. The ballot question would not amend any other provisions of the Pennsylvania Constitution beyond the removal of all references to the Traffic Court and its judges.

The effect of the ballot question would be to abolish the Traffic Court in the City of Philadelphia. As discussed above, legislation enacted in 2013 transferred the functions of the Traffic Court to the Philadelphia Municipal Court. This amendment would officially abolish the Traffic Court by removing all references to the Traffic Court and its judges from the Pennsylvania Constitution.