

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

TOM WOLF, *et al.*,

Petitioners,

v.

GENERAL ASSEMBLY OF THE
COMMONWEALTH OF
PENNSYLVANIA, *et al.*,

Respondents.

Docket No. 482 M.D. 2022

ORDER

AND NOW, upon consideration of the Preliminary Objections of Senate Respondent-Intervenors Senate Majority Leader Kim Ward and the Pennsylvania Senate Republican Caucus (collectively, “Republican Senate Intervenors”), and the responses in opposition thereto, it is hereby ORDERED that the Republican Senate Intervenors’ Preliminary Objections are OVERRULED.

BY THE COURT:

J.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

TOM WOLF, *et al.*,

Petitioners,

v.

GENERAL ASSEMBLY OF THE
COMMONWEALTH OF
PENNSYLVANIA, *et al.*,

Respondents.

Docket No. 482 M.D. 2022

**DEMOCRATIC SENATE INTERVENORS’
ANSWER IN OPPOSITION TO PRELIMINARY OBJECTIONS
FILED BY REPUBLICAN SENATE INTERVENORS**

Pursuant to Pa. R.Civ.P. 1026(a) and 1028 and Pa. R.A.P. 1516(b), Senate Democratic Leader Jay Costa and the Pennsylvania Senate Democratic Caucus (collectively the “Democratic Senate Intervenors”), by and through undersigned counsel, Willig, Williams, and Davidson, submit this answer to the averments in the preliminary objections filed by Senate Majority Leader Kim Ward and the Pennsylvania Senate Republican Caucus (collectively the “Republican Senate Intervenors”). Pursuant to this Court’s October 26, 2022, Order, Democratic Senate Intervenors submitted a brief in opposition to the Republican Senate Intervenors’ preliminary objections on November 10, 2022.

1. Admitted in part; denied in part. It is admitted that majorities in the Pennsylvania House and Senate voted to pass Senate Bill 106 (“SB 106), a joint

resolution proposing five disparate constitutional amendments on a single up or down vote. All remaining averments of this paragraph are conclusions of law to which no responsive pleading is required. To the extent that a response is deemed necessary, any remaining factual averments are denied.

2. Admitted.

3. Denied. This paragraph contains no averments of fact but only conclusions of law, to which no responsive pleading is required. To the extent that a response is deemed necessary, any factual averments of this paragraph are denied.

4 through 8. Denied as stated to the extent that these paragraphs purport to summarize, paraphrase and/or characterize the facts and claims alleged in Paragraphs 60-86, of the Petition for Review. By way of further response, pursuant to Pa. R. Civ. P. 1019(g), Democratic Senate Intervenors reallege and incorporate by reference paragraphs 1 through 86 of the Petition for Review and Paragraphs 1 through 8 of Democratic Senate Intervenors' Application to Intervene.

9. Denied. This paragraph contains no averments of fact but only conclusions of law, to which no responsive pleading is required. To the extent that a response is deemed necessary, the factual averments of this paragraph are denied.

10. Admitted in part; denied in part. It is admitted that SB 106 is a joint resolution proposing five disparate amendments to the Pennsylvania Constitution and is attached as Exhibit 1 to the Petition for Review. All remaining averments of

this paragraph, including footnote 1, are conclusions of law to which no responsive pleading is required.

11. Admitted in part; denied in part. It is admitted that a majority of the Pennsylvania Senate voted to pass SB 106 on a single up or down vote on July 8, 2022 by a vote of 28 in favor and 22 opposed. It is denied that this single vote on all five proposed amendments constituted compliance with Article XI, Section 1 of the Pennsylvania Constitution. Any remaining factual averments of this paragraph are denied.

12. Admitted in part; denied in part. It is denied that the voting records referred to in this paragraph reflect how each Senator voted – or would have voted – on each of the individual constitutional amendments included in SB 106 after its final passage in the Senate on April 27, 2021. The remaining factual averments of this paragraph are admitted.

13. Admitted in part; denied in part. It is admitted that a majority of the Pennsylvania House of Representatives voted to pass SB 106 on a single up or down vote on July 8, 2022 by a vote of 107 in favor and 92 opposed. It is denied that this single vote on all five proposed amendments constituted compliance with Article XI, Section 1 of the Pennsylvania Constitution. Any remaining factual averments of this paragraph are denied.

14. Admitted in part; denied in part. It is denied that the voting records referred to in this paragraph reflect how each Representative voted – or would have voted – on each of the individual constitutional amendments included in SB 106. The remaining factual averments of this paragraph are admitted.

15 through 16. These paragraphs contain no averments of fact but only conclusions of law to which no responsive pleading is required.

17. Admitted in part and denied in part. It is admitted that a notice was published in the Pennsylvania Bulletin on July 30, 2022 advising of the forthcoming publication of SB 106 beginning on August 2, 2022. The remaining averments of this paragraph are denied as stated to the extent that they purport to summarize, paraphrase and/or characterize the document referenced in this paragraph, which speaks for itself.

18. Admitted in part; denied in part. It is admitted that publication of SB 106 commenced in August 2022. The remaining averments of this paragraph are denied as stated to the extent that they purport to summarize, paraphrase and/or characterize the document referenced in this paragraph, which speaks for itself.

19 through 31. Denied as stated to the extent that these paragraphs purport to summarize, paraphrase and/or characterize the documents referenced in these paragraphs, which speak for themselves.

32. Democratic Senate Intervenors incorporate the preceding paragraphs of this answer as if set forth at length herein.

33. This paragraph contains no averments of fact but only conclusions of law to which no responsive pleading is required.

34 through 45. Denied. These paragraphs contain averments directed to parties other than Democratic Senate Intervenors and assert conclusions of law to which no responsive pleading is required. To the extent that a response is deemed necessary, any factual averments of these paragraphs are denied. Specifically, it is denied that Petitioners or Democratic Senate Intervenors lack standing and/or that Republican Senate Intervenors have established a basis to object to the Petition for Review pursuant to Pa. R.Civ.P. 1028(a)(5). By way of further response, Democratic Senate Intervenors have been granted leave to intervene, which necessarily requires that Democratic Senate Intervenors have standing to pursue this matter.

46. Democratic Senate Intervenors incorporate the preceding paragraphs of this answer as if set forth at length herein.

47 through 49. Denied. These paragraphs contain averments directed to parties other than Democratic Senate Intervenors and assert conclusions of law to which no responsive pleading is required. To the extent that a response is deemed necessary, any factual averments of these paragraphs are denied. Specifically, it is

denied that Petitioners or Democratic Senate Intervenors lack standing and/or that Republican Senate Intervenors have established a basis to object to the Petition for Review pursuant to Pa. R.Civ.P. 1028(a)(5). By way of further response, Democratic Senate Intervenors have been granted leave to intervene, which necessarily requires that Democratic Senate Intervenors have standing to pursue this matter.

50. Democratic Senate Intervenors incorporate the preceding paragraphs of this answer as if set forth at length herein.

51 through 57. Denied. These paragraphs contain no averments of fact but only conclusions of law to which no responsive pleading is required. To the extent that a response is deemed necessary, any factual averments of these paragraphs are denied.

58 through 62. Denied. These paragraphs contain averments directed to parties other than Democratic Senate Intervenors and assert conclusions of law to which no responsive pleading is required. To the extent that a response is deemed necessary, any factual averments of these paragraphs are denied. Specifically, it is denied that the claims of Petitioners and Democratic Senate Intervenors are not ripe, that they seek an advisory opinion and/or that Republican Senate Intervenors have established a basis to object to the Petition for Review pursuant to Pa. R.Civ.P. 1028(a)(4). By way of further response, Democratic Senate Intervenors have been

injured by Respondent's actions, inasmuch as they were denied their constitutional right and obligation to vote separately on each amendment proposed in SB 106 and forced to vote on proposed amendments that are themselves constitutionally infirm. *See* paragraphs 8 through 11 of Democratic Senate Intervenors' Application to Intervene.

63. Democratic Senate Intervenors incorporate the preceding paragraphs of this answer as if set forth at length herein.

64. This paragraph contains no averments of fact but only conclusions of law to which no responsive pleading is required.

65. Admitted in part; denied in part. It is admitted that the quoted language in this paragraph appears in paragraph 64 of the Petition for Review. All remaining factual averments of this paragraph are denied.

66 through 72. Denied. These paragraphs contain no averments of fact but only conclusions of law to which no responsive pleading is required. To the extent that a response is deemed necessary, any factual averments of these paragraphs are denied.

73. Democratic Senate Intervenors incorporate the preceding paragraphs of this answer as if set forth at length herein.

74. This paragraph contains no averments of fact but only conclusions of law to which no responsive pleading is required.

75 through 80. Denied. These paragraphs contain no averments of fact but only conclusions of law to which no responsive pleading is required. To the extent that a response is deemed necessary, any factual averments of these paragraphs are denied.

81. Democratic Senate Intervenors incorporate the preceding paragraphs of this answer as if set forth at length herein.

82. This paragraph contains no averments of fact but only conclusions of law to which no responsive pleading is required.

83 through 92. Denied. These paragraphs contain no averments of fact but only conclusions of law to which no responsive pleading is required. To the extent that a response is deemed necessary, any factual averments of these paragraphs are denied.

93. Democratic Senate Intervenors incorporate the preceding paragraphs of this answer as if set forth at length herein.

94. This paragraph contains no averments of fact but only conclusions of law to which no responsive pleading is required.

95 through 102. Denied. These paragraphs contain no averments of fact but only conclusions of law to which no responsive pleading is required. To the extent that a response is deemed necessary, any factual averments of these paragraphs are denied.

103. Democratic Senate Intervenors incorporate the preceding paragraphs of this answer as if set forth at length herein.

104. This paragraph contains no averments of fact but only conclusions of law to which no responsive pleading is required.

105. Admitted in part; denied in part. It is admitted that the quoted language in this paragraph appears in paragraph 84 of the Petition for Review. All remaining factual averments of this paragraph are denied.

106 through 118. Denied. These paragraphs contain no averments of fact but only conclusions of law to which no responsive pleading is required. To the extent that a response is deemed necessary, any factual averments of these paragraphs are denied.

WHEREFORE, Democratic Senate Leader Jay Costa and the Pennsylvania Senate Democratic Caucus respectfully request that this Court overrule Republican Senate Intervenors' Preliminary Objections.

Respectfully submitted,

WILLIG, WILLIAMS & DAVIDSON

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Pennsylvania Senate Democratic Caucus*

Dated: November 18, 2022

VERIFICATION

I, Jay Costa, am the elected state senator for the 43rd district and the leader of the Pennsylvania Senate Democratic Caucus and am authorized to swear and affirm that the factual allegations contained in the attached Democratic Senate Intervenors' Answer in Opposition to Preliminary Objections Filed by Republican Senate Intervenors on behalf of myself and the Pennsylvania Democratic Caucus are true and correct to the best of my knowledge, information, and belief. This statement is made pursuant to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsifications to authorities.

A handwritten signature in black ink that reads "Jay Costa". The signature is written in a cursive style with a large, looped initial "J" and a distinct "C" for "Costa".

Senator Jay Costa

Dated: November 18, 2022

CERTIFICATION REGARDING PUBLIC ACCESS POLICY

I, Amy L. Rosenberger, certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Amy L. Rosenberger

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CERTIFICATE OF SERVICE

I, Amy L. Rosenberger, do hereby certify that I have served the foregoing Democratic Senate Intervenors' Answer in Opposition to Preliminary Objections Filed by Republican Senate Intervenors, via the Court's PACFile system which service satisfies the requirements of Pa.R.A.P. 121:

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