

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Petitioners,

v.

No. 482 MD 2022

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

Respondent.

**PETITIONERS' ANSWER TO SENATE REPUBLICAN
INTERVENORS' PRELIMINARY OBJECTIONS**

Petitioners Tom Wolf, Governor of the Commonwealth of Pennsylvania, and Leigh M. Chapman, Acting Secretary of the Commonwealth of Pennsylvania, by and through their undersigned counsel, state the following as their Answer to the Preliminary Objections filed by Senate Majority Leader Kim Ward and the Pennsylvania Senate Republican Caucus (referred to collectively hereinafter as "Senate Republican Intervenors"):

1. Admitted in part and denied in part. It is admitted that Senate Bill No. 106 of 2021 ("SB 106") contains multiple constitutional amendments and was passed by majority vote in both chambers of the General Assembly on July 8, 2022. It is denied that the General Assembly adhered to the mandatory procedure in Article

XI, § 1 and that SB 106 is properly considered by the citizens of the Commonwealth of Pennsylvania. The General Assembly violated the mandatory procedure in Article XI, § 1 in passing SB 106 and, as a result, SB 106 is “incurab[[y] defect[ive]” and may not properly be presented for consideration by voters. *Kremer v. Grant*, 606 A.2d 433, 439 (Pa. 1992).

2. Admitted.

3. Denied. The allegations in Paragraph 3 constitute conclusions of law to which no responsive pleading is required and are denied.

4-8. Denied. The allegations in Paragraphs 4 through 8 purport to characterize the Petition for Review which, being in writing, speaks for itself and therefore the allegations are denied.

9. Denied. The allegations in Paragraph 9 constitute conclusions of law to which no responsive pleading is required and are denied. By way of further answer, it is specifically denied that Petitioners lack standing, that they seek an advisory opinion and that their claims fail as a matter of law.

10. Denied. SB 106, being in writing, speaks for itself and the Senate Republican Caucus’s characterization thereof is denied. By way of further response, the amendments in SB 106 themselves make multiple substantive changes to the Constitution in violation of Article XI, § 1. *See League of Women Voters of Pa. v. DeGraffenreid*, 265 A.3d 207, 241-42 (Pa. 2021). The allegations in footnote 1

constitute conclusions of law to which no responsive pleading is required and are denied.

11. Admitted in part and denied in part. It is admitted that SB 106 was passed by majority vote in the Senate on July 8, 2022. It is denied that the legislative history of SB 106 reflects the votes of each lawmaker on each of those proposed amendments in SB 106 as required by Article XI, § 1. By way of further response, the omnibus vote on the multiple amendments in SB 106 violated the requirement in Article XI, § 1 that “yeas and nays” be taken on a proposed “amendment or amendments,” Pa. Const. art. XI, § 1, and deprived voters of their constitutional right to replace representatives who do not share their views on the proposed amendments. *See Kremer*, 606 A.2d at 438 (Article XI, § 1 is intended “to let the public ascertain the attitude of the candidates for election to the General Assembly” and afford them “an opportunity to . . . elect individuals to the next General Assembly with different attitudes”).

12. Denied. It is denied that the Senate recorded each individual Senator’s votes on the various constitutional amendments in SB 106 and that such information is available in Exhibit A attached to the Senate Republican Caucus’s Preliminary Objections. By way of further response, Paragraph 11 of this Answer is incorporated by reference as if set forth fully herein.

13. Admitted in part and denied in part. It is admitted that SB 106 was passed by majority vote in the House on July 8, 2022. It is denied that the legislative history of SB 106 reflects the votes of each lawmaker on each of those proposed amendments as required by Article XI, § 1. By way of further response, Paragraph 11 of this Answer is incorporated by reference as if set forth fully herein.

14. Denied. It is denied that the House recorded each individual Representative's votes on the various constitutional amendments in SB 106 or that such information is available in Exhibits B or C attached to the Senate Republican Caucus's Preliminary Objections. By way of further response, Paragraph 11 of this Answer is incorporated by reference as if set forth fully herein.

15-16. Denied. The allegations in Paragraphs 15 and 16 constitute conclusions of law to which no responsive pleading is required and are denied.

17. Admitted in part and denied in part. It is admitted only that a notice was published in the Pennsylvania Bulletin on July 30, 2022 advising of the forthcoming publication of SB 106. The notice, being in writing, speaks for itself and the characterization thereof in Paragraph 17 is denied.

18. Admitted in part and denied in part. It is admitted only that publication of SB 106 commenced in August 2022. The notice that appeared in the Pennsylvania Bulletin, being in writing, speaks for itself and the characterization thereof in Paragraph 18 is denied.

19-31. Denied. The allegations in Paragraphs 19 through 31 purport to characterize written documents which speak for themselves and therefore the allegations are denied.

PRELIMINARY OBJECTION NO. 1

32. Paragraphs 1 through 31 of this Answer are incorporated by reference as if set forth fully herein.

33-45. Denied. The allegations in Paragraphs 33 through 45 and footnote 6 constitute conclusions of law to which no responsive pleading is required and are denied.

WHEREFORE, for the reasons set forth in Petitioners' opposition brief which was filed on November 10, 2022, the Senate Republican Intervenors' Preliminary Objection under Pa. R. Civ. P. 1028(a)(5) asserting lack of standing is without merit and should be overruled.

PRELIMINARY OBJECTION NO. 2

46. Paragraphs 1 through 45 of this Answer are incorporated by reference as if set forth fully herein.

47-49. Denied. The allegations in Paragraphs 47 through 49 constitute conclusions of law to which no responsive pleading is required and are denied.

WHEREFORE, for the reasons set forth in Petitioners' opposition brief which was filed on November 10, 2022, the Senate Republican Intervenors' Preliminary

Objection under Pa. R. Civ. P. 1028(a)(5) asserting lack of standing is without merit and should be overruled.

PRELIMINARY OBJECTION NO. 3

50. Paragraphs 1 through 49 of this Answer are incorporated by reference as if set forth fully herein.

51-62. Denied. The allegations in Paragraphs 51 through 62 constitute conclusions of law to which no responsive pleading is required and are denied.

WHEREFORE, for the reasons set forth in Petitioners' opposition brief which was filed on November 10, 2022, the Senate Republican Intervenors' Preliminary Objection under Pa. R. Civ. P. 1028(a)(4) alleging that the relief sought would be an advisory opinion is without merit and should be overruled.

PRELIMINARY OBJECTION NO. 4

63. Paragraphs 1 through 62 of this Answer are incorporated by reference as if set forth fully herein.

64. Denied. The allegations in Paragraphs 64 constitute conclusions of law to which no responsive pleading is required and are denied.

65-67. Denied. To the extent the allegations in Paragraphs 65 through 67 purport to characterize the Petition for Review which, being in writing, speaks for itself, the allegations are denied. The remaining allegations in Paragraphs 65

through 67 constitute conclusions of law to which no responsive pleading is required and are denied.

68-72. Denied. The allegations in Paragraphs 68 through 72 constitute conclusions of law to which no responsive pleading is required and are denied.

WHEREFORE, for the reasons set forth in Petitioners' opposition brief which was filed on November 10, 2022, the Senate Republican Intervenors' Preliminary Objection under Pa. R. Civ. P. 1028(a)(4) challenging the legal sufficiency of Count I of the Petition for Review is without merit and should be overruled.

PRELIMINARY OBJECTION NO. 5

73. Paragraphs 1 through 72 of this Answer are incorporated by reference as if set forth fully herein.

74-80. Denied. The allegations in Paragraphs 74 through 80 constitute conclusions of law to which no responsive pleading is required and are denied.

WHEREFORE, for the reasons set forth in Petitioners' opposition brief which was filed on November 10, 2022, the Senate Republican Intervenors' Preliminary Objection under Pa. R. Civ. P. 1028(a)(4) challenging the legal sufficiency of Count II of the Petition for Review is without merit and should be overruled.

PRELIMINARY OBJECTION NO. 6

81. Paragraphs 1 through 80 of this Answer are incorporated by reference as if set forth fully herein.

82-92. Denied. The allegations in Paragraphs 82 through 92 constitute conclusions of law to which no responsive pleading is required and are denied.

WHEREFORE, for the reasons set forth in Petitioners' opposition brief which was filed on November 10, 2022, the Senate Republican Intervenors' Preliminary Objection under Pa. R. Civ. P. 1028(a)(4) challenging the legal sufficiency of Count III of the Petition for Review is without merit and should be overruled.

PRELIMINARY OBJECTION NO. 7

93. Paragraphs 1 through 92 of this Answer are incorporated by reference as if set forth fully herein.

94. Denied. The allegations in Paragraph 94 constitute conclusions of law to which no responsive pleading is required and are denied.

95. Denied. To the extent the allegations in Paragraph 95 purport to characterize the Petition for Review which, being in writing, speaks for itself, the allegations are denied. The remaining allegations in Paragraph 95 constitute conclusions of law to which no responsive pleading is required and are denied.

96-102. Denied. The allegations in Paragraphs 96 through 102 constitute conclusions of law to which no responsive pleading is required and are denied.

WHEREFORE, for the reasons set forth in Petitioners' opposition brief which was filed on November 10, 2022, the Senate Republican Intervenors' Preliminary

Objection under Pa. R. Civ. P. 1028(a)(4) challenging the legal sufficiency of Count IV of the Petition for Review is without merit and should be overruled.

PRELIMINARY OBJECTION NO. 8

103. Paragraphs 1 through 102 of this Answer are incorporated by reference as if set forth fully herein.

104. Denied. The allegations in Paragraph 104 constitute conclusions of law to which no responsive pleading is required and are denied.

105-106. Denied. To the extent the allegations in Paragraphs 105 and 106 purport to characterize the Petition for Review which, being in writing, speaks for itself, the allegations are denied. The remaining allegations in Paragraphs 105 and 106 constitute conclusions of law to which no responsive pleading is required and are denied.

107-118. Denied. The allegations in Paragraphs 107 through 118 constitute conclusions of law to which no responsive pleading is required and are denied.

WHEREFORE, for the reasons set forth in Petitioners' opposition brief which was filed on November 10, 2022, the Senate Republican Intervenors' Preliminary

Objection under Pa. R. Civ. P. 1028(a)(4) challenging the legal sufficiency of Count V of the Petition for Review is without merit and should be overruled.

Respectfully submitted:

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Date: November 21, 2022

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 requires filing confidential information and documents differently than non-confidential information and documents.

/s/ Daniel T. Brier _____
Daniel T. Brier

Date: November 21, 2022

PROOF OF SERVICE

I, Daniel T. Brier, hereby certify that I served the forgoing Answer to Preliminary Objections upon all counsel of record via the Court's PACFile eService system, which service satisfies the requirements of Pa.R.A.P. 121.

/s/ Daniel T. Brier

Daniel T. Brier

Date: November 21, 2022