

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

TOM WOLF, et al.,

Petitioners,

v.

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

Respondent.

No. 73 MM 2022

**PROPOSED INTERVENORS SENATE LEADER JAY COSTA AND
SENATE DEMOCRATIC CAUCUS' APPLICATION FOR LEAVE TO
FILE RESPONSE TO PETITIONER'S APPLICATION FOR
INVOCATION OF KING'S BENCH POWER**

Proposed Intervenors Senate Leader Jay Costa (“Senator Costa”) and the Senate Democratic Caucus (collectively hereinafter the “Democratic Senate Intervenors”), by and through the undersigned attorneys, hereby seek leave from this Honorable Court to file a response to Petitioners, Tom Wolf, Governor of the Commonwealth of Pennsylvania (“Governor Wolf”), and Leigh M. Chapman, Acting Secretary of the Commonwealth of Pennsylvania (“Secretary”) (collectively hereinafter “Petitioners”) Application for Invocation of King’s Bench Power to Declare Senate Bill 106 of 2021 Invalid and Enjoin Further Action on Constitutional

Amendments (“King’s Bench Application”). In support of this Application, the Democratic Senate Intervenors aver as follows:

1. The Senate Democratic Caucus is one of four constituent parts of the General Assembly. The other three are the Senate Republican Caucus, the House Democratic Caucus, and the House Republican Caucus, *See Precision Mktg., Inc. v. Com. Republican Caucus of the Sen. of PA/AKA Sen. of PA Republican Caucus*, 78 A.3d 667, 671-75 (Pa. Cmwlth. 2014). Senator Costa is the elected leader of the Senate Democratic Caucus—which currently consists of twenty-one (21) state senators.

2. On July 7, 2022, in a late-night session of the General Assembly of Pennsylvania (“General Assembly” or “Legislature”) and without any advance warning or meaningful debate or discussion, the Republican leadership of the Senate scheduled a meeting of the Senate Rules and Executive Nominations Committee to substantially amend Senate Bill 106 (“SB 106”) and report it to the full Senate for consideration.

3. On July 8, 2022, the Republican majorities in both the Pennsylvania House and Senate passed SB 106, a joint resolution proposing multiple amendments to the Pennsylvania Constitution, over the objection of the Democratic Senate Intervenors and in violation of the Pennsylvania Constitution.

4. On July 28, 2022, the Governor and the Secretary filed an Application for Invocation of King's Bench Power ("King's Bench Application"), requesting that this Court declare SB 106 invalid and enjoin further action on the proposed constitutional amendments.

5. On August 10, 2022, the Democratic Senate Intervenors filed an Emergency Application for Leave to Intervene in support of Petitioners' King's Bench Application ("Emergency Application").

6. On August 12, 2022, Respondent General Assembly filed an Answer to the Emergency Application, declaring it does not oppose intervention by the Democratic Senate Intervenors.

7. On August 15, 2022, Petitioners filed an Answer to the Emergency Application, similarly indicating that they do not oppose intervention by the Democratic Senate Intervenors.

8. At the time of filing this Application for Leave to File a Response to the Governor and the Secretary's King's Bench Application, this Court has not yet granted the Emergency Application of the Democratic Senate Intervenors, nor granted the Emergency Applications for Leave to Intervene filed on behalf of the Senate Republican Caucus, the House Republican Caucus, and the House Democratic Caucus.

9. Respondent General Assembly's response to the Petitioners' King's Bench Application is due tomorrow August 17, 2022.

10. The Democratic Senate Intervenors believe this Honorable Court will benefit from a response to the Petitioner's King's Bench Application as it would support this Court's exercise of King's Bench authority in this matter, which clearly involves matters of significant public importance—(1) the proper method and manner for amending the Pennsylvania Constitution as outlined in Article XI, Section 1, (2) the obligations of the General Assembly in considering, debating, and voting on proposed constitutional amendments, and (3) the fact that SB 106 violated our Constitution.

11. For these reasons, the Democratic Senate Intervenors request that, in the event their Emergency Application for Leave to Intervene is granted, this Court provide them the opportunity to file and serve a response in support of Petitioners' King's Bench Application within three (3) business days after granting intervention.

WHEREFORE, Proposed Intervenors Democratic Senate Leader Jay Costa and the Senate Democratic Caucus respectfully request that this Court grant their Application for Leave to File Response to Petitioners' Application for Invocation of King's Bench Power.

[Signature Page Follows]

Respectfully submitted,

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Senate Democratic Caucus*

Dated: August 16, 2022

CERTIFICATION REGARDING PUBLIC ACCESS POLICY

I 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.

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CERTIFICATE OF SERVICE

I, John R. Bielski, do hereby certify that I have served upon the following the foregoing Application for Leave to File a Response to Petitioner's King's Bench Application, via PACFile:

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ORDER

AND NOW, this ____ day of _____, 2022, upon consideration of Application for Leave to File Response to Petitioners' Application for Invocation of King's Bench Power filed on behalf of Proposed Intervenors Senate Leader Jay Costa and the Senate Democratic Caucus ("Democratic Senate Intervenors"), and any opposition thereto, it is hereby ORDERED that the Application is GRANTED. Democratic Senate Intervenors, in the event their Emergency Application for Leave to Intervene is granted, shall file and serve a response to Petitioners' King's Bench Application within three (3) business days after intervention is granted.

BY THE COURT:

J.