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73 MM 2022

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.

PETITIONERS' APPLICATION FOR LEAVE TO FILE REPLY TO RESPONDENT'S ANSWER TO APPLICATION FOR INVOCATION OF KING'S BENCH POWER

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Pursuant to Rule 123 of the Pennsylvania Rules of Appellate Procedure, Petitioners Tom Wolf, Governor of the Commonwealth of Pennsylvania, and Leigh M. Chapman, Acting Secretary of the Commonwealth, by and through their undersigned counsel, hereby request leave to file the attached reply to Respondent General Assembly's Answer to Petitioners' Application for Invocation of King's Bench Power and, in support thereof, state as follows:

1. On July 28, 2022, Governor Wolf and Acting Secretary Chapman filed an application asking this Court to exercise its King's Bench power to enjoin further action on the proposals to amend the Pennsylvania Constitution in SB 106 due to the General Assembly's failure to adhere to the mandatory procedures in Article XI, § 1 of the Constitution.

2. The General Assembly filed an Answer on August 17, 2022 challenging the justiciability and ripeness of the claims in the King's Bench Application and disputing Governor Wolf's and Acting Secretary Chapman's standing to challenge the constitutionality of SB 106.

3. On August 19, 2022, the League of Women Voters of Pennsylvania, Sajda Adam and Simone Roberts sought leave to intervene in this matter to assert additional challenges to SB 106 and publication of the proposed amendments. Specifically, they argue that SB 106 violates the Fourteenth and Twenty-Sixth Amendments to the U.S. Constitution by restating and reaffirming invalid voter

age and residency requirements and that the publication of SB 106 which began earlier this month is causing confusion among Pennsylvania voters.

4. Pursuant to the Orders dated August 18, 2022, Senator Kim Ward, the Senate Republican Caucus, House Majority Leader Kerry A. Benninghoff, the House Republican Caucus and House Minority Leader Joanna E. McClinton filed *amicus* briefs offering perspectives on the issues raised in the King's Bench Application.

5. Governor Wolf and Acting Secretary Chapman hereby seek leave to file a brief reply addressing arguments in the General Assembly's Answer.

6. The proposed reply is attached hereto as Exhibit "A."

7. Granting the request for leave to file a reply will not unduly delay disposition of this matter or prejudice any party. Rather, allowing a reply will advance the interests of justice by assisting the Court's understanding of the important issues raised in the King's Bench Application.

WHEREFORE, Governor Wolf and Acting Secretary Chapman respectfully request leave to file a reply in further support of their King's Bench Application.

Respectfully submitted,

/s/ Daniel T. Brier

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Date: August 26, 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 require filing confidential information and documents differently than non-confidential information and documents.

/s/ Daniel T. Brier
Daniel T. Brier

Date: August 26, 2022

PROOF OF SERVICE

I, Daniel T. Brier, hereby certify that the foregoing Application for Leave To File Reply was served upon the following counsel via the Court's PACFile system which service satisfies the requirements of Pa.R.A.P. 121:

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Exhibit A

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,

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To avoid this Court's scrutiny, the General Assembly arrogates to itself exclusive authority to determine whether it respected and complied with the mandatory requirements for amending the Constitution in Article XI, § 1, *see, e.g.*, Answer at 21-25, and then inconsistently posits that this matter "belongs" before the Commonwealth Court, *id.* at 40. The General Assembly is wrong on both points. While its Answer is grandiloquent and ambitious, the General Assembly fails to credibly explain why this Court should decline to exercise King's Bench jurisdiction over this matter of undeniable immediate statewide importance. This Court should reject the General Assembly's self-immunizing declaration that it, and it alone, is the judge of what is required by Article XI, § 1 on first passage of a proposed constitutional amendment. To the contrary, it is this "Court's duty . . . to insure that the provisions of the Constitution establishing the procedure for the proposal and adoption of constitutional amendments are satisfied." *League of Women Voters of Pa. v. Degraffenreid*, 265 A.3d 207, 226 (Pa. 2021) (citation and internal quotation marks omitted). This Court should assume King's Bench jurisdiction to enforce the mandatory procedures established in Article XI, § 1.

A. Compliance With Article XI, § 1 Is Not a Political Question Insulated From Review by This Court.

As its primary argument, the General Assembly contends that authority to amend the Constitution is "exclusively" within the power of the General Assembly and therefore Petitioners' challenges to passage of SB 106 are "political questions"

that are not justiciable. Answer at 21-25.[1] This argument is a non-starter for two reasons.

First, it has been squarely rejected. This Court made clear in *Pa. Prison Soc.* that deference afforded to the General Assembly in enacting legislation does not apply to the procedure for amending the Constitution in Article XI, § 1. *Pa. Prison Soc. v. Commonwealth*, 776 A.2d 971, 979 (Pa. 2001) (rejecting "contention that the model for analysis . . . should be that applied to legislation under Article III of our existing Constitution").[2]

Second, this Court is the ultimate arbiter of the Constitution and, therefore, is authorized (indeed obligated) to evaluate the General Assembly's compliance with Article XI, § 1. In fact, it is a "bedrock principle" that this Court has the

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[1] The General Assembly's mistaken claim to "exclusive authority" is rooted in a misreading of *Costa v. Cortes*, 143 A.3d 430 (Pa. Cmwlth. 2016), *aff'd*, 145 A.3d 721 (Pa. 2016). That case involved a motion to preliminarily enjoin the removal of a proposed constitutional amendment from the primary election ballot. *Id.* at 432-33. There was no dispute in that case whether the requirements in Article XI, § 1 were satisfied. *Id.* at 433 & n.3. After finding that the petitioners failed to meet their burden of proving a right to a preliminary injunction, the Commonwealth Court observed in *dicta* that the wisdom of the decision to delay submission to the electorate was not a matter for judicial review given that Article XI, § 1 provides that the legislature determines the time of submitting amendments to voters. *Id.* at 442. *Costa* does not support the General Assembly's position that it has "exclusive" authority over the amendment process and has no application here.

[2] In *Pa. Prison Soc.*, a majority of the Court agreed on the foundational legal principles applicable to a claim that an amendment violates Article XI, § 1, but there was no consensus on the proper analysis for deciding whether a single ballot question proposed multiple revisions. *League of Women Voters*, 265 A.3d at 215.

"duty under the Pennsylvania Constitution" to ensure compliance with Article XI, § 1. *League of Women Voters*, 265 A.3d at 226 (citation omitted); *see also id.* at 227 ("Our Court's duty to ensure scrupulous adherence to the provisions of Article XI, § 1 is . . . of utmost importance . . . ."); *Commonwealth ex rel. Schnader v. Beamish*, 164 A. 615, 616-17 (Pa. 1932) ("The Constitution is the fundamental law of our commonwealth, and, in matters relating to alterations or changes in its provisions, the courts must exercise the most rigid care to preserve to the people the right assured to them by that instrument."). This Court's authority to resolve Petitioners' challenges to SB 106 is simply not debatable.

Unable to avoid this controlling and unassailable precedent, the General Assembly tries to recharacterize this dispute over compliance with Article XI, § 1 as a challenge to its "internal procedures," *see, e.g.*, Answer at 21, 22, 28, 32, 34, 40, or, in its phrasing, how it "made the sausage," *id.* at 25. Petitioners' characterization of the issues is inaccurate, and its attempted analogy to making sausage is inapt. While Petitioners' Application contextualizes the General Assembly's deviations from usual practice in its enactment of SB 106, King's Bench Appl. at 4-10,[3] their request to invalidate SB 106 is not based on these

[3] Whereas House Majority Leader Kerry A. Benninghoff claims in his *amicus* filing that the electorate received "significant information about SB 106 . . . indirectly (through the legislative process)," Benninghoff *Amicus* Br. at 3 n.1 & 8, House Minority Leader Joanna E. McClinton demonstrates that there was no opportunity for amendment and no ability to divide the resolution into its

irregularities. Instead, Petitioners urge this Court to invalidate SB 106 and preclude further action on the amendments in SB 106 due to the General Assembly's failures to adhere to the mandatory procedure established in Article XI, § 1. These deviations from the "specific and detailed process" mandated by Article XI, § 1 render SB 106 invalid and incapable of forming the basis for amending our Constitution. *League of Women Voters*, 265 A.3d at 227. The General Assembly's effort to dumb-down the import of strict compliance with the mandatory constitutional procedure in Article XI, § 1 by analogizing constitutional amendments to legislative "sausage" making is a tell, and underscores the urgency and importance of this Court's immediate review.

B. These Disputes Concerning Adherence to the Mandatory Procedure in Article XI, § 1 Are Ripe for Disposition.

The General Assembly misapprehends the deficiencies in SB 106 and this Court's precedents in arguing that this controversy will not become ripe until after second passage. Answer at 26-30. The constitutional violations that Petitioners identified are extant, complete and continuing and, therefore, the controversy is ripe for disposition now.

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component parts, McClinton *Amicus* Br. at 101-17. At bottom, it is the bundling of constitutional amendments into a single resolution without separate yea and nay votes that is unconstitutional.

This Court has made clear that, where differences between the parties "as to their legal rights[] have reached the stage of antagonistic claims, which are being actively pressed on one side and opposed on the other, an actual controversy appears." *Lakeland Joint Sch. Auth. v. Sch. Dist. of Twp. of Scott*, 200 A.2d 748, 751 (Pa. 1964). We are undoubtedly at that stage. The General Assembly claims "exclusive[] . . . constitutional authority" to pursue second passage of SB 106 at a time and manner of its sole choosing, *see* Answer at 21-25, whereas Petitioners contend that the amendments in SB 106 fail to adhere to Article XI, § 1 and, as a result, are incapable of successful second passage, *see* King's Bench Appl. at 15-40.[4] This fully-developed dispute over the constitutionality of the already-passed SB 106 and its continuing viability is exactly the type of controversy that is ripe for disposition by way of declaratory judgment. *See Pa. Gaming Control Bd. v. City Council*, 928 A.2d 1255, 1265 (Pa. 2007) (ruling on petition to enjoin ordinance calling for ballot question not advisory where petitioners challenged legality of ordinance on its face); *Deer Creek Drainage Basin Auth. v. County Bd. of Elections*, 381 A.2d 103, 107 (Pa. 1977) (enjoining ballot question that was incapable of "operative effect").

[4] The proposed amendment or amendments must be the same on first and second passage. *See Grimaud v. Commonwealth*, 865 A.2d 835, 844 (Pa. 2005). Accordingly, there is no opportunity for any corrections on second passage.

Moreover, the General Assembly fails to acknowledge that the harm resulting from its violation of Article XI, § 1 is both complete and continuing. Pennsylvania voters have already been denied both the opportunity to know how their legislators would vote on the individual amendments in SB 106, and the corresponding opportunity to hold their legislators accountable in the upcoming general election. This is a plain violation of Article XI, § 1 which directs that "[a]mendments to this Constitution may be proposed in the Senate or House of Representatives" and, if agreed to by a majority of the members in each House, "such proposed amendment or amendments shall be entered on [the Senate and House] journals with the yeas and nays taken thereon." Pa. Const. art. XI, § 1. The use of both the singular and plural in relation to the vote requirement—"amendment ***or*** amendments," *id.* (emphasis added)—can only mean that separate yea and nay votes are required on each proposed amendment to the Constitution.

This comports with the Court's finding that the procedure in Article XI, § 1 is intended "to afford the electorate abundant opportunity to be advised of proposed amendments and ascertain the attitude of the candidates for election to the General Assembly 'next afterwards chosen' to the amendments." *Tausig v. Lawrence*, 197 A. 235, 238 (Pa. 1938). Nothing less than a separate vote on each and every proposed change to the Constitution can satisfy this objective. Notably, there is no yeas and nays requirement with respect to second passage. Article XI, 1

requires only that, on second passage, "such proposed amendment or amendments shall be agreed to by a majority of the members elected to each House." Pa. Const. art. XI, § 1.

The plain text of Article XI, § 1, the intent of this section, and the use of different language for voting on first and second passage lead ineluctably to the conclusion that individual yea and nay votes on each proposed change to the Constitution are required to be recorded and published prior to the general election. The single yea and nay vote taken on SB 106 under the cover of dark on July 8, 2022 shields legislators from the accountability to voters that the two-passage requirement in Article XI, § 1 is specifically designed to ensure. The right of every voter to hold their representatives accountable will be forever lost after the November 8, 2022 general election and any post-election attempt to enjoin further action on SB 106 on these grounds would most certainly be met with mootness and laches challenges. This matter is ripe now.

The General Assembly avoids textual analysis and instead puts the rabbit in the hat by denying that electors have a right to know their representatives' position on each change to the Constitution. Answer at 31-32. But the General Assembly cannot avoid ripeness, or defeat standing, by adjudging the correctness of its own conduct. Whether Pennsylvania voters are entitled to know their representatives' position on each proposed amendment prior to the election on November 8, 2022 is

the very dispute that requires immediate resolution by this Court. The "antagonistic claims" on this issue "being actively pressed on one side and opposed on the other" prove the existence of an actual controversy that is ripe and appropriate for declaratory relief. *Lakeland Jt. Sch. Dist. Auth.*, 200 A.2d at 751.

The General Assembly's other attacks on ripeness are unsubstantiated and self-defeating. It posits that second passage is needed to make the dispute ripe because that is when previous litigants asserted constitutional challenges. Answer at 29-30. To the best of Petitioners' knowledge, however, no court has ever been asked to decide whether a practice of voting on amendments collectively in a joint resolution satisfies Article XI, § 1. The fact that previous litigants raised different claims at later points in the amendment process does not and cannot restrict Petitioners' remedies here. *See McCleary v. Allegheny County*, 30 A. 120, 123 (Pa. 1894) ("[J]udgments . . . are authority for what is passed on and decided. They are not precedents for issues not raised . . . ."). Further, there is no principled reason for finding a facial challenge to invalid constitutional amendments ripe after second passage and before submission to the electorate, but not after first passage. This central dispute—whether the amendments adhere to the requirements in Article XI, § 1—is extant throughout. Nor is it possible to reconcile the General Assembly's denials of ripeness with its closing argument that this matter "belongs" in Commonwealth Court which is it describes as "the most appropriate venue" for

Petitioners' claims. Answer at 40. There is also no principled reason why this matter would be ripe in one court but not another.

This dispute is ripe now. It is properly decided now by this Court.

C. Governor Wolf and Acting Secretary Chapman Have Standing To Challenge the General Assembly's Non-Compliance With Article XI, § 1.

The General Assembly is wide of the mark in arguing lack of standing. Petitioners have a substantial, direct and immediate interest in this matter.

The only known case that addresses standing in relation to a challenge under Article XI, § 1 is *Bergdoll v. Kane*, 731 A.2d 1261 (Pa. 1999). In *Bergdoll*, a state bar association, attorneys, taxpayers and electors challenged a proposed constitutional amendment that would have amended the Constitution to allow the General Assembly to enact laws regarding how children could testify in criminal proceedings. *Id.* at 1264, 1267. This Court rejected the Commonwealth's argument that only criminal defendants had standing to challenge the constitutionality of the amendment, explaining that this argument "minimizes what is truly at stake in this action." *Id.* at 1268. The Court explained that the interest at stake is "the right of every elector to vote on amendments to our Constitution in accordance with its provisions." *Id.* at 1269 (quoting *Moore v. Shanahan*, 207 Kan. 645, 649, 486 P.2d 506, 511 (1971)).

Straightforward application of *Bergdoll* requires the conclusion that the Governor and Acting Secretary have standing as voters to enforce compliance with the separate yeas and nays requirement in Article XI, § 1. They also have standing as Commonwealth officials to challenge the constitutionality of SB 106. Importantly, Governor Wolf and Acting Secretary Chapman took an oath to "support, obey and defend" the Pennsylvania Constitution, Pa. Const. art. VI, § 3, and as a result have an indisputable interest in ensuring compliance with the provisions of Article XI, § 1. Governor Wolf also has a substantial interest in opposing the General Assembly's unconstitutional attempt at diluting executive authority through the proposed amendment to Article III, § 9. As the head of the Department of State which is entrusted with responsibility for overseeing Commonwealth elections, Acting Secretary Chapman has an interest in ensuring accurate, complete and fair notice to the electorate to fulfill the guarantee of "free and equal" elections in Article I, § 5, including accurate information concerning the voter age and residency requirements in Pennsylvania.[5] Accordingly, for

[5] The League of Women Voters of Pennsylvania filed an Application for Leave To Intervene in this matter, arguing that the proposed addition of a voter identification requirement in Article VII, § 1 is invalid because it incorporates and reaffirms age and residency requirements that are unconstitutional under federal law. Specifically, SB 106 resolved to amend Article VII, § 1 by adding a new section (B) which is "in addition to" the restated invalid age and residency requirements in what SB 106 restyled as section (A). Petitioners join in the League's argument that the amendment to Article VII, § 1 violates the Fourteenth and Twenty-Sixth Amendments to the United States Constitutions and the Free and

multiple reasons, Governor Wolf and Acting Secretary Chapman have a direct, substantial and immediate interest in challenging the constitutionality of SB 106.

Second passage will not correct the constitutional defects and therefore is not necessary to confer standing. Unsurprisingly, the General Assembly remains steadfast in its view that SB 106 is not constitutionally infirm and its advocacy in this matter confirms its intent to pursue second passage of the same defective amendments at a time and manner of its own choosing. *See, e.g.*, Answer at 21-25. The Governor and Acting Secretary need not wait for the General Assembly to pass the same defective amendments a second time[6] to achieve standing to challenge the constitutionality of SB 106 or the process the General Assembly used in its first passage of SB 106. *See generally Firearm Owners Against Crime v. Papenfuse*, 261 A.3d 467, 488-89 (Pa. 2021) (finding plaintiffs had standing to challenge ordinance even absent enforcement where city officials' "statements indicate that they are enforcing the ordinances, intend to continue to do so, and will

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Equal Elections Clause, Pa. Const. art. I, § 5 to the extent it states that Pennsylvania citizens must be 21 years old and residents of Pennsylvania for 90 days to be eligible to vote.

[6] In her amicus filing, Senator Ward seems to acknowledge that "bifurcation" of the proposal to amend the Constitution to deny any constitutional right to abortion ***or*** any right to taxpayer-funded abortion may be appropriate going forward. Ward *Amicus* Br. at 50-51. While such midstream adjustments are not permitted by Article XI, § 1, *see generally Grimaud,* 865 A.2d at 844, this concession underscores the invalidity of the amendment as written.

not repeal the ordinances"); *Commonwealth v. Donahue*, 98 A.3d 1223, 1230-31 (Pa. 2014) (governor has standing to challenge agency's interpretation of statute where agency's "advocacy serves to enunciate sufficiently its position on this issue which adversely, directly and immediately impacts" the governor); *Robinson Twp. v. Commonwealth*, 83 A.3d 901, 919-20 (Pa. 2013) (municipalities have standing to challenge constitutionality of statute that conflicts "with their functions, duties, and responsibilities under the Pennsylvania Constitution").

The General Assembly cites repeatedly to *Commonwealth ex rel. Att'y Gen. v. Griest*, 46 A. 505 (Pa. 1900), but that decision did not address or resolve any disputed issues concerning standing or ripeness. Instead, *Griest* stands for the narrow and, in this matter irrelevant, proposition that a resolution proposing a constitutional amendment is not subject to the Governor's veto. The Court in *Griest* was not asked to, and did not, address or resolve any argument regarding standing or ripeness and, therefore, *Griest* does not support the General Assembly's attempt to avoid judicial scrutiny here.

D. This Matter Warrants Invocation of King's Bench Power.

Finally, the General Assembly urges the Court to find that a dispute over compliance with the procedure for amending the Constitution is not the type of dispute that merits immediate review by this Court. Answer at 15-20, 40-42. We respectfully disagree.

Having resolved through SB 106 to cabin and restrict executive and judicial power enshrined in the Pennsylvania Constitution, the General Assembly now implores this Court to refrain from exercising King's Bench authority to review its latest effort to alter the constitutional separation of powers. The General Assembly bases its argument on the faulty premise that King's Bench power is reserved for issues involving judicial supervision. Answer at 7-8. Not even the single dissenting opinion it cites endorses that view. And King's Bench power is not so limited. In *Commonwealth v. Williams*, this Court rejected a narrow of interpretation of King's Bench power that would limit its exercise to cases involving judicial supervision, explaining that "[t]his Court has never adopted such a narrow view of the King's Bench authority. . . ." 129 A.3d 1199, 1207 (Pa. 2015) (citations omitted). Further, in *In re Bruno* on which the General Assembly heavily relies, this Court cautioned: "We would be remiss to interpret the Court's supervisory authority at King's Bench in narrow terms, contrary to precedent and the transcendent nature and purpose of the power." 101 A.3d 635, 679 (Pa. 2014). This Court should likewise reject the General Assembly's self-interested proposal to limit the Court's exercise of its King's Bench power.

The General Assembly also misstates the law in arguing that "[t]he case law relied on by Petitioners" requires that this dispute be decided by the Commonwealth Court. Answer at 40-41. None of the cases so hold. Nor is it

dispositive or even relevant that a constitutional challenge against the General Assembly may be brought in Commonwealth Court. *Id.* at 40. King's Bench power is properly invoked even when there is no dispute pending in a lower court. *Friends of Danny DeVito*, 227 A.3d 872, 884 (Pa. 2020) (citations omitted).

The General Assembly maintains there is no "exigency"[7] justifying King's Bench jurisdiction, Answer at 15-20, but this minimizes the significance of the issues presented and misapprehends this Court's essential role in enforcing the procedure for amending the Constitution. This Court has acknowledged its "duty" to ensure that the provisions in Article XI, § 1 are satisfied, *League of Women Voters*, 265 A.3d at 226; *see also Pa. Prison Soc.*, 776 A.2d at 977, and that this duty "is . . . of utmost importance as these provisions are indispensable for the stability of our peaceful, democratic system of governance," *League of Women Voters*, 265 A.3d at 227. This Court should exercise its King's Bench authority to enforce Article XI, § 1 because it is its duty to do so and because amending the Constitution is a matter of unparalleled importance to all Pennsylvanians.

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[7] The General Assembly infers from instances of invocation of King's Bench jurisdiction during the COVID-19 pandemic that the pandemic is the only "true exigency" that justifies such jurisdiction. Answer at 17-20. There is, of course, no such limitation in the grant of authority in Article V, § 2 and 42 Pa. C.S.A. § 502 and this Court has exercised its King's Bench power to resolve constitutional issues of immediate public concern both during a public health emergency and when there was no such emergency.

At the end of the day, even the General Assembly recognizes that the constitutionality of SB 106 is a matter for ultimate resolution by this Court. It posits that, if Petitioners "seek to press their . . . claims quickly," they should refile in Commonwealth Court, request an expedited briefing schedule, apply for summary relief and seek "certification of questions of law ***to this Court***." Answer at 42 (emphasis added). King's Bench jurisdiction is intended to avoid such inefficiency and delay in matters like this involving issues of immediate public importance. *See, e.g., Pa. Gaming Control Bd. v. City Council*, 928 A.2d 1255, 1264 n.6 (Pa. 2007) (issue of whether question may lawfully be placed on ballot is matter of "profound importance" and "deserve[s] prompt and conclusive judicial review" and therefore, as an alternative, "clearly merits the invocation of our King's Bench powers").

This Court should exercise its King's Bench jurisdiction to resolve the constitutional challenges presented here.[8]

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[8] Senator Ward suggests that strict enforcement of the yeas and nays requirement in Article XI, § 1 might impact other constitutional amendments that had their origin in a joint resolution containing multiple amendments. Ward *Amicus* Br. at 6-8, 52-54. Put simply, two wrongs (or, in this case several wrongs) don't make a right and custom cannot override correct interpretation of the Constitution. And this "unintended consequences" concern overlooks the Court's authority to interpret the "yeas and nays" requirement properly in this matter of first impression, while ensuring (should this Court deem it to be appropriate) that the holding is applied prospectively, only. *See Dana Holding Corp. v. Workers'*

E. Conclusion

SB 106 plainly and irreparably violates Article XI, § 1. This Court should exercise jurisdiction over this important public matter, declare that SB 106 is constitutionally invalid and enjoin further action on SB 106.

Respectfully submitted,

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Date: August 26, 2022

Comp. Appeal Bd., 232 A.3d 629 (Pa. 2020) (describing considerations applicable in deciding effect to be given to judicial decision).

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.

/s/ Daniel T. Brier
Daniel T. Brier

Date: August 26, 2022