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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

No. 482 MD 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.

REPLY BRIEF IN FURTHER SUPPORT OF PRELIMINARY OBJECTIONS AND BRIEF IN OPPOSITION TO APPLICATION FOR SUMMARY RELIEF BY SENATOR KIM WARD AND PENNSYLVANIA SENATE REPUBLICAN CAUCUS

Matthew H. Haverstick (No. 85072)
Joshua J. Voss (No. 306853)
Shohin H. Vance (No. 323551)
KLEINBARD LLC
Three Logan Square
1717 Arch Street, 5th Floor
Philadelphia, PA 19103
Ph: (215) 568-2000
Fax: (215) 568-0140
Eml: mhaverstick@kleinbard.com
jvoss@kleinbard.com
svance@kleinbard.com

Attorneys for Senator Kim Ward and Pennsylvania Senate Republican Caucus

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I. INTRODUCTION

Petitioners and the Intervenor-Petitioners believe the Pennsylvania Constitution, despite being silent on the matter, prohibits the General Assembly from voting on multiple proposed amendments in a single joint resolution. That very proposition, though not yet addressed by a Pennsylvania Court, has been rejected by the appellate courts of several states, who, upon reviewing substantially identical constitutional provisions to Pennsylvania's, found no prohibition against multiple-proposal resolutions. Of equal import, the General Assembly itself, in the exercise of its textually committed authority to propose amendments, has seven times rejected the idea that multiple proposed amendments cannot exist in a single joint resolution, *see* Senate Republican Intervenors Br. at 6-9 (describing six prior joint resolutions agreed to before SB 106), a history the Petitioners reject without meaningful explanation.

But if this Court agrees the General Assembly has been wrong all *seven times* it approved a joint resolution with multiple proposed amendments, this Court will *also* impliedly hold that each of the

following popularly approved, current provisions of the Constitution are unlawful for employing this purportedly fatal procedure:

- **Article I, Section 29**: prohibiting denial of equal rights based on race and ethnicity, *see* Senate Bill 2 of the Session of 2021 (Prelim. Obj., Ex. K); Senate Bill 1166 of the Session of 2020 (Prelim. Obj., Ex. L); P.L. 493, J.R. 1 (May 18, 2021);

- **Article III, Section 9**: providing the General Assembly certain authority regarding disaster emergency declarations, *see* Senate Bill 2 of the Session of 2021 (Prelim. Obj., Ex. K); Senate Bill 1166 of the Session of 2020 (Prelim. Obj., Ex. L); P.L. 493, J.R. 1 (May 18, 2021);

- **Article IV, Section 20**: regarding the declaration of disaster emergencies by the Governor, *see* Senate Bill. 2 of the Session of 2021 (Prelim. Obj., Ex. K); Senate Bill 1166 of the Session of 2020 (Prelim. Obj., Ex. L); P.L. 493, J.R. 1 (May 18, 2021);

- **Article II, Section 17(f)**: regarding the election of Senators under certain circumstances, *see* Senate bill 231 of the Session of 1999 (Prelim. Obj., Ex. I); House Bill 114 of the Session of 1997 (Prelim. Obj., Ex. J); 2000 P.L. 1057, J.R. 1 (May 15, 2001); and

- **Article VIII, Section 11(b):** providing for the use of aviation fuel excise taxes, *see* Senate Bill 319 of the Session of 1981 (Prelim. Obj., Ex. F); House Bill 62 of the Session of 1979 (Prelim. Obj., Ex. G); P.L. 603, J.R. 2 (Nov. 3, 1981).

With this appropriate context, the enormity of what Petitioners and Intervenor-Petitioners are asking is laid bare. Simply stated, not only are they petitioning this Court to opine on the constitutionality of proposals that *may never* make it through the legislative process—let alone become part of the Constitution—but also they are asking this

Court to diagnose a fatal illness in *multiple* provisions of the current Constitution based on a newfound and counter-textual interpretation of Article XI, Section 1. The Court should reject Petitioners' invitation.

II. REPLY ARGUMENT IN FURTHER SUPPORT OF PRELIMINARY OBJECTIONS

A. The significant legislative history regarding joint resolutions proposing multiple amendments to the Constitution underscores the lack of support for the theory that SB 106 is procedurally infirm.

Petitioners misconstrue the import of the significant legislative history set forth in the Senate Republican Intervenors' brief. That history is, of course, the six prior instances where the General Assembly approved joint resolutions proposing multiple amendments to the Constitution, making SB 106 the *seventh* such instance. *See* Senate Republican Intervenors Br. at 6-9. Petitioners' lone passing comment on this significant history is to suggest that a "pattern or practice" such as the foregoing cannot change what the Constitution requires. *See* Pet. Br. at 36. While that maxim is true, it is immaterial to what this legislative history shows. Specifically, in setting forth this history, the Senate Republican Intervenors are illustrating three things for this Court.

One, the only novel interpretation of Article XI, Section 1 being offered to the Court—i.e., that it requires a separate joint resolution for each proposed amendment—is the one from Petitioners and Intervenor-Petitioners, and not the one from any Respondent. This is why Petitioners have been unable to offer a single Pennsylvania decision—or a decision from any jurisdiction—holding that this practice is unlawful or contrary to the text of Article XI, Section 1.

Two, this history shows that, in fact, Article XI, Section 1 is not ambiguous at all, at least not to the body that is textually obligated to use it and has been doing so for decades—the General Assembly. And the Senate Republican Intervenors do not stand alone in suggesting the text is clear. In fact, appellate courts in Idaho, Iowa, Ohio, and Rhode Island, when interpreting substantially similar constitutional amendment provisions to Pennsylvania's,[1] likewise concluded that a single resolution with multiple proposals is perfectly within the constitutional text. *See McBee v. Brady*, 100 P. 97, 101, 104 (Idaho

[1] The text of the relevant version of the Constitutions of Idaho, Iowa, Ohio, and Rhode Island are appended hereto at Appendix 1.

1909)[2]; *Jones v. McClaughry*, 151 N.W. 210, 217 (Iowa 1915)[3]; *State ex rel. Slemmer v. Brown*, 295 N.E.2d 434, 436-37 (Ohio App. 1973);[4] *In re Op. of S. Ct.*, 71 A. 798, 800 (R.I. 1909).[5] Notably, three of those states—

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[2] "In the absence of specific directions as to the method to be pursued in proposing amendments to the Constitution, there can appear no good reason why the same may not be done by a joint resolution in the manner followed in the case under consideration, and while amendments may be proposed in this manner, yet the submission of such amendments to the electors involves an entirely different proposition, and the Legislature is required to submit the amendment or amendments so that each amendment may be voted upon separately." *McBee*, 100 P. at 101.

[3] "The Constitution contains no requirement that the proposal of each amendment shall be voted on separately in either house. Section 29 of article 3 of the Constitution relates to an act of the Legislature, and section 1 of article 10, in saying 'any amendment or amendments' may be proposed by either house, and that if agreed to 'such proposed amendment shall be entered on their journals with the yeas and nays taken thereon,' is complied with if such entry is of a resolution containing several amendments as though there were but one. Surely the larger number includes the less, and each amendment contained therein may be said to have been entered and the yeas and nays taken thereon." *Jones*, 151 N.W. at 217; *see also* The Iowa Legislature, *1857 Constitution of the State of Iowa—Original*, at 28 (setting forth the "four amendments" from 1884 described in *Jones*, 151 N.W. at 216, 217), https://www.legis.iowa.gov/docs/publications/ICP/1023055.pdf.

[4] "There is nothing in Section 1, Article XVI, Ohio Constitution, which expressly prohibits the General Assembly from proposing more than one amendment to the constitution by a single joint resolution." *Slemmer*, 295 N.E.2d at 436-37; *see also State ex rel. Ethics First-You Decide Ohio Political Action Commt. v. DeWine*, 66 N.E.3d 689 (Ohio 2016) (favorably citing *Slemmer*); *State ex rel. Ohioans for Secure and Fair Elections v. LaRose*, 152 N.E.3d 267, 288 (Ohio 2020) (three judge concurrence) ("In contrast, Article XVI, Section 1 contemplates that multiple amendments may be proposed in a single joint resolution of the General Assembly, and it requires a separate vote of the people in order to protect their freedom to decide which amendments to the Constitution should be adopted.").

[5] "It thus appears that these proposed amendments concern three entirely distinct subjects, and relate to three distinct articles of the Constitution; and it is entirely appropriate and within the constitutional power of the General Assembly at its present session, if it approve said proposition, to provide that such proposition containing separate amendments be published and submitted to the electors as

Idaho, Ohio, and Iowa—also had "separate vote" requirements (whereby separate amendments needed to be voted on individually by the electorate) in their Constitutions at the time the foregoing courts reviewed the multiple proposal/single resolution issue. *See* Appendix 1. Hence, the historical interpretation of Article XI by the General Assembly is in full accord with the interpretations by sister legislatures and appellate courts when reviewing and implementing companion constitutional provisions.

Three, while our Supreme Court has said Article XI must be carefully followed, *see* Pet. Br. at 26-27 (citing cases), it has likewise observed that historical practice with amendments informs the propriety of the procedure used to adopt such amendments. Indeed, in *Stander v. Kelley*, 250 A.2d 474 (Pa. 1969), where the use of a constitutional convention was challenged because it was not expressly mentioned in the text of the Constitution as a method of amendment, the Court nevertheless found it was appropriate after examining the historical use of such conventions. *See id.* at 478-79. In so approving

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separate proposed amendments to the Constitution, as will more fully appear in discussing the next question." *In re Op. of S. Ct.*, 71 A. at 800.

this procedure, the Court stated, "so long as a Constitutional Convention is not expressly prohibited by the then existing Constitution, it represents a proper manner and method in which the citizens of Pennsylvania may initiate an amendment to their Constitution." *Id.* at 479. Likewise, here multiple proposals in a single resolution are also not "expressly prohibited" by the text of Article XI, Section 1, and are, in fact, fully permitted, *see* Senate Republican Intervenors Br. at 29-36.

Therefore, while the legislative history regarding multiple proposed amendments in a single resolution does not *per se* dictate to this Court how to interpret Article XI, Section 1, it does strongly suggest the procedure used by the General Assembly with SB 106 was not improper or irregular and that Article XI does not textually require the interpretation the Petitioners proffer.

B. Petitioners and Intervenor-Petitioners have failed to establish standing to pursue all of their claims.

Quite apart from the lack of merit in their claims, neither Petitioners nor Intervenor-Petitioners have offered a persuasive rejoinder regarding their standing for all Counts in the Petition for Review.

Turning initially to Governor Wolf and Acting Secretary Chapman's argument, they submit that their oath of office to defend the Pennsylvania State Constitution confers standing to enforce what they perceive as the requirements of Article XI, Section 1. While certain decisions of this Court seemingly support this sweeping theory of standing, this construct is inconsistent with this Court's repeated admonition that "a generalized grievance about the correctness of governmental conduct" is insufficient to create standing. *Brouillette v. Wolf*, 213 A.3d 341, 355 (Pa. Cmwlth. 2019) (*en banc*). It also bears emphasizing that the Governor and the Acting Secretary do not offer any limiting principle for their standing framework. As such, if adopted, their rubric would confer standing on every licensed attorney and public official to pursue claims for redress of a constitutional violation.[6]

Intervenor-Petitioners' standing arguments fare no better. Specifically, both the House and Senate Democratic Caucuses argue they have standing because they were compelled to cast a single vote for

[6] The Governor and Acting Secretary also maintain that they have standing because SB 106 directly impacts their official responsibilities. As explained in the Senate Republican Intervenors' principal brief, however, the alleged injuries for which the Governor and Acting Secretary seek redress are highly speculative and in no way direct.

or against multiple proposed constitutional amendments. This alleged injury—while ultimately unavailing on the merits—may be sufficient to confer standing relative to Count I.[7] It does not, however, create standing as to the remaining counts. Indeed, for their part, Intervenor-Petitioners offer no explanation of their standing relative to the balance of the Petition for Review.[8] In short, standing exists, at most, for Count I and the remaining claims should be dismissed.

C. On the merits of the proposed amendments, Petitioners and Intervenor-Petitioners are seeking an advisory opinion.

Neither Petitioners nor Intervenor-Petitioners challenged as incorrect the Senate Republican Intervenors' description of the *numerous* steps that must take place—all successfully—before any

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[7] Of course, assuming *arguendo* standing exists as to Count I, it should nevertheless be dismissed for the multitude of justiciability and merits-based defects discussed in the Senate Republican Intervenors' principal brief.

[8] The Senate Democratic Intervenors also maintain that Respondents waived their right to challenge standing because "standing was a prerequisite to Democratic Senate Intervenors' request to intervene in this matter, which Respondent did not oppose." Senate Dem. Intervenors Br. at 52. This argument is without basis. *See Allegheny Reprod. Health Ctr. v. Pennsylvania Dep't of Hum. Servs.*, 225 A.3d 902, 910-11 (Pa. Cmwlth. 2020). As this Court has recognized—in the specific context of state legislators—"[s]imply, the test for standing to initiate litigation is not co-terminus with the test for intervention in existing litigation." Accordingly, "it does not follow that because a legislator was permitted to intervene in a [] proceeding that he has standing to initiate a proceeding before [that tribunal]." *Id.* Intervenor-Petitioners, therefore, are required to establish standing relative to each Count in the Petition for Review.

proposed amendment can become part of the Constitution. *See* Senate Republican Intervenors Br. at 9-13. This means all parties are in accord that before the proposals in SB 106 can become part of the Constitution, no less than ***four steps*** remain ahead: (1) introduction in the next session of the General Assembly, (2) passage by both chambers, (3) advertising by the Secretary, and (4) electorate approval. *See id.*; *see generally* Pa. Const. art. XI, § 1. If the proposals fail at any of these steps, they will never become part of our organic law.

And whether they will succeed at all steps remains utterly unknown to the parties, making wholly advisory, and thus improper, the request that this Court opine now on the constitutionality of the proposed amendments. *See Chester Upland Sch. Dist. v. Com.*, 495 A.2d 981, 983 (Pa. Cmwlth. 1985) ("Declaratory judgment is not appropriate to determine rights in anticipation of events which may never occur."); *see also Mt. Lebanon v. Cnty. Bd. of Elections of the Cnty. of Allegheny*, 368 A.2d 648, 649-50 (Pa. 1977). Hence, insofar as any Petitioner is asking for a declaration on the constitutionality of the merits of any of the five proposals, the request for such declaratory relief is a demand for an advisory opinion this Court cannot offer.

III. ARGUMENT IN OPPOSITION TO SUMMARY RELIEF

Petitioners' and Intervenor-Petitioners' arguments in support of summary relief were affirmatively addressed by the Senate Republican Intervenors in their principal brief, and thus are not restated at length here. Instead, those arguments are incorporated by reference, while any supplemental points, where necessary, are set forth below.

A. Article XI does not require separate votes by the General Assembly when multiple amendments are proposed.

This issue was addressed by the Senate Republican Intervenors at pages 29 through 36 of their principal brief.

By way of supplemental response, the purported separate resolution requirement that Petitioners and Intervenor-Petitioners wish to be read into Article XI, Section 1, finds no support in the language of the provision. Above all else, the plain text of Article XI, Section 1 shows that when the people of this state intended a separate vote, express text was used to indicate it: "When two or more amendments shall be submitted they *shall be voted on separately*." *Id.* (emphasis added). This express language stands in stark contrast to the same passage as it concerns votes by the General Assembly, where the only

textual requirement is that the "yeas and nays" on such "proposed amendment *or amendments*" (plural) "shall be entered on their journals[.]" *Id.* (emphasis added). The text contains no hint of a "single subject" requirement, such as is found in the terminal sentence of Article XI, Section 1, or such as is expressly found in Article III, Section 3 ("No bill shall be passed containing more than one subject …"). *See also Costa v. Cortes*, 142 A.3d 1004, 1021 (Pa. Cmwlth. 2016) (observing that Article XI, Section 1 "does not contain a single-subject requirement").

Interpreting the plain text this way—i.e., as allowing multiple proposed amendments in a single resolution—is in accord not only with historical practice by the General Assembly, *see* Senate Republican Intervenors Br. at 6-9, but also is in accord with interpretations of similar text by other states under their Constitutions. *See McBee v. Brady*, 100 P. 97, 101 (Idaho 1909); *Jones v. McClaughry*, 151 N.W. 210, 217 (Iowa 1915); *State ex rel. Slemmer v. Brown*, 295 N.E.2d 434, 436-37 (Ohio App. 1973); *In re Op. of S. Ct.*, 71 A. 798, 800 (R.I. 1909). In contrast to this historical practice and analogous opinions from other jurisdictions, Petitioners and Intervenor-Petitioners have offered only

their novel say-so regarding how the text *should* be interpreted based on their suspicions about what the people of this state *intended* as opposed to what they actually said. *Cf.* Pet. Br. at 32-34; House Dem. Intervenors Br. at 20 (advocating for the "spirit" behind Article XI); Senate Dem. Intervenors Br. at 24-25 (discussing "democratic spirit" of Article XI). This is insufficient to succeed on their demand that this Court substantially change practice and procedure by the General Assembly under this constitutional provision, which provision invites no search for its "spirit" when its "letter" is clear. *See League of Women Voters v. Com.*, 178 A.3d 737, 802 (Pa. 2018) ("If the constitutional language is clear and explicit, we will not 'delimit the meaning of the words used by reference to a supposed intent.'"); *see also* 1 Pa.C.S. § 1921(b) (canon of statutory construction: "When the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.").

Stated as succinctly as possible, Article XI, Section 1 does not prohibit the General Assembly from using a single joint resolution to propose multiple amendments to the Constitution.

B. Proposed Article I, Section 30 does not violate the Constitution by combining two questions.

This issue was affirmatively addressed by the Senate Republican Intervenors at pages 37 through 42 of their principal brief.

C. Proposed Article I, Section 30 does not run afoul of any "inherent rights" principles of the Constitution.

This issue was affirmatively addressed by the Senate Republican Intervenors at pages 43 through 46 of their principal brief.

D. Proposed Article I, Section 30 is not unconstitutionally vague.

This issue was affirmatively addressed by the Senate Republican Intervenors at pages 46 through 47 of their principal brief.

E. SB 106 does nothing to alter voting age and residency requirements.

This issue was affirmatively addressed by the Senate Republican Intervenors at pages 47 through 49 of their principal brief.

By way of supplemental response, if resort to Twitter and TikTok is necessary for Petitioners to succeed on this issue, *see* Pet. Br. at 19 n.7, then they have admitted the facts on this issue are disputed, which bars summary relief under Appellate Rule 1532(b). *Cf. Phantom Fireworks Showrooms, LLC v. Wolf*, 198 A.3d 1205, 1220 (Pa. Cmwlth. 2018) ("An application for summary relief is appropriate where a party

asserts a challenge to the constitutionality of a statute and no material facts are in dispute."). This said, Petitioners and Intervenor-Petitioners are simply wrong in their position that SB 106 does anything to change age or residency requirements in Pennsylvania, and what SB 106 actually says and what it will do about such requirements (nothing), if ever adopted, is undisputed.

F. The proposed amendments in SB 106 do not advance multiple changes to the Constitution, do not deny voters the chance to vote separately on each change, and are not otherwise unconstitutional.

This issue was affirmatively addressed by the Senate Republican Intervenors at pages 48 through 57 of their principal brief.

IV. CONCLUSION

Above all else, Petitioners and Intervenor-Petitioners ask this Court to adopt a novel interpretation of Article XI, Section 1. Their position is novel because no Pennsylvania case law supports it. It is novel because no historical practice supports it. It is novel because no analogous decision by another state's courts supports it. In the end, it is novel because it is based on their wish about what Article XI, Section 1 *should* say, in their view, and not on what it *does* say.

And all of this is entirely separate and apart from their novel request that this Court opine, now, on the constitutionality of proposed amendments that ***may never occupy another day of the Legislative time***, let alone be passed into law. This is not only novel but prohibited. In short, Petitioners and Intervenor-Petitioners have provided nothing to this Court that would allow it to act on their requests for relief.

Therefore, the Senate Republican Intervenors ask the Court to sustain their Preliminary Objections and deny the Application for Summary Relief.

Respectfully submitted,

Dated: November 28, 2022

/s/ Matthew H. Haverstick
Matthew H. Haverstick (No. 85072)
Joshua J. Voss (No. 306853)
Shohin H. Vance (No. 323551)
KLEINBARD LLC
Three Logan Square
1717 Arch Street, 5th Floor
Philadelphia, PA 19103
Ph: (215) 568-2000
Fax: (215) 568-0140
Eml: mhaverstick@kleinbard.com
jvoss@kleinbard.com
svance@kleinbard.com

Attorneys for Senator Kim Ward and Pennsylvania Senate Republican Caucus

APPENDIX 1

Text of Iowa Constitution Article X, Sections 1-2 in effect in 1915:[9]

> Section 1. Any amendment or amendments to this Constitution may be proposed in either House of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice; and if, in the General Assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to, by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people, in such manner, and at such time as the General Assembly shall provide; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the General Assembly, voting thereon, such amendment or amendments shall become a part of the Constitution of this state.
>
> Section 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

Text of Idaho Constitution Article XX, Sections 1-2 in effect in 1909:[10]

> [Sec. 1.] Any amendment or amendments to this Constitution may be proposed in either branch of the

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[9] The Iowa Legislature, *1857 Constitution of the State of Iowa—Original*, at 24-25, https://www.legis.iowa.gov/docs/publications/ICP/1023055.pdf.

[10] As quoted in *McBee v. Brady*, 100 P. 97, 100 (Idaho 1909); *see also* Idaho Sec'y of State's Office, *Constitution of the State of Idaho* (reproducing Idaho

> Legislature, and if the same shall be agreed to by two-thirds of all the members of each of the two houses, voting separately, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and it shall be the duty of the Legislature to submit such amendment or amendments to the electors of the state at the next general election, and cause the same to be published without delay for at least six consecutive weeks, prior to said election, in not less than one newspaper of general circulation, published in each county; and if a majority of the electors shall ratify the same, such amendment or amendments shall become a part of this Constitution.
>
> Sec. 2. If two or more amendments are proposed, they shall be submitted in such manner that the electors shall vote for or against each of them separately.

Text of Ohio Constitution Article XVI, Section 1 in 1973:[11]

> Either branch of the general assembly may propose amendments to this constitution; and, if the same shall be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and shall be submitted to the electors, for their approval or rejection, on a separate ballot without party designation of any kind, at either a special or a general election as the general assembly may prescribe. Such proposed amendments shall be published

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Constitution of 1890 and all subsequent amendments), https://sos.idaho.gov/elect/stcon/index.html.

[11] *The Constitution of the State of Ohio With Amendments Proposed by the Constitutional Convention of 1912 and Approved by the People*, at 2137 (link provided by Cleveland-Marshall College of Law Library at https://www.law.csuohio.edu/sites/default/files/lawlibrary/ohioconlaw/Steinglass-Constitutionwithamendments.pdf). Article XVI of the Ohio Constitution was amended in 1974 to its current form, which still contains the "separate vote" requirement. *See* Ohio HJR 61 (1974); *see also* Cleveland-Marshall College of Law Library, *Ohio-Constitution-Law and History: Table of Proposed Amendments*, https://guides.law.csuohio.edu/c.php?g=190570&p=9367492.

> once a week for five consecutive weeks preceding such election, in at least one newspaper in each county of the state, where a newspaper is published. If the majority of the electors voting on the same shall adopt such amendments the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment, separately.

Text of Rhode Island Constitution Article VIII in effect in 1909:[12]

> The general assembly may propose amendments to this constitution by the votes of a majority of all the members elected to each house. Such propositions for amendment shall be published in the newspapers, and printed copies of them shall be sent by the secretary of state, with the names of all the members who shall have voted thereon, with the yeas and nays, to all the town and city clerks in the state. The said propositions shall be, by said clerks, inserted in the warrants or notices by them issued, for warning the next annual town and ward meetings in April; and the clerks shall read said propositions to the electors when thus assembled, with the names of all the representatives and senators who shall have voted thereon, with the yeas and nays, before the election of senators and representatives shall be had. If a majority of all the members elected to each house, at said annual meeting, shall approve any proposition thus made, the same shall be published and submitted to the electors in the mode provided in the act of approval; and if then approved by three–fifths of the electors of the state present and voting thereon in town and ward meetings, it shall become a part of the constitution of the state.

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[12] As quoted in *In re Op. to the Gov.*, 178 A. 433, 437 (R.I. 1935); *see also Constitution of the State of Rhode-Island and Providence Plantations, as Adopted by the Convention, Assembled at Providence*, at Article XIII (November, 1841), https://babel.hathitrust.org/cgi/pt?id=umn.31951001567448r&view=1up&seq=5.

CERTIFICATE OF COMPLIANCE

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.

Dated: November 28, 2022 /s/ Matthew H. Haverstick

WORD COUNT CERTIFICATION

I hereby certify that the above brief complies with the word count limit of Pa.R.A.P. 2135. Based on the word count feature of the word processing system used to prepare this brief, this document contains 4458 words, exclusive of the cover page, tables, and the signature block, but inclusive of Appendix 1.

Dated: November 28, 2022 /s/ Matthew H. Haverstick