SC95369

IN THE SUPREME COURT OF MISSOURI

TIMOTHY PESTKA, et al.,

Appellants,

vs.

STATE OF MISSOURI, et al.,

Respondents.

Appeal from the Circuit Court of Cole County, Missouri, Cause No. 15AC-CC00438

BRIEF OF RESPONDENTS

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STATEMENT OF FACTS

There are but few relevant facts in this case, and they are all undisputed. Truly Agreed and Finally Passed House Bill 150 ("House Bill 150"), which is the law at issue in this case, was passed by the legislature on April 21, 2015. (LF 30). It was then delivered to the Governor. The Governor vetoed House Bill 150 on May 5, 2015, and returned it to the Missouri House of Representatives. (LF 31). The Missouri House of Representatives, in turn, voted to override the veto on May 12, 2015. (LF 31).

The Missouri Senate adjourned on May 15, 2015 without voting to override the veto of House Bill 150. (LF 31). The Governor, however, vetoed another bill resulting in the automatic reconvening of the General Assembly in September 2015, pursuant to Article III, § 32 of the Missouri Constitution. (LF 58). At the "veto session" on September 16, 2015, the Missouri Senate voted to override the veto on House Bill 150. (LF 31).

House Bill 150 made several changes to Missouri's Employment Security Law under §§ 288.330, 288.122, and 288.060, RSMo (2015 Cum. Supp.).[1/] (LF 33-48). Nearly all of the changes House Bill 150 made to the Employment Security Law went into effect 30 days after the override, on

[1/] All references to the Revised Statutes of Missouri will be to the 2015 Cumulative Supplement unless otherwise noted.

October 16, 2015. *See* § 21.250. The remaining changes went into effect on January 1, 2016. (LF 37).

SUMMARY OF THE ARGUMENT

Following the plain language of a provision is the primary rule of this Court's constitutional interpretation. *StopAquila.org v. City of Peculiar*, 208 S.W.3d 895, 902 (Mo. 2006). This is especially true of constitutional provisions that affect the plenary power of the legislature. Indeed, a constitutional provision that purports to restrict legislative power, as the Plaintiffs suggest in this case, "is strictly construed so as to favor the power of the legislature and not to extend the limitation beyond its terms." *Brown v. Morris*, 290 S.W.2d 160, 166 (Mo. banc 1956). Here, the constitutional provision at issue – Article III, § 32 – is not the legislative limitation Plaintiffs suppose. In fact, it is not a limitation at all on the legislature's power to reconsider House Bill 150.

In accordance with Article III, § 32, if the Governor vetoes "any bill" after a certain date a "veto session" is automatically created. There is no dispute that a veto session was authorized in September 2015 because the Governor vetoed a bill "late." Plaintiffs argue, however, that only a bill that resulted in the veto session can be reconsidered during the veto session. Not so. The plain language of the Constitution, the surrounding constitutional provisions, and the historical development of Article III, § 32 all support the trial court's judgment that the Senate properly reconsidered House Bill 150 during the veto session in September 2015.

The plain language of Article III, § 32 provides that during a veto session the legislature can reconsider "bills returned by the governor." The provision uses the plural "bills," and does not limit the veto session to "the bill" or "such bill." Nor is there any suggestion that bills that were not vetoed late can only be considered during the regular session. While Article III contains several limitations on the power of the legislature, all of the limitations are express and specific. That is not the case with Article III, § 32.

What is more, the historical development of the language at issue in Article III, § 32 is more than instructive; it is dispositive. In both the 1875 and the 1945 versions, the Constitution recognized the authority of the legislature to reconsider a veto "at its convenience." In 1970 and then in 1972, the Constitution was amended to provide that if "any bill" was vetoed late during an odd-numbered year, then "the bill" would be reconsidered at the beginning of the next regular session. In contrast, if "any bill" was vetoed late during an even-numbered year then "bills returned by the governor" could be reconsidered during an automatic veto session. Had the people intended that a veto session be limited to "the bill" instead of "bills returned by the governor," the language could have easily been amended in 1988 when the last changes were made to this provision. But no such changes were made.

The same constitutional language is in force today – the legislature can consider "bills returned by the governor" during a veto session. It is not

limited to "the bill" or "such bill." And this authority is consistent with the plenary power of the legislature to take legislative action unless expressly and specifically limited by the Constitution. The legislature can override a veto during a regular session, during a veto session, or even during a special session called for that purpose.

In this case, the legislature overrode the veto of House Bill 150 in accordance with its constitutional and plenary power, and the new provisions are currently in effect.

ARGUMENT

Standard of Review

A judgment on the pleadings is reviewed to determine whether the facts pleaded in the petition are "insufficient as a matter of law." *State ex rel. Nixon v. Am. Tobacco Co.*, 34 S.W.3d 122, 134 (Mo. 2000). " 'The position of a party moving for judgment on the pleadings is similar to that of a movant on a motion to dismiss; *i.e.*, assuming the facts pleaded by the opposite party to be true, these facts are, nevertheless, insufficient as a matter of law.' " *Id.* (quoting *Madison Block Pharm., Inc. v. U.S. Fidelity and Guarancy Co.*, 620 S.W.2d 343, 345 (Mo. 1981)). Judgment on the pleadings is appropriate "if, from the face of the pleadings, the moving party is entitled to a judgment as a matter of law." *State ex rel. Nixon*, 34 S.W.3d at 134.

Here, the question is one of legislative power and constitutional interpretation – a question of law reviewed *de novo* by this Court. *See Schweich v. Nixon*, 408 S.W.3d 769, 773 (Mo. 2013). The trial court granted judgment on the pleadings to the State of Missouri and the other state defendants because the Senate, which has both constitutional and plenary power to take legislative action, including the override of a veto, properly reconsidered House Bill 150 during the "veto session" in September 2015.

I. The Plain Language of the Missouri Constitution, Article III, § 32, Automatically Creates a "Veto Session" and Does Not Limit What Vetoed "Bills" May Be Reconsidered – Responding to Appellants' Point Relied On.

In the very first Constitution of the State of Missouri, the people recognized the authority of the legislature to override a veto. 1820 Mo. Const., Art. IV, § 10 (requiring a simple majority in both houses of the General Assembly to override a veto). This authority has always been an integral part of the constitutional and plenary power of the legislature, as it is today, with very few limitations. Now, however, the Plaintiffs seek to limit the power of the legislature to override a veto under Article III, § 32. But they misread the provision, which is not even a limitation on the legislature. *See Brown v. Morris*, 290 S.W.2d 160, 166 (Mo. 1956) ("A constitutional provision limiting or restricting legislative power is strictly construed so as to favor the power of the legislature and not to extend the limitation beyond its terms.").

The plain language of the Missouri Constitution, the surrounding constitutional provisions, and the historical development of Article III, § 32, all support the Senate's veto override in this case.

A. The Plain Language of Article III, § 32 Authorizes the Senate – During a "Veto Session" – to Reconsider "Bills" Returned by the Governor.

The starting point for the construction of any statutory or constitutional provision is the plain language of the provision. "Words used in constitutional provisions are interpreted to give effect to their plain, ordinary, and natural meaning." *Wright-Jones v. Nasheed*, 368 S.W.3d 157, 159 (Mo. 2012) (citing *Buechner v. Bond,* 650 S.W.2d 611, 613 (Mo. 1983)). Plaintiffs argue that the legislative action taken by the Senate in reconsidering House Bill 150 during the "veto session" in September 2015 was unconstitutional under Article III, § 32. It was not.

Article III, § 32 provides:

> Every bill presented to the governor and returned with his objections shall stand as reconsidered in the house to which it is returned. If the governor returns any bill with his objections on or after the fifth day before the last day upon which a session of the general assembly may consider bills, the general assembly shall automatically reconvene on the first Wednesday following the second Monday in September for a period not to exceed ten calendar

days for the sole purpose of considering bills returned by the governor.

Mo. Const. Art. III, § 32 (emphasis added). The precise words used in the Missouri Constitution are important here, because the provision at issue does two things that are both critical to the analysis and dispositive in this case.

First, Article III, § 32 automatically creates a "veto session" for the legislature under certain circumstances – circumstances that existed in this case:

- "[T]he general assembly shall automatically reconvene" for a veto session when;
- The Governor vetoes "any bill . . . on or after the fifth day before the last day upon which a session of the general assembly may consider bills."

Mo. Const., Art. III, § 32 (emphasis added). It is critical to note that under Article III, § 32 a veto session is automatically created when "any bill" is vetoed "late." That is exactly what happened in the 2015. There is no dispute that at least one bill was vetoed "late" by the Governor, resulting in an automatic veto session in September 2015.

Second, once a veto session is created, Article III, § 32 identifies what can be considered during the veto session: "bills returned by the governor." Mo. Const., Art. III, § 32 (emphasis added). According to the plain language

of the Missouri Constitution, therefore, during the veto session the legislature is not limited to any particular bill vetoed by the governor, but instead may consider "bills returned by the governor." Mo. Const., Art. III, § 32 (emphasis added). It is at this point of the constitutional analysis – in deciding what "bills" means – that the Plaintiffs go astray.

Plaintiffs assume that only bills that were vetoed late can be reconsidered during the veto session. But the constitutional language does not provide such a limitation. There is no limitation on what vetoed bills can be reconsidered during the veto session, much less a requirement that certain vetoed bills must be reconsidered before the end of the regular session. Those words and limitations – as much as Plaintiffs would want them to be there – are not in the Missouri Constitution.

Indeed, far from providing the restriction Plaintiffs imagine, the plain language of Article III, § 32, actually authorizes exactly what the legislature did in this case. The Missouri Constitution does not provide that only the bill that resulted in the veto session can be reconsidered. Instead, it provides that "bills" – plural – can be reconsidered. As a result, House Bill 150 was properly reconsidered during the veto session in September 2015.

Ignoring the plain language of the Missouri Constitution, Plaintiffs make unsupported inferences as to what they think the language provides, or alternatively they simply create limitations that do not exist in the language.

They argue, for example, that Article III, § 32 "affords the legislature a veto session to reconsider only those bills subject to a late veto." Appellants' Brief, p. 9. But they provide no citation for this assertion, nor point to any language that supports this limitation. In fact, a veto session is automatically convened if "any bill" is vetoed after a certain time, and Article III, § 32 expressly authorizes the reconsideration of "bills" that were vetoed. The plain language of the Constitution does not have language limiting which vetoed bills may be considered during a veto session.

Plaintiffs further argue that if the veto session is not limited to only those bills vetoed on or after the fifth day before the end of regular session, then "the five (5) day allowance" becomes "mere surplusage." Appellants' Brief, p. 10. Plaintiffs again misread the language in Article III, § 32. Bills vetoed on or after the fifth day before the end of regular session are the only bills that create an automatic veto session. Thus, this is not mere surplusage. Otherwise, there could not be an automatic veto session.

While Plaintiffs suggest that the legislature "missed its chance to override the Governor's veto" once the regular session ended, they misread the plain language of the Constitution and miss the point of Article III, § 32 entirely. Appellants' Brief, p. 9.

B. The Surrounding Constitutional Provisions Demonstrate that Article III, § 32 is Not a Limitation on the Senate's Power to Reconsider Vetoed Bills.

The Missouri Constitution contains several express limitations in Article III, including limitations on legislative power. But Article III, § 32 is not one of the limitations. Instead, here are some examples of actual limitations in surrounding constitutional provisions:

- § 21 – "[L]imitation on amendments": "No law shall be passed except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose."
- § 23 – "Limitation of scope of bill": "No bill shall contain more than one subject which shall be clearly expressed in its title . . . ."[2/]
- § 25 – "Limitation on introduction of bills": "No bill other than an appropriation bill shall be introduced in either house after the sixtieth legislative day . . . ."

[2/] This section was at issue in *Hammerschmidt v. Boone Cnty.*, 877 S.W.2d 98 (Mo. 1994).

- § 31 – "Time limitations": [W]ithin 15 days after presentment, the Governor "shall return such bill to the house in which it originated endorsed with his approval or accompanied by his objections . . . ."

Mo. Const., Art. III, §§ 21, 23, 25 & 31 (emphasis added).

Each of the preceding sections uses unequivocal limiting language and leaves no doubt as to what is acceptable: a bill cannot be amended in such a way to change its original purpose (§ 21); a bill cannot contain more than one subject (§ 23); only an appropriations bill may be introduced after the 60th day (§ 25); and, the Governor must return the bills which have been presented to him within 15 days (§ 31). The language of these sections provides important guidance for reading Article III, § 32.

Instead of a limitation on the legislature's power, Article III, § 32 provides an automatic veto session without the need of further action by the legislature:

> Every bill presented to the governor and returned with his objections shall stand as reconsidered in the house to which it is returned. If the governor returns any bill with his objections on or after the fifth day before the last day upon which a session of the

> general assembly may consider bills, the general assembly shall automatically reconvene on the first Wednesday following the second Monday in September for a period not to exceed ten calendar days for the sole purpose of considering bills returned by the governor.

Mo. Const. Art. III, § 32 (emphasis added).

The first sentence of § 32 applies to any vetoed bill and it requires that the vetoed bill stand as reconsidered in the house to which it is returned. Contrary to Plaintiffs' assertions, there is no requirement that the vetoed bill only stands as reconsidered during the "regular session." This is noticeably different than Article III, § 31 which contains time constraints within which the Governor must act and consequences for a failure to act with those time constraints. Article III, § 31 adds the limiting language, "such bill" (emphasis added). Similar language could have been included in Article III, § 32, but it was not.

The second sentence of Article III, § 32 begins by establishing how a mandatory veto session is created: if the Governor vetoes any bill on or after the fifth day before the end of regular session. This sentence then ends by providing the purpose of the veto session: "considering bills returned by the governor." Because the sole purpose of the veto session is to consider bills

returned by the Governor, the legislature must be allowed to consider vetoed "bills," not any specific bill. The Constitution certainly could have limited the legislature to the consideration of certain vetoed bills by using terms like "such bill" or "the bill," but it does not.

There appears to be a fundamental misunderstanding in the Plaintiffs' arguments that is rooted in a narrow view of the General Assembly's legislative power. Generally, Article III, § 32 operates as an additional protection for the legislature, and creates an automatic "veto session" without the need to call a special session. It is not a limitation on the power of the legislature to reconsider vetoed bills, as the surrounding constitutional provisions demonstrate.

C. The Historical Evolution of Article III, § 32 is Consistent with the Plain Language of the Current Constitution.

Even if the plain language of the Constitution and the surrounding constitutional provisions were not clear, the historical evolution of the language in Article III, § 32 would prove dispositive. *See State ex rel. Smith v. Atterbury*, 270 S.W.2d 399, 405 (Mo. banc 1954) (noting that one of the accepted cannons of construction " 'permits and often requires an examination of the historical development of the legislation, including

changes therein and related statutes' ") (quoting *State ex rel. Klein v. Hughes*, 173 S.W.2d 877, 879 (Mo. Div. 2, 1943)).

In 1875, the procedure for considering a bill after a veto was contained in Article III, § 39. After a veto, "the house shall cause the objections of the Governor to be entered at large upon the journal, and proceed, at its convenience, to consider the question pending." 1875 Mo. Const., Art. III, § 39 (emphasis added). In the 1945 Constitution, the procedure after a veto was contained in Article III, § 32. This version also allowed the legislature to "proceed at its convenience" in considering a vetoed bill. 1945 Mo. Const., Art. III, § 32.

In 1970, Article III, § 32 was amended to provide different veto procedures depending on the year. In odd-numbered years (*i.e.*, when the same General Assembly would continue for another session the next year), if the Governor returned "any bill with his objections after the adjournment of the general assembly," then "the bill" was to be considered during the following regular session (emphasis added). In even-numbered years (*i.e.*, when a different General Assembly would begin in the next regular session the following year), if the Governor returned "any bill with his objection after the adjournment sine die of the general assembly" an automatic veto session would convene in September "for the sole purpose of considering bills returned by the governor." In 1972, Article III, § 32 was amended to allow a

veto session when the Governor returned any bill on or after the fifth day before the end of any regular session.

None of the earlier versions of Article III, § 32 limit the legislature to only consider timely vetoed bills during the regular session. Both the 1875 and 1945 versions give total deference to the legislature, allowing it to override a veto at its own convenience. Under the 1970 version, veto sessions were not created in odd-numbered years. Instead, when a bill was vetoed after the legislature's adjournment, "the bill" was to be considered the following session (emphasis added). The use of such specific limiting language is instructive.

In even-numbered years, however, veto sessions allowed the legislature to consider "bills returned by the governor" (emphasis added). Unlike the provision for odd-numbered years in the 1970 version, the current provision contains no reference to "the bill", referring only to "bills returned by the governor." The failure to use specific limiting language, especially when read in light of the prior provisions, could not suffice to limit the legislature's power to consider only late vetoed bills during a veto session.

Plaintiffs argue the 1970 and 1972 versions provided that "bills vetoed before the fifth day before the last day of session were required to be re-introduced as a new bill in a subsequent session." Appellants' Brief, p. 14-15. In fact, Article III, § 32 has never contained this requirement. Historically,

the Constitution has granted the legislature time beyond the regular session to consider a vetoed bill. Absent specific language limiting the consideration of a vetoed bill to the regular session, such a limitation should not be assumed.

II. The General Assembly Has Plenary Power, and Can Take Legislative Action, Unless Specifically Limited by the Constitution – Responding to Appellants' Point Relied On.

The Missouri Constitution provides in Article III, § 1 that the "legislative power" of Missouri is "vested in a senate and house of representatives to be styled 'The General Assembly of the State of Missouri.' " Mo. Const., Art. III, § 1. The Missouri Supreme Court has repeatedly recognized the "plenary power" of the legislature. *See, e.g.*, *State Auditor v. Joint Comm. on Legislative Research*, 956 S.W.2d 228 (Mo. 1997); *Bd. of Educ. of City of St. Louis v. City of St. Louis*, 879 S.W.2d 530 (Mo. 1994).

The legislature's plenary power is "to make, amend and repeal laws for Missouri and to have the necessary power to accomplish its law-making responsibility." *Joint Comm. on Legislative Research*, 956 S.W.2d at 230. In short, the legislature "has the power to do whatever is necessary to perform its functions except as expressly restrained by the Constitution." *Liberty Oil Co. v. Dir. of Revenue*, 813 S.W.2d 296, 297 (Mo. 1991). And where a constitutional limitation is in place, it "must be strictly construed in favor of"

the plenary power of the legislature. *Bd. of Educ. of City of St. Louis v. City of St. Louis*, 879 S.W.2d at 533.

A. This Court Gives Deference to the Legislature When Examining the Validity of a Legislative Action.

This Court does not favor attacks against legislative action based on constitutionally imposed procedural limitations. *See Hammerschmidt v. Boone Cty.*, 877 S.W.2d at 102. "Therefore, this Court interprets procedural limitations liberally and will uphold the constitutionality of a statute against such an attack unless the act clearly and undoubtedly violates the constitutional limitation." *Id.* Where there is doubt "as to the validity of the challenged legislative action," this Court resolves doubts "in favor of, and against nullifying, the action taken, if it is possible to do so by any reasonable construction of that action, or by any reasonable construction of the Constitution." *Bohrer v. Toberman*, 227 S.W.2d 719, 723-24 (Mo. banc 1950). Plaintiffs must, therefore, overcome "a strong presumption of constitutionality" in favor of the legislature. *Farmer v. Kinder*, 89 S.W.3d 447, 452 (Mo. 2002).

This Court has repeatedly refused to invalidate laws due to supposedly ambiguous procedural defects. *See, e.g., Bohrer*, 227 S.W.2d 719 (holding that the legislature did not need to follow constitutional provisions governing the passage of bills when ordering a special referendum election); *Heinkel v.*

Toberman, 226 S.W.2d 1012 (Mo. banc 1950) (holding that a gasoline tax bill was not an appropriations bill and thus it could be referred to a vote of the people); *Liberty Oil Co.*, 813 S.W.2d at 298 (upholding the constitutional validity of submitting a tax to the vote of the people); *Brown v. Morris,* 290 S.W.2d 160 (Mo. banc 1956) (holding that the failure of the Speaker of the House to sign a bill as required by the Constitution was a procedural defect, but such defect could not nullify an otherwise duly enacted law).

In *Bd. of Educ. of City of St. Louis v. City of St. Louis*, for example, the legislature granted a hotel owner a 25-year period of tax relief for "blighted" property. 879 S.W.2d at 532. Years later, the property again became "blighted" and the legislature granted additional tax relief. The Constitution allowed for tax relief for blighted areas "for such period or periods of time, not exceeding twenty-five years in any instance." *Id.* The St. Louis Board of Education challenged the legislature's additional grant of tax relief because it exceeded the constitutionally mandated twenty-five year limitation. *Id.* The Court recognized that the Board's interpretation of the constitutional provision as an absolute limit was reasonable. *Id.* However, it found "an equally valid interpretation," that the provision did not prohibit successive grants of tax relief beyond the initial twenty-five year limitation if the property again became blighted. *Id.* Finding the language in the Constitution

ambiguous, the Court resolved the ambiguity in favor of the legislature. *Id.* at 532-33.

As set forth above, the plain language of the Constitution, the surrounding constitutional provisions, and the historical development of the constitutional language provides a reasonable interpretation supporting the legislative action in this case. Accordingly, the legislature's plenary power to override a veto during a veto session should be upheld.

B. The Legislature has the Authority to Call a Special Session to Reconsider a Vetoed Bill.

In addition to a "veto session" under Article III, § 32, the legislature has authority to reconsider vetoed bills at other times, such as during a special session. In contrast, Plaintiffs argue that the legislature "does not, and cannot, call its own veto session." Appellants' Brief, p. 8. In support of this proposition Plaintiffs cite Article III, § 32, which does not stand for this proposition. Yet, on this basis Plaintiffs conclude that the legislature would not have been able to override the veto of House Bill 150 if a veto session had not been automatically created by the late veto of another bill. Not true.

The legislature has the ability to call a special session, and Article III, § 20(b) sets out the requirements and limitations when the legislature calls a special session:

> Upon the filing with the secretary of state of a petition stating the purpose for which the session is to be called and signed by three-fourths of the members of the senate and three-fourths of the members of the house of representatives, the president pro tem of the senate and the speaker of the house shall by joint proclamation convene the general assembly in special session. The proclamation shall state specifically each matter contained in the petition on which action is deemed necessary. No appropriation bill shall be considered in a special session convened pursuant to this section if in that year the general assembly has not passed the operating budget in compliance with Section 25 of this article.

With the exception of an appropriations bill, no other limitation is placed on the substance of a special session. As such, the legislature could call a special session to consider vetoed bills.

Plaintiffs cannot rely on Article III, § 32 to support its claim that the legislature is unable to call its own veto session. Section 32, after all, creates an automatic veto session. Its language does not prohibit the legislature from

reconsidering vetoed bills in a special session. Neither the language of Article III, § 20(b) nor § 32 prevents the legislature from calling a special session to override a veto. The legislature could follow all necessary procedural requirements in order to call a special session for the sole purpose of considering vetoed bills, effectively calling its own veto session. Thus, even if a veto session had not been created under Article III, § 32, the legislature could have called a special session to override the veto of House Bill 150.

C. The Legislature Acted Within its Plenary Power to Override the Veto of House Bill 150.

The Governor properly and timely vetoed House Bill 150. The result of that veto, under the Missouri Constitution, was that the bill stood "reconsidered in the house to which it is returned." Mo. Const., Art. III, § 32. Section 32 does not limit the reconsideration period to the regular session. With House Bill 150 returned to the legislature, and in accordance with its plenary power, the legislature was free to reconsider the bill and override the veto at any appropriate legislative session: the existing legislative session; a veto session automatically called pursuant to Article III, § 32, or even at a special session called for that purpose.[3/]

[3/] This is consistent with Senate Rule 75, which provides:

> When a question is laid on the table, it may not

The language of Article III, § 32 does not clearly express or imply that a vetoed bill may only be reconsidered during the regular session in which it was returned. And because of the plenary power of the legislature, any such constitutional limitation must be express. *Bohrer v. Toberman*, 227 S.W.2d at 723 (quoting *Cushing,* Law and Practice of Legislative Assemblies, p. 221) ("A legislative assembly has, therefore, all the powers and privileges which are necessary to enable it to exercise in all respects . . . its appropriate functions, except so far as it may be restrained by the express provisions of the Constitution . . . .").

> thereafter be considered except by vote of two-thirds of the senators elected, except that all measures, other than bills which stand as reconsidered having been returned by the governor with his or her objections, not finally acted upon on adjournment of the senate in odd-numbered years shall lie on the table and the subject matter of such measures may be taken from the table only by reintroduction of a measure at a subsequent session of the senate.

Senate Rule 75 (emphasis added).

Although Missouri has not addressed this specific issue, the Florida Supreme Court has decided a strikingly similar case – *Chiles v. Phelps*, 714 So.2d 453 (Fla. 1998). In *Chiles* the Florida Supreme Court addressed whether its legislature could reconsider a vetoed bill that was not reconsidered in a prior special session. Florida's constitution allowed its legislature to override a late veto at the following special session or at a regular session. *Id.* at 457. While the legislature in *Chiles* could have reconsidered a vetoed bill in a special session, it instead waited until the next regular session to reconsider the bill. *Id.* at 455. The court noted that its decision was guided, in part, by the fact that the "legislature's power is inherent, though it may be limited by the constitution." *Id.* at 458. Absent an unequivocal intent to impose a constitutional limitation on the legislature no such limitation will be imposed. *Id.* As a consequence, the court concluded that the legislature did not violate the Florida constitution by overriding a veto at a regular session instead of a prior special session. *Id.* at 460.

Although the decision in *Chiles* is not binding, the same principles apply in this case. Both Florida and Missouri courts require constitutional limitations to the legislature's powers to be explicit and any ambiguity is resolved in the legislature's favor. Here, the legislature was not limited by Article III, § 32 to reconsider House Bill 150 before the end of its regular session, but was authorized to reconsider the bill at a properly convened veto

session (or at a special session for that purpose). Just as in *Chiles*, this Court should not limit the legislature's power absent an unequivocal constitutional restriction.

CONCLUSION

Fort the foregoing reasons, the trial court's judgment should be affirmed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Respondents' Brief and Appendix were served via Missouri CaseNet e-filing system on the 5th day of January, 2016, to:

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The undersigned further certifies that the foregoing brief complies with the limitations contained in Rule No. 84.06(b) and that the brief contains 5,787 words.

/s/ *Jeremiah J. Morgan*
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