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IN THE
SUPREME COURT OF MISSOURI

JAKE MAGGARD, ET AL.	)	
	)	
Appellant,	)	
	)	
v.	)	Cause No. SC101581
	)	
STATE OF MISSOURI, ET AL.,	)	
	)	
Respondent.	)	

APPEAL TO THE SUPREME COURT OF MISSOURI
FROM THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI
19TH JUDICIAL CIRCUIT, DIVISION 1
THE HONORABLE BRIAN K. STUMPE
CIRCUIT COURT CAUSE NO. 25AC-CC09120

BRIEF OF AMICUS CURIAE BRIANNA LENNON COUNTY CLERK & ELECTION AUTHORITY OF BOONE COUNTY IN SUPPORT OF APPELLANTS

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IDENTITY AND INTEREST OF *AMICUS CURIAE*

Amicus Brianna Lennon is the elected County Clerk and Election Authority of Boone County, Missouri, where she has served since 2019. She previously worked in the Missouri Secretary of State's Office as the Deputy Director of Elections and the first coordinator of its Election Integrity Unit. In her capacity as the County Clerk and Election Authority of Boone County, *amicus* is responsible for administering elections for over 125,000 voters, managing voter registration and voter list maintenance, and establishing precincts in accordance with Boone County's political subdivision district boundaries.

Amicus teaches Election Law as an Adjunct at the University of Missouri School of Law and created and co-hosts a national-award winning election administration podcast, *High Turnout Wide Margins*. These professional experiences give *amicus* unique insight into the administrative demands associated with preparing for an election.

However this case is decided, *amicus* will do everything in her power to administer orderly elections on August 4, 2026, and November 3, 2026. She has no doubt that her fellow local election officials will do the same. But *amicus* believes that effective election administration will become much harder if this Court permits the Secretary of State to deviate from historical practice by refusing to suspend the legislature's most recent Congressional

redistricting plan, HB1, upon receiving enough signed petitions to trigger a voter referendum. Allowing the August primary to be conducted using districts that are likely to be stayed upon the referendum's certification—which could occur a matter of weeks before the August primary[1]—will result in chaos, confusion, and unnecessary expense. *Amicus* submits this brief in support of Plaintiffs-Appellants urging this Court to carefully consider the practical consequences for local election officials of refusing to suspend HB1 in a manner consistent with longstanding practice.

STATEMENT OF CONSENT

This brief is filed under Rule 84.05(f). The parties consented to the filing of this brief in writing on April 10, 2026. Rule 84.05(f)(2).

[1] *See* Gregg Palermo, *Referendum backers say they have enough validated signatures, push Mo. Secretary of State for decision*, Spectrum News (Mar. 6, 2026), available at https://spectrumlocalnews.com/mo/st-louis/news/2026/03/05/missouri-redistricting-fight.

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ARGUMENT

I. The State's deviation from longstanding historical precedent poses practical challenges in the short term and represents a threat to democracy in the long term

The Secretary of State's interpretation of Mo. Const. art. III, § 52(b) upsets longstanding precedent and represents a pronounced shift in Missouri's popular referendum process. It creates significant logistical challenges for elections officials by injecting uncertainty into the districting and ballot preparation processes in the heat of an election year. It also creates a serious risk of voter confusion and frustration arising from a post hoc change to the referendum process, issues that will only be exacerbated if voters come to view the process as open to partisan influence. Those concerns may ultimately lead to diminished faith and decreased participation in Missouri's democracy.

A. The Secretary of State's actions deviate from settled historical practice

Previous Secretaries of State confronted with the exact circumstances presented here have adhered to a settled rule: they suspended a pending law immediately upon receipt of petitions that appeared to bear the requisite number of signatures to trigger a voter referendum. This approach is entirely consistent with the plain meaning of the Missouri Constitution, which

provides that "[a]ny measure referred to the people shall take effect when approved by a majority of the votes cast thereon, and not otherwise." Mo. Const. art. III, § 52(b). This Court confirmed as much more than a century ago. *See State ex rel. Kemper v. Carter*, 165 S.W. 773, 778 (Mo. banc 1914) ("When we consider the primary object of the adoption of the referendum and have regard to the evils which its friends had in mind to correct by it, any view other than that it suspends the taking effect of the act against which it is invoked till a vote be had is illogical and well-nigh unthinkable."). As *amicus* began preparing for the upcoming election cycle, she had no reason to believe this year's referendum process would unfold any differently.

Elected officials across the political spectrum have long shared this same understanding. In 2018, Secretary of State Jay Ashcroft, a Republican, immediately suspended a right-to-work law upon receiving over 300,000 referendum petitions.[2] His spokeswoman explained that the right-to-work law would remain suspended throughout the signature certification process, which local election officials were given over 10 weeks to complete.[3]

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[2] *See* Summer Ballentine, *Unions Deliver Signatures to Block Right-to-Work in Missouri*, Associated Press (Aug. 18, 2017) available https://apnews.com/mo-state-wire-b8f048a4e14445f6bfa744f444c19591 (last visited Apr. 9, 2026).

[3] *Id.*

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Similarly, in 1981, Secretary of State John Kirkpatrick, a Democrat, "automatically suspended" a law rolling back restrictions on trucks when he received referendum petitions containing 165,000 signatures, *before* completing signature review and certification.[4]

Against the backdrop of this bipartisan consensus, the current Secretary of State's refusal to suspend HB1 is unprecedented.[5] This consensus is particularly important because consistent custom and usage "carries with it much persuasive authority" in Missouri constitutional interpretation. *State ex inf. McKittrick ex rel. Ham v. Kirby*, 163 S.W.2d 990, 996 (Mo. banc 1942). The "interpretation placed upon a constitutional provision may be taken into consideration by the courts as persuasive of what was intended where an ambiguity exists." *State ex rel. Jones v. Atterbury*. 300 S.W.2d 806, 817 (Mo. banc 1957).

If the current Secretary does not like the referendum process, he can do what his predecessor did: adhere to it, then advocate for changes later in the

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[4] *See* Jim Willis, *Trucking Firms Sue to Put New Bill Into Effect*, Daily American Republic (Sep. 29, 1981).

[5] Jason Hancock, *Missouri officials defy decades of precedent in bid to block gerrymandering referendum*, Missouri Independent (Dec. 16, 2025), available at https://missouriindependent.com/2025/12/16/missouri-officials-defy-decades-of-precedent-in-bid-to-block-gerrymandering-referendum/.

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proper forums. Secretary Ashcroft, believing that the initiative and referendum process had "gotten out of hand," supported "a spate of Republican-backed bills in the Missouri House intended to cut down on initiative petitions and make it harder for them to win approval at the ballot box."[6] But changing the referendum process *sua sponte* is not a permissible way for the Secretary to register his disagreement with that process or its outcome. In so doing, the Secretary is ignoring "[t]he fact that the people of the state reserved to themselves the right to say whether an act of the Legislature should ever become an effective law." *State ex rel. Kemper v. Carter*, 165 S.W. 773, 778 (Mo. banc 1914).

B. Delaying certification of the referendum petition will have serious practical consequences for election administration

The Secretary of State may be responsible for overseeing elections in Missouri, but it is local election officials like *amicus* who will be forced to deal with the consequences of his unprecedented refusal to suspend HB1. In Missouri, all voter registration data—including districts, precincts, addresses, and assigned ballot styles—is housed in the statewide voter registration database known as the Missouri Centralized Voter Registration

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[6] Jason Hancock, *On the GOP's agenda: making it harder for Missouri voters to put issues on the ballot*, The Kansas City Star (Mar. 31, 2019), available at https://www.kansascity.com/news/politics-government/article228588309.html.

System ("MCVR"). While MCVR's technical infrastructure is maintained by the Secretary of State's office, county-level election officials are responsible for inputting and editing data within the system. Accordingly, it is county-level election officials, not the Secretary of State, who must make updates after redistricting occurs.

Once new district lines are enacted, the Secretary of State's Office provides raw Geographic Information System ("GIS") data files to local election officials. These files create the basis for the new districts. Yet local election offices cannot simply import these maps into MCVR to assign voters to their new districts. Instead, preparing new district maps "requires local election authorities to manually adjust districts on a street-by-street and house-by-house basis because GIS integration is not available currently [in MCVR]."[7] Election officials must complete this "time-intensive" process before they can start creating and assigning ballots to individual voters.[8] Thus, until the Court rules in this case, election officials cannot create the

[7] Letter from the Missouri Association of County Clerks and Election Authorities to the Speaker of the House (Aug. 27, 2025), available at https://www.missourinet.com/2025/09/15/missouris-new-congressional-map-could-complicate-midterm-voting-clerks-warn/.

[8] *Id.*

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election in MCVR nor create ballots for voters to cast in the August Primary Election.

Typically, the last possible time for a local election official to establish new districts for an election is the ninth Tuesday before an election. That's because the Uniform and Overseas Citizens Absentee Voting Act ("UOCAVA") requires clerks to send military and overseas voters their ballots no later than 45 days before an election. 58 U.S.C. § 20302(a)(8)(A). To meet this deadline, clerks must first create, proof, print, and package UOCAVA ballots—which, in turn, requires clerks to know the district boundary lines so that they can prepare ballots with the correct races and candidates.[9]

If the Secretary had immediately suspended HB1 consistent with longstanding practice, the popular referendum process would not have interfered with the ballot preparation process. There was, and there still would be, plenty of time to prepare UOCAVA ballots using the preexisting district boundary lines. Instead, by departing from this practice, and inviting litigation, the Secretary has left clerks in the dark. As it stands, clerks have no way of knowing which set of districts they will ultimately need to use

[9] This timeline all supposes that the Secretary will create a district "definition" within the MCVR so that elections officials can tie voters to the 2025 Congressional districts. If the Secretary does not create this "definition," downstream technical issues may occur.

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when administering the upcoming elections: the Secretary could allow HB1 to remain in effect through the primary and then suspend it before the general. In that circumstance, administering an election using legally valid districts will be complicated and costly. This uncertainty is an unnecessary byproduct of the Secretary's unwarranted decision to depart from a referendum process that has served Missourians well for decades.[10]

C. Upsetting settled expectations after citizens make their voices heard is bad for democracy

Another consequence of the Secretary's inaction is that clerks will need to expend time and resources to address voter confusion arising from his departure from settled practice. Local elections officials will likely field an increased number of calls from concerned voters who may be unsure if they have received the correct ballot. Clerks in counties that encompass multiple

[10] While navigating all of this, ballot preparation isn't the *only* thing clerks will be doing. While they work to meet the UOCAVA ballot deadline, they will also be managing other responsibilities, including delivering vital services to Missourians. For example, *amicus*'s duties include "keeping accurate records of the orders, rules, and proceedings of the County Commission[,] . . . administering the Records Management budget," issuing merchant and liquor licenses for the county, and managing railroad and utility taxes. *About the Boone County Clerk*, available at https://www.boonemo.gov/clerk/bio.asp (last visited April 7, 2026).

Congressional districts may need to make last-minute changes to polling locations because of shifts in district boundary lines, causing confusion for voters as they head out to the polls. This fear is borne out by *amicus's* own professional experiences: whenever there are changes to *any* aspect of the election administration process, clerks end up spending more time educating voters and assuaging their concerns. On Election Day, this can result in longer lines for voters.

Moreover, opaque changes to settled procedural rules can undermine voter turnout and diminish trust in neutral, nonpartisan election administration. Voters who signed the HB1 referendum petition had every expectation, based on longstanding practice, that by signing they were effectively voting to immediately suspend HB1. Now, for reasons that are difficult to discern, the rules have changed, giving voters reason to question the value of participating in Missouri's democracy.

Indeed, research indicates that a voter's negative experience in one election reduces the likelihood that they will turn out to vote in the next.[11] Research also indicates that voters who experience a higher "administrative burden" (i.e., having to learn new rules and navigate unfamiliar processes),

[11] *See, e.g.*, Michael G. Miller et al., *The Disparate and Durable Effects of Mail Voting Restrictions: Evidence from Texas*, J. POL. (forthcoming) (manuscript at 3, 10), https://doi.org/10.1086/737439.

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are less likely to vote, an effect that persists in subsequent elections.[12] Voters may be deterred tomorrow because of interference with their settled expectations today. Last minute changes in how elections are administered can themselves cause confusion and chaos that allows election mis- and dis-information to metastasize.[13] If the Court sides with the Secretary and endorses a departure from settled practice *after* voters sought to avail themselves of that practice, the result may be confusion, reduced democratic participation, and a loss of faith in Missouri's electoral system.

The Secretary's position also exposes the historically nonpartisan administration of referenda in Missouri to the possibility of partisan

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[12] *See, e.g.*, Donald Moynihan, *Understanding Elections from an Administrative Burden Perspective: Making Participation Easy by Minimizing Unnecessary Barriers*, Institute for Responsive Government (Sept. 13, 2023), https://responsivegov.org/research/understanding-elections-from-an-administrative-burden-perspective-making-participation-easy-by-minimizing-unnecessary-barriers.

[13] *See, e.g.*, James A. Gardner, *Essay: Democratic Legitimacy Under Conditions of Severely Depressed Voter Turnout*, U. CHI. L. REV., https://lawreview.uchicago.edu/online-archive/democratic-legitimacy-under-conditions-severely-depressed-voter-turnout (last visited Apr. 7, 2026); Ian Vandewalker, *Digital Disinformation and Vote Suppression*, Brennan Center for Justice (Sept. 2, 2026), available at https://www.brennancenter.org/our-work/research-reports/digital-disinformation-and-vote-suppression.

gamesmanship. A referendum procedure that can change based on the whims of whoever happens to be holding office injects profound uncertainty into the referendum process going forward.[14] Notably, previous Secretaries have respected the will of Missourians even where it cut against their own policy preferences. Secretary Ashcroft's example is again instructive: in suspending the right-to-work law, he frustrated a central policy plank of his own Republican party.[15] The Secretary may be elected as a partisan but, as the State's chief election official, he is "responsible for the overall integrity of the election process and ensuring every registered Missourian's vote counts."[16]

This Court should reject the current Secretary's effort to supplant the will of the people with his own.

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[14] *See, e.g.*, Grace Gordon et al., *The Dangers of Partisan Incentives for Election Officials*, Bipartisan Policy Center (Apr. 6, 2022), https://bipartisanpolicy.org/report/the-dangers-of-partisan-incentives-for-election-officials/ (explaining that "growing susceptibility to partisan incentives in election offices undermines the expectation that elections will result in legitimate winners.").

[15] *See* Travis Zimpfer, *Greitens Signs Right-to Work Bill into Law, Marking Turning Point for Missouri Organized Labor*, The Missouri Times (Feb. 6, 2017), https://themissouritimes.com/greitens-signs-right-work-bill-law-marking-turning-point-missouri-organized-labor/.

[16] 2025–2026 OFFICIAL MANUAL STATE OF MISSOURI 57, https://www.sos.mo.gov/bluebook/2025-2026.

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CONCLUSION

Amicus respectfully asks this Court to reverse the decision below and order the Secretary to suspend HB1, consistent with longstanding practice and the voters' settled expectations at the time they signed the petitions. Reversing will preserve confidence in Missouri's democratic processes and obviate the risk of confusion for voters and local officials alike. Regardless of how this court rules, *amicus* urges the Court to rule swiftly to ensure elections administrators have adequate time to prepare ballots, educate voters, and do everything they can to safeguard full confidence in local election administration.

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On April 10, 2026, a copy of this brief was sent by electronic mail via the Missouri eFiling System to all counsel of record. Rule 103.08.

This brief includes the information required by Rule 55.03. It complies with Rule 86.06(b) and contains 2,479 words.

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