

**IN THE CIRCUIT COURT OF COLE COUNTY
NINETEENTH JUDICIAL CIRCUIT
STATE OF MISSOURI**

ARTICLE III INSTITUTE, ET AL.,

Plaintiffs,

v.

STATE OF MISSOURI, ET AL.,

Defendants.

Case No. 24AC-CC08732

**FIRST AMENDED PETITION FOR DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF**

COME NOW the Plaintiffs, by and through their undersigned attorney, and allege as follows:

INTRODUCTION

The Missouri Constitution begins by stating “[t]hat all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.” Mo. Const. Art. I, § 1. It further states “[t]hat the people of this state have the inherent, sole and exclusive right to regulate the internal government and police thereof[.]” As part of their effort to “regulate the internal government” of the state, the people ratified Article III, section 23 of the Missouri Constitution says that “no bill shall contain more than one subject which shall be clearly expressed in its title.” This provision was intended to ensure that both legislators and the public are

adequately informed about the subject matter of bills being considered by the state legislature so they would have timely, adequate notice regarding the true focus and content of bills being considered by the legislature, thus giving them an appropriate opportunity to review and comment on the proposed legislation before it is passed and signed into law. Courts must diligently enforce the requirements of Article III, § 23, in order to protect the public against the mischief that the people have decided would result in the absence of these restrictions. This lawsuit calls upon the courts to protect the people of this state by enforcing one of these constitutional restrictions.

PARTIES

1. Plaintiff Article III Institute is a Missouri nonprofit corporation dedicated to educating the public and public officials about the limits the Missouri Constitution imposes on the power of the Missouri General Assembly and enforcing those limits through litigation.
2. Plaintiff Paul Hamby is a Missouri citizen, a Missouri taxpayer, and a member of the Article III Institute's board.
3. Defendant State of Missouri, through various officers and offices has enacted and intends to enforce the legislation at issue in this case.
4. Defendant Michael Parson is the Governor of Missouri and signed the unconstitutional legislation at issue in this case.
5. Defendant Andrew Bailey is the Attorney General of Missouri and is charged, in whole or in part, with enforcement of the legislation at issue in this case. A copy of this Petition shall be served on Attorney General Bailey as a defendant

in this proceeding and pursuant to Rule 87.04 of the Missouri Rules of Civil Procedure.

JURISDICTION AND VENUE

6. This action accrued in the State of Missouri.
7. Venue is proper in this Court. § 508.010, RSMo.
8. This Court has jurisdiction to consider this Petition as Plaintiffs seek injunctive relief, a declaration of rights, status, and other legal relations, and all other available relief. § 526.030, 527.010, RSMo.
9. The Plaintiffs' initial petition in this matter was filed prior to the adjournment of the next full regular legislative session following the effective date of the bill as law, as required by § 516.500, RSMo.

STANDING

10. "Missouri courts allow taxpayer standing so that ordinary citizens have the ability to make their government officials conform to the dictates of the law when spending public money." *Lebeau v. Comm'rs of Franklin Cnty.*, 422 S.W.3d 284, 288-89 (Mo. banc 2014) (citing *Ste. Genevieve Sch. Dist. v. Bd. of Aldermen of Ste Genevieve*, 66 S.W.3d 6, 11 (Mo. banc 2002)).
11. "Public policy demands a system of checks and balances whereby taxpayers can hold public officials accountable for their acts... Taxpayers must have some mechanism of enforcing the law." *Id.* at 289 (citing *E. Mo. Laborers Dist. Council v. St. Louis Cnty.*, 781 S.W.2d 43, 46 (Mo. banc 1989)).
12. "Giving taxpayers a mechanism for enforcing the procedural provisions of

Missouri's constitution is of *particular importance* because these provisions are designed to assist the citizens of Missouri by providing legislative accountability and transparency.” *Id.* (emphasis added).

13. Although Missouri courts sometimes describe the standard for assessing taxpayer standing as requiring a demonstration of “a direct expenditure of funds generated through taxation,” the Missouri Supreme Court has not established a rule that taxpayer plaintiffs must demonstrate that a specific expenditure has actually been made; to the contrary, a demonstration that an expenditure of public funds has been *authorized* is sufficient to establish taxpayer standing.
14. In *Cope v. Parson*, 570 S.W.3d 579 (Mo. banc 2019), the plaintiffs based their claim for taxpayer standing on the idea that filling a vacancy in the office of Lieutenant Governor would require an expenditure of public funds, but they neither pointed to any specific statute requiring such an expenditure nor any specific appropriation that had already taken place.
15. Even though their allegation was related to *future* expenditures, rather than expenditures that had already taken place, the Missouri Supreme Court still found that the plaintiffs had sufficiently demonstrated taxpayer standing and the court proceeded to address the merits of their claim. *Id.* at 584.
16. Additionally, and in the context of a plaintiff alleging that the General Assembly had passed a bill in a manner that violated the procedural restrictions imposed by Article III, sections 21 and 23 of the Missouri

Constitution, the Missouri Supreme Court has held: “To establish standing, [the plaintiff], like all Missouri taxpayers, need only show ‘that [his] taxes went *or will go* to public funds that have *or will be* expended due to the challenged action.” *Nat’l Solid Waste Mgmt. Ass’n v. Dir. of Dept. of Nat’l Resources*, 964 S.W.2d 818, 819 (Mo. banc 1998) (citing *O’Reilly v. City of Hazelwood*, 850 S.W.2d 96, 98 (Mo. banc 1993)) (emphasis added).

17. The *Nat’l Solid Waste Mgmt. Ass’n* court held that at least one plaintiff had standing where the enforcement of the challenged bill would cost the state funds for salaries, expenses, and other costs that would not otherwise be made. *Id.*
18. The Missouri Senate Committee on Legislative Research Oversight Division published a fiscal note for the Truly Agreed to and Finally Passed version of SB 754 (“the Fiscal Note”), a true and accurate copy of which is attached as Plaintiff’s Exhibit 1.
19. The Fiscal Note shows that SB 754 was expected to have a negative net effect on the state’s general revenue. *See Ex. 1, p. 1.*
20. The Fiscal Note showed that SB 754 was expected to reduce the General Revenue in Fiscal Year 2025 by a little more than \$2.2 million. *See Ex. 1, p. 1.*
21. The Fiscal Note showed that SB 754 was expected to reduce the General Revenue in Fiscal Year 2026 by a little less than \$2.9 million. *See Ex. 1, p. 1.*
22. Specifically, the Fiscal Note assessed that the payments authorized by §

565.258 for meetings of the Cyber Crimes Task Force would amount to “approximately \$11,500 annually.” *See* Ex. 1, p. 6-7.

23. Because the Fiscal Note shows that the provisions enacted by SB 754 are likely to require the direct expenditure of money from the General Revenue of the state and because the passage of the bill is likely to negatively impact the General Revenue to the tune of millions of dollars in Fiscal Years 2025 and 2026, Plaintiff Hamby has taxpayer standing to challenge whether the General Assembly violated the Clear Title requirement in passing SB 754.

COUNT I

SB754 Violates Article III, § 23 of the Missouri Constitution (Clear Title Requirement)

24. Article III, section 23 of the Missouri Constitution says that “no bill shall contain more than one subject which shall be clearly expressed in its title.” *Jackson Cnty. Sports Complex Auth. v. State*, 226 S.W.3d 156, 161 (Mo. banc 2007).
25. Missouri courts have determined that this provision establishes two distinct requirements: a bill must have a “single subject,” and it also must have a “clear title.” *Calzone v. Interim Comm’r of Dept. of Elementary and Secondary Education*, 584 S.W.3d 310, 322 (Mo. banc 2019).
26. The “clear title” provision was designed to prevent fraudulent, misleading, and improper legislation, by requiring the title to indicate in a general way the kind of legislation being enacted; a provision that goes beyond a limitation

in the title is invalid because such title affirmatively misleads the reader. *Nat'l Solid Waste Management Ass'n* at 820.

27. “The clear title requirement is violated ‘when the final title of the passed bill is underinclusive or too broad and amorphous to be meaningful.’” *Cedar Cnty. Comm’n v. Parson*, 661 S.W.3d 766, 773 (Mo. banc. 2023).
28. “The mere fact that two subjects in a bill can be reconciled as part of a broader subject, and thus satisfy original purpose or single subject challenges, does not, in itself, mean that the broader subject has been clearly expressed in the title of a bill.” *Nat'l Solid Waste Management Ass'n* at 821.
29. The Clear Title requirement of Article III, § 23 of the Missouri Constitution has been part of every Missouri constitution since 1865. *Carmack v. Director, Mo. Dept. of Agriculture*, 945 S.W.2d 956, 959 (Mo. banc 1997).
30. The Clear Title requirement is mandatory, not directory. *Id.*

The passage of SB 754

31. Senate Bill 754 (SB 754) was truly agreed to and finally passed on May 17, 2024, during the second regular session of the 102nd General Assembly. A true and correct copy of SB 754 as truly agreed to and finally passed is attached hereto as Plaintiff’s Exhibit 2 and incorporated by reference as if fully set forth herein.
32. Governor Parson signed the bill on or about July 9, 2024, and its effective date by operation of Article III, § 29, of the Missouri Constitution was August 28, 2024.

33. The title of SB 754, as enacted and signed by the governor, was:

To repeal sections 211.031, 211.071, 217.345, 217.690, 547.031, 556.021, 558.016, 558.019, 568.045, 571.015, 571.070, 575.010, 575.353, 578.007, 578.022, 579.065, 579.068, 590.192, 590.653, 600.042, and 610.140, RSMo, and to enact in lieu thereof twenty-nine new sections **relating to public safety**, with penalty provisions and a delayed effective date for a certain section. (emphasis added)

34. In this case the Plaintiff argues that SB 754 violates the Missouri Constitution's "clear title" requirement because (1) its final title was too broad and amorphous to be meaningful, requiring legislators or interested citizens to painstakingly search through the language of the bill to determine whether it contains something related to or adverse to their interests, and because (2) the bill's title was underinclusive in that it identified twenty-one statutory sections to be repealed and announced the enactment of twenty-nine sections being enacted "in lieu thereof," but did not inform legislators or interested citizens that the bill would create several entirely new statutory sections or that the newly-created sections would address matters that were not implicated by the sections being repealed.

35. Specifically, the title of SB754 did not indicate that the bill would create new sections 211.600, 307.018, 547.500, 565.258, 571.031, 575.151, 579.021, or 579.022, RSMo.

36. The Plaintiff asks the Court for a declaration that the truly agreed and finally passed SB 754 and the resulting changes made to the Revised Statutes of Missouri, are facially invalid due to these violations, and also for an injunction prohibiting the Defendants, their agents, or anyone acting on their behalf,

from enforcing the unconstitutionally enacted provisions.

The subject identified in the title for SB 754 is overbroad

37. The Missouri Supreme Court recently stated that it has found “phrases such as ‘public safety’ are too broad and amorphous to describe the subject of a pending bill with the precision necessary to provide notice of its contents.” *City of St. Louis v. State*, 682 S.W.3d 387, 402 (Mo. banc 2024).
38. Despite this observation, the *City of St. Louis* court did not directly address the question of whether a bill title that suggests “public safety” as the bill’s subject would violate the “clear title” requirement because the plaintiff in that case did not raise a “clear title” challenge.
39. This case squarely presents that question and asks the courts to confirm that a bill title that lists “public safety” as the bill’s subject is indeed “too broad and amorphous to describe the subject of [that] bill with the precision necessary to provide notice of its contents.”

The title for SB 754 is unconstitutionally underinclusive

40. In the alternative, the Plaintiffs contend that SB 754 violates the Clear Title requirement because the bill’s title was underinclusive.
41. Where the terms of a bill’s title indicate a particular limitation or restriction of the scope of the bill, the Clear Title requirement prohibits the bill from including one or more provisions that go beyond that limitation or restriction. *See Nat’l Solid Waste Mgmt. Ass’n*, 964 S.W.2d at 820.
42. To the extent that a bill’s title has “descended into particulars,” the contents

of the bill must be limited to those particulars. *See Drury v. City of Cape Girardeau*, 66 S.W.3d 733, 739 (Mo. banc 2002).

43. As noted above, the title for SB 754 identified twenty-one specific statutory sections that the bill would repeal, noting that it would “enact in lieu thereof twenty-nine new sections”—but it did not specifically identify any of these new sections.
44. “The ordinary meaning of the phrase ‘in lieu of’ is ‘instead of; in place of; in substitution of.’” *City of University City v. AT&T Wireless Servs.*, 371 S.W.3d 14, 20 (Mo. App. E.D. 2012) (citing Black’s Law Dictionary 787 (6th Ed. 1990)).
45. Where the title of SB 754 stated that the bill would repeal twenty-one specific statutory sections and would enact twenty-nine unspecified sections “in lieu thereof,” it sent the message that the unspecified sections were not merely a random assortment of entirely unrelated provisions, but rather that the new sections bore a direct relationship to those sections being repealed, which is why they could be said to “take the place of” the repealed sections.
46. The implication of the term “in lieu of” is that the new sections would either bear the same statutory number or otherwise address roughly the same topic as the statutes being repealed, rather than introducing entirely new statutory sections addressing topics or policy areas that were not addressed in the statutes being repealed.
47. Thus, a legislator or interested citizen reading the title would not be in any way surprised to find that where SB 754 clearly announced that it would enact

new sections “in lieu of” sections 211.031, 211.071, 217.345, 217.690, 547.031, 556.021, 558.016, 558.019, 568.045, 571.015, 571.070, 575.010, 575.353, 578.007, 578.022, 579.065, 579.068, 590.192, 590.653, 600.042, and 610.140, the new sections enacted by the bill would include sections 211.031, 211.071, 217.345, 217.690, 547.031, 556.021, 558.016, 558.019, 568.045, 571.015, 571.070, 575.010, 575.353, 578.007, 578.022, 579.065, 579.068, 590.192, 590.653, 600.042, and 610.140.

48. Similarly, although the Plaintiffs contend that the title of SB 754 is fatally underinclusive because it failed to indicate that the bill would create new sections 211.600, 547.500, 571.031, 575.151, 579.021, and 579.022, the Plaintiffs note in regard to those sections that the bill’s title at least put legislators and interested citizens on notice that the bill would modify the chapters of Missouri law in which those new statutes would be located, implying that the subject matter of the new sections was roughly similar to the repealed sections.
49. But the title of SB 754 gave legislators and interested citizens *no advance notice whatsoever* that the bill would create sections 307.018 or 565.258, neither of which previously existed and neither of which fell within the same statutory chapter as any of the statutes to be repealed by SB 754.
50. Having “descended into particulars” by identifying specific statutory provisions to be removed or modified, the title for SB 754 could only comply with the Clear Title requirement if it also informed legislators and interested

citizens of the specific new statutory provisions that the bill would also create.

51. SB 754 failed to comply with the Clear Title requirement because it failed to provide legislators or interested citizens with advance notice of the brand new statutory sections the bill would create, especially those new sections that that were not even in the same statutory chapters as the sections the bill would repeal.
52. For either or both of the above reasons, SB 754 violates the Clear Title requirement of Article III, § 23 of the Missouri Constitution, and thus is invalid.

COUNT II

Plaintiffs Request Declaratory Judgment as to the Meaning of § 516.500, RSMo.

The Origin of § 516.500

53. Prior to 1994, there was no specific statute of limitations addressing challenges to the validity of bills based on the procedural limitations imposed under Article III of the Missouri Constitution.
54. In connection with *Hammerschmidt v. Boone County*, 877 S.W.2d 98 (Mo. banc 1994), Judge Holstein filed a concurring opinion in which he expressed his opinion that there *should* be a statute of limitations, and suggesting that these sorts of challenges should be “filed no later than the adjournment of the next full regular legislative session following a bill's effective date as law unless it

can be shown that there was no party aggrieved who could have raised the claim within that time.” *Id.* at 105.

55. Judge Holstein’s concurrence in *Hammerschmidt* focused only on when these sort of challenges should be brought, raised, or filed—it said nothing indicating an opinion as to whether there should be a limit as to the time within which courts could consider such cases if they were timely filed.
56. Within months, the General Assembly passed SB 558 (1994), which created § 516.500.
57. This new provision stated that “No action alleging a procedural defect in the enactment of a bill into law shall be **commenced, had or maintained** by any party later than the adjournment of the next full regular legislative session following the effective date of the bill as law.” § 516.500 (emphasis added).
58. Section 516.500 has not been amended since its enactment in 1994.

“Commenced, had or maintained” is a technical term unique to Missouri law

59. The primary goal of statutory interpretation is to ascertain the intent of the legislature and to give effect to that intent. *See Weeks v. St. Louis County*, 696 S.W.3d 333, 339 (Mo. banc 2024).
60. In interpreting statutes, “[w]ords and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar

and appropriate meaning in law shall be understood according to their technical import.” § 1.090.

61. The phrase, “commenced, had or maintained,” appears to be completely unique to Missouri law; the Plaintiffs have been able to identify neither any statute in any other state nor any appellate case in any other state’s courts that uses this phrase.
62. The phrase appears in six separate Missouri statutes: §§ 97.720,¹ 140.160, 141.080, 516.010, 516.030, and 516.500.
63. Section 92.720 prohibits an action “for recovery of taxes against real estate” from being “**commenced, had or maintained**, unless action therefor shall be commenced within five years after delinquency;” in this context, the phrase only addresses when a relevant type of case must be initiated, not when courts must cease consideration of a case that was timely commenced.
64. Section 140.160 states in relevant part that suits or actions to collect delinquent drainage and/or levee assessments on real estate “shall be commenced within three years after delinquency, otherwise no suit or action shall be **commenced, had or maintained;**” in this context, the phrase only addresses when a relevant type of case must be initiated, not when courts must cease consideration of a case that was timely commenced.

¹ Ironically, the Missouri Supreme Court held in *Byrd v. State*, 679 S.W.3d 492 (Mo. banc 2023), that a bill purporting to amend § 92.720 violated the Single Subject requirement of Article III, § 23 of the Missouri Constitution.

65. Section 141.080 states in relevant part that “No action for recovery of taxes against real estate shall be **commenced, had or maintained**, unless action therefor shall be commenced within three years after delinquency;” in this context, the phrase only addresses when a relevant type of case must be initiated, not when courts must cease consideration of a case that was timely commenced.
66. Section 516.010 prohibits actions for the recovery of lands, tenements or hereditaments, or of the recovery of possession thereof from being “**commenced, had or maintained**... unless it appear that the plaintiff... was seized or possessed of the premises in question, within ten years before the commencement of such action;” in this context, the phrase only addresses when a relevant type of case must be initiated, not when courts must cease consideration of a case that was timely commenced.
67. Section 516.030 allows for the tolling of certain statutes of limitations under specified conditions, but clarifies that “no such action shall be **commenced, had or maintained** or entry made by any person laboring under the disabilities specified in this section, after twenty-one years after the cause of such action or right of entry shall have accrued;” in this context, the phrase only addresses when a relevant type of case must be initiated, not when courts must cease consideration of a case that was timely commenced.
68. Each of the five statutes above functions as a true statute of limitations, establishing a deadline by which a certain type of case must have been filed,

but not setting a date by which courts must cease considering timely-filed cases.

69. The Plaintiffs' position is that in every other instance in which this particular phrase—"commenced, had or maintained"—is employed in Missouri law, the limitations imposed by the phrase are contingent on an action being *initiated* before the passage of a statutory deadline.
70. In light of the consistent usage of this legal term, it amounts to a "technical" term or a "term of art" that does not lend itself to traditional statutory analysis. § 1.090; *see also American Fed. of Teachers v. Ledbetter*, 387 S.W.3d 360, 364 (Mo. banc 2012) (words that have long had a technical meaning in statutes or judicial proceedings are to be understood in their technical sense).
71. Thus, understanding the term "commenced, had or maintained" to be a technical term that only applies to the timely initiation of a specified type of legal action results in the conclusion that its use in § 516.500 was not intended to forbid judicial consideration of timely-filed cases after the statutory deadline, but rather the legislature intended the phrase merely to establish a traditional statute of limitations after which an action asserting the invalidity of a bill due to the procedural limitations of the Missouri Constitution could not be *initiated*.
72. This understanding is consistent with the way in which Missouri courts have handled these sort of cases ever since § 516.500 was enacted, with cases "alleging a procedural defect in the enactment of a bill into law" routinely

taking more than a year to reach their final resolution. *See e.g., Calzone v Interim Comm'r of Dept. of Elem. and Secondary Edu.*, 584 S.W.3d 310 (Mo. banc 2019) (challenge to bills that went into effect in 2016, opinion issued October 1, 2019); *Mo. Roundtable for Life v. State*, 396 S.W.3d 348 (Mo. banc 2013) (challenge to bill that went into effect in 2011, opinion issued March 19, 2013); *Legends Bank v. State*, 361 S.W.3d 383 (Mo. banc 2012) (challenge to bill that went into effect in 2010, opinion issued February 14, 2012); *Jackson Cnty. Sports Complex Auth. v. State*, 226 S.W.3d 156 (Mo. banc 2007) (challenge to bills that went into effect in 2005, opinion issued June 26, 2007); *Home Builders Ass'n of Greater St. Louis v. State*, 75 S.W.3d 267 (Mo. banc 2022) (challenge to bill that went into effect in 2000, opinion issued May 28, 2002).

§ 516.500 does not demonstrate a clear intent to limit courts' authority to continue considering a timely-filed case

73. When the legislature *intends* to establish a deadline by which courts must conclude consideration of a certain type of case, it makes its intentions clear.
74. For example, § 116.190 governs the process through which citizens may challenge the official ballot title or fiscal note for certain ballot issues.
75. Section 116.190.1 specifies when and where the petition in such a case must be filed.
76. Section 116.190.2 specifies who must be named as defendants in such a case.
77. Section 116.190.3 specifies the contents of the petition in such a case.

78. Section 116.190.4(1) requires courts to place such an action at the top of the civil docket.
79. Section 116.190.4(2) establishes the procedure courts must follow as they make decisions concerning the petition, with subsection (g) specifying that courts must expedite consideration of the case.
80. And § 116.190.5 clearly prescribes the total timeframe within which courts should resolve this sort of case, stating:

Any action brought upon this section that is not fully and finally adjudicated within one hundred eighty days of filing, and more than seventy days prior to the election in which the measure is to appear, including all appeals, shall be extinguished, unless a court extends such period upon a finding of good cause for such extension. Such good cause shall consist only of court-related scheduling issues and shall not include requests for continuances by the parties.

81. Each element of § 116.190 drives home the legislature’s intent to establish a clear, unusually expedited timeline within which courts must consider the type of case that statute addresses, and the statute is utterly unambiguous that if an action brought under that section—“including all appeals”—is not “fully and finally adjudicated” within the specified timeframe, it “shall be extinguished.”
82. This is the sort of clarity that the legislature employs when it intends to artificially restrict the courts’ jurisdiction to consider a particular kind of case.
83. Section 516.500 does not include any of these elements, nor is there any plausible reason *why* the legislature would prohibit courts from considering procedural challenges to legislative bills according to the standard rules of

civil procedure, so long as the plaintiffs filed those challenges by the date established in this section.

84. This Court should therefore hold that the legislature’s intent in enacting § 516.500 was only to limit the date by which a party may initiate an action asserting the invalidity of a bill due to the procedural limitations of the Missouri Constitution; it does not prohibit parties from continuing to pursue cases that were filed prior to the deadline established by the statute.

COUNT III

**As Interpreted by the Defendants and As Applied to the Plaintiffs,
§ 516.500, RSMo., Violates Article I, § 1; Article I, § 3; Article I, § 14;
Article II, § 1; and Article V, § 5 of the Missouri Constitution**

**(Control of Internal Government, Open Courts, Separation of Powers,
Court Control of Judicial Process)**

The Missouri Constitution represents the ultimate expression of the will of the people of Missouri.

85. Article I, § 1 of the Missouri Constitution emphatically states “That all political power is vested in and derived from the people; that all government of right originates from the people, is founded on their will only, and is instituted solely for the good of the whole.”
86. Article I, § 3 of the Missouri Constitution affirms “That the people of this state have the inherent, sole, and exclusive right to regulate the internal government... thereof[.]”
87. Article III of the Missouri Constitution gives the General Assembly a significant degree of power, but the people of this state have long recognized

that without appropriate limitations the legislature is prone to abuse that power.

88. In order to prevent the General Assembly from engaging in specific types of political gamesmanship, the people adopted Article III, sections 21 and 23.
89. But these constitutional limitations on the legislative process can only achieve their intended purpose if citizens have the ability to bring lawsuits before the state's courts in order to enforce those constitutional limitations. *See Lebeau*, 422 S.W.3d at 289.
90. To the extent that the General Assembly might attempt to restrict citizens' ability to bring such lawsuits or the courts' authority to hear and resolve such lawsuits, this raises the concern that the legislature is improperly trying to avoid the very accountability and transparency the people have determined to be necessary for their legislative body.
91. Further, any effort by the General Assembly to restrict citizens' ability to bring such lawsuits or the courts' authority to hear and resolve such lawsuits raises the concern that the legislature is violating the Missouri Constitution's separation of powers or improperly intruding into authority that the people have properly reserved to the judiciary. Mo. Const. Art. II, § 1; Mo. Const. Art. V, § 5.

The Missouri Constitution, not the General Assembly, determines the authority of Missouri courts

92. “Subject matter jurisdiction” involves the courts’ authority to render a judgment in a particular category of case.” *J.C.W. ex rel. Webb v. Wyciskalla*, 275 S.W.3d 249, 253 (Mo. banc 2009).
93. Although the U.S. Constitution gives Congress the authority to increase or decrease the subject matter jurisdiction of federal courts, the subject matter jurisdiction of this state’s courts is governed directly by the Missouri Constitution. *Id.*
94. The Missouri Supreme Court has previously held that the General Assembly has the power to enact statutes of limitations and to fix the date on which that statute commences to run. *Laughlin v. Forgrave*, 432 S.W.2d 308, 314 (Mo. banc 1968).
95. As this case was initially filed on October 10, 2024—more than seven months before “the adjournment of the next full regular legislative session following the effective date of [SB 754] as law”—it is clear that this case was filed within the statute of limitations that § 516.500 establishes.
96. So far as the Plaintiffs can discern, Missouri courts have not previously held that the General Assembly has the power to set a date by which parties are not permitted to continue the litigation of a timely-filed case that seeks to enforce constitutional restrictions on the General Assembly’s authority.
97. If the Court determines that § 516.500 forbids the continuation of this case after “the adjournment of the next full regular legislative session following the effective date of [SB 754] as law,” it will need to decide as a matter of first

impression whether the Missouri Constitution permits the General Assembly to impose such a prohibition.

Any authority the General Assembly has to restrict the authority of Missouri courts is limited by the Open Courts requirement and the Separation of Powers

98. Whatever types of restrictions the General Assembly may be permitted to place on causes of action or judicial remedies, the legislature's authority can only be exercised in a manner consistent with Missouri's Open Courts requirement, found in Article I, § 14 of the Missouri Constitution, and its Separation of Powers requirement, found in Article II, § 1 of the Missouri Constitution. *J.C.W. ex rel. Webb v. Wyciskalla*, 275 S.W.3d 249, 255 (Mo. banc 2009).
99. If the General Assembly has imposed a barrier that would prevent a citizen from pursuing a recognized cause of action or that would prevent them from seeking a remedy for a recognized injury, courts may invalidate that barrier if it is arbitrary or unreasonable. *Kilmer v. Mun*, 17 S.W.3d 545, 550 (Mo. banc 2000).
100. As of their filings on May 30, 2025, the Defendants in this case have asserted as an affirmative defense that § 516.500 prohibits this Court from continuing to consider the question of whether SB 754 violates the Clear Title requirement even though this case was filed well prior to the statute of limitations established by this section.

101. Their argument focuses on the statute’s statement that “No action alleging a procedural defect in the enactment of a bill into law shall be commenced, had or *maintained* by any party later than the adjournment of the next full regular legislative session following the effective date of the bill as law.” § 516.500.
102. The Defendants contend that even if a plaintiff initiates an action alleging a procedural defect in the enactment of a bill prior to this statutory deadline, the inclusion of the word “maintained” prohibits courts from continuing to consider such timely-filed cases after “the adjournment of the next full regular legislative session following the effective date of the bill as law.”
103. But if this is what the General Assembly intended when it enacted § 516.500, it would severely limit citizens’ ability to enforce the Missouri Constitution’s procedural restrictions on the legislative process.
104. A plaintiff cannot challenge a bill until it has received final approval.
105. The final approval of a bill can come quite late in a calendar year, such as the situation in *Missouri Roundtable for Life v. State*, 396 S.W.3d 348 (Mo. banc 2013), when the Governor did not sign the challenged bill until October 21, 2011.
106. Even if one was to assume that a plaintiff could file a lawsuit raising a procedural challenge that same day, the Defendants’ proposed interpretation of § 516.500 would mean that all of the litigation related to the challenge—including discovery, dispositive motions, a trial, and any appeal—would need

to be *completed* within about seven months, no later than May 30 of the following year.

107. The enforcement of constitutional restrictions that the people of Missouri have seen fit to impose on their state legislature is a weighty matter, one that warrants careful deliberation, rather than an artificially-constricted timeframe.
108. Particularly where the limitation the Government is arguing for involves the General Assembly making it significantly more difficult for citizens to enforce the Missouri Constitution's restrictions on the General Assembly, courts should not defer to any claim the Government might make as to the advisability or necessity of the restrictions; to defer to the Government's position would effectively allow the General Assembly to become the judge in its own case.
109. At least one Missouri Supreme Court judge has recognized the potential dangers of allowing procedurally defective bills to evade judicial review. *See Schafer v. Koster*, 342 S.W.3d 299, 304-05 (Mo. banc 2011) (Fischer, J., dissenting).
110. If the courts allow the legislature unnecessarily to constrict taxpayers' ability to enforce the Missouri Constitution's restrictions on the legislative process, it raises the possibility that the legislature could intentionally use that authority to almost entirely avoid these constitutional restrictions on the legislature's power.

WHEREFORE, Plaintiffs respectfully request that the Court:

- a. Enter a declaratory judgment finding that § 516.500, RSMo., merely establishes the date by which lawsuits enforcing the procedural provisions of Missouri’s constitution must be initiated and it does not require such lawsuits to be resolved or otherwise extinguished by any particular date;
- b. In the alternative, enter a declaratory judgment finding that insofar as § 516.500 requires lawsuits enforcing the procedural provisions of Missouri’s constitution to be resolve or otherwise extinguished “no later than the adjournment of the next full regular legislative session following a bill's effective date as law,” that requirement—as applied to the Plaintiffs—violates one or more provisions of the Missouri Constitution;
- c. Enter a declaratory judgment finding SB 754 in violation of the “clear title” requirement of Article III, § 23 and therefore invalid and unenforceable;
- d. Enter a permanent injunction against the enforcement SB 754 and any of the changes to the Missouri Revised Statutes resulting therefrom; and
- e. Order such other and additional relief as the Court deems just and proper.

Respectfully Submitted,



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