E-FILED
6/25/2024 11:27 AM
CYNTHIA A. GRANT
SUPREME COURT CLERK

No. 130769

IN THE
ILLINOIS SUPREME COURT

LESLIE COLLAZO, DANIEL BEHR, JAMES KIRCHNER, CARL KUNZ, CAMAXTLE "MAX" OLIVO, JUVANDY RIVERA, NANCY RODRIGUEZ, TERRY NGUYEN LE, JOHN ZIMMERS, RON ANDERMANN, CARLOS GONZALEZ, ASHLEY JENSEN, TERESA ALEXANDER, and DONALD PUCKETT,	)	Direct Appeal from the Circuit Court of the Seventh Judicial Circuit, Sangamon County, Illinois
Plaintiffs-appellees,	)	
v.	)	No. 2024 CH 0032
EMANUEL "CHRIS" WELCH, *in his official capacity as Speaker of the Illinois House of Representatives and his individual capacity*,	)	The Honorable GAIL NOLL, Judge presiding
Intervening defendant-appellant,	)	
THE ILLINOIS STATE BOARD OF ELECTIONS, CASANDRA B. WATSON, LAURA K. DONAHUE, JENNIFER M. BALLARD CROFT, CRISTINA D. CRAY, TONYA L. GENOVESE, CATHERINE S. MCCRORY, RICK S. TERVEN, SR., and JACK VRETT, *in their official capacities as Members of the Illinois State Board of Elections*; and KWAME RAOUL, *in his official capacity as Attorney General of the State of Illinois*,	)	
Defendants.	)	

APPELLANT EMANUEL "CHRIS" WELCH'S BRIEF

Michael J. Kasper
Special Assistant Attorney General
151 N. Franklin, Suite 2500
Chicago, IL 60606
Phone: (312) 704-3292
mjkasper60@mac.com

Adam R. Vaught
Special Assistant Attorney General
82 S. LaGrange Rd., Suite 208
LaGrange, IL 60525
Phone: (217) 720-1961
avaught@kilbridevaught.com

Attorneys for intervening-defendant appellant Emanuel "Chris" Welch

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

TABLE OF CONTENTS

NATURE OF THE ACTION 1

ISSUE PRESENTED FOR REVIEW 2

STATEMENT OF JURISDICTION 2

STATUTES INVOLVED 3

STATEMENT OF FACTS 4

ARGUMENT 12

CONCLUSION 37

POINTS AND AUTHORITES

Argument 12

I. **Standard of Review** 13

McCormick v. Robertson, 2015 IL 118230, ¶ 18 13

Vaughn v. City of Carbondale, 2016 IL 119181, ¶ 22 13

II. **The trial court erred by denying Speaker Welch's motion to dismiss and granting a permanent injunction because the court lacked subject matter jurisdiction over plaintiffs' complaint** 14

a. **The circuit courts lack original jurisdiction over objections to nomination papers** 14

10 ILCS 5/10-8, 10-9, 10-10, 10-10.1 14

10 ILCS 5/8-9.1 14

Cinkus v. Stickney Mun. Officers Elec. Bd., 228 Ill.2d 200, 209 (2008) 15

Dilcher v. Schorik, 207 Ill. 528, 529 (1904) 15

Geer v. Kadera, 173 Ill. 2d 398, 407 (1996) 15

10 ILCS 5/10-9 15

Ill. Const. 1970, art. VI, § 9 15

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

People ex rel. Madigan v.
Illinois Commerce Comm'n, 2014 IL 116642, ¶ 9 .... 15, 16

b. **The Election Code provides the sole process for objecting to nomination papers.** 16

Cooke v. Illinois State Bd. of Elections, 2021 IL 125386, ¶ 48.........................16

10 ILCS 5/10-9...16

10 ILCS 5/10-10.. 16, 17

10 ILCS 5/8-9.1..17

10 ILCS 5/10-10.1...17

735 ILCS 5/3-110..17

Ill. Const. 1970, art. VI, § 9 17

c. **Plaintiffs' constitutional challenge is required to go through the objection process**..17

Delgado v. Bd. of Election Com'rs of City of Chicago, 224 Ill. 2d 481, 485 (2007)..18

Bd. of Educ., Joliet Twp. High Sch. Dist. No. 204 v. Bd. of Educ., Lincoln Way Cmty. High Sch. Dist. No. 210, 231 Ill. 2d 184, 205 (2008)...............................18

Arvia v. Madigan, 209 Ill. 2d 520, 527 (2004) 18

Ameren Transmission Co. of Illinois v. Hutchings, 2018 IL 122973......... 18, 19

d. **By filing this lawsuit before plaintiffs even filed their nomination papers, plaintiffs raised an as applied challenge before Public Act 103-0586 has been applied** 19

10 ILCS 5/10-8...19

Delgado, 224 Ill. 2d at 486 20

e. **The trial court's order now creates confusion for the objection process**..20

Napleton v. Village of Hinsdale, 229 Ill.2d 296, 306 (2008).............................20

10 ILCS 5/10-9...21

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Delgado, 224 Ill. 2d at 488 .... 21, 22

f. **This Court should find the trial court lacked jurisdiction to hear plaintiffs' lawsuit and to grant injunctive relief** 22

Corbin v. Schroeder, 2021 IL 127052 24

Jones v. Mun. Officers Electoral Bd. for City of Calumet City, 2021 IL 126974 24

Jackson-Hicks v. East St. Louis Elec. Bd., 2015 IL 118909..............................24

Maksym v. Bd. of Election Com'rs of City of Chicago, 242 Ill. 2d 303 (2011) 24

III. **If the Court finds the trial court had jurisdiction and reaches the merits, this Court should reverse as Public Act 103-0586 did not violate plaintiffs' right to vote** 24

Reynolds v. Sims, 377 U.S. 533, 562 (1964).. 24, 26

Corbin, 2021 IL 127052, ¶ 38.. 24, 26

a. **Plaintiffs' complaint alleges an infringement of ballot access rights, not voting rights** 25

Walker v. Chasteen, 2021 IL 126086, ¶ 37...26

Bullock v. Carter, 405 U.S. 134, 143 (1972)...26

b. **The cases the trial court relied on demonstrate the right to vote was not infringed by Public Act 103-0586** 27

Tully v. Edgar, 171 Ill. 2d 297 (1996) 27, 28, 30

Graves v. Cook Cnty. Republican Party, 2020 IL App (1st) 181516 .... 29, 30

Gercone v. Cook County Officers Elec. Bd., 2022 IL App. (1st) 220724-U, ¶ 54 .... 30, 31

E. St. Louis Fed'n of Teachers, Local 1220, Am. Fed'n of Teachers, AFL-CIO v. E. St. Louis Sch. Dist. No. 189 Fin. Oversight Panel, 178 Ill. 2d 399, 414 (1997)...31

c. **The proper analysis for this ballot access case is the Anderson-Burdick standard** 31

Storer v. Brown, 415 U.S. 724, 730 (1974)..31

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Bullock, 405 U.S. at 143 32

Burdick v. Takushi, 504 U.S. 428, 434 (1992) 32

Norman v. Reed, 502 U.S. 279, 289 (1992) 32

Libertarian Party of Illinois v. Rednour,
108 F.3d 768, 773 (7th Cir.1997) 32, 33

Nader v. Keith, 04 C 4913,
2004 WL 1880011, at *5 (N.D. Ill. Aug. 23, 2004) 32

Burdick v. Takushi, 504 U.S. 428 (1992) 32, 33

Anderson v. Celebrezze, 460 U.S. 789 (1983) 32, 33

Timmons v. Twin Cities Area New Party, 520 U.S. 351, 358 (1997) 33

Rudd v. Lake Cnty. Electoral Bd., 2016 IL App (2d) 160649 ¶ 13 33

Oettle v. Guthrie, 2020 IL App (5th) 190306 ¶¶ 11-14 33

Qualkinbush v. Skubisz, 357 Ill. App. 3d 594, 604-05 (1st Dist. 2005) 33

Green Parry v. Henrichs, 355 Ill. App. 3d 445, 447 (3d Dist. 2005) 33

d. **Public Act 103-0586 satisfies the *Anderson-Burdick* standard** 34

10 ILCS 5/17-16.1 34

10 ILCS 5/10-2; 10-3 34

10 ILCS 5/10-6 34

10 ILCS 5/10-3 .... 35 nt. 3

Jones v. Markiewicz-Qualkenbush, 892 F.3d 935, 939 (7th Cir. 2018) 36

Corbin, 2021 IL 127052, ¶ 46 37

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Nature of the Action

In the March 2024 primary election, no candidate sought the Democratic Party's nomination in 21 House districts and 4 Senate districts, and no candidate sought the Republican Party's nomination in 45 House districts and 8 Senate districts. Prior to May 3, 2024, section 8-17 of the Illinois Election Code (10 ILCS 5/8-17) contained a provision that allowed local political party officials (county, township and ward committeepersons) to "slate" a candidate to run in the General Election when no one sought the party's nomination for a seat in the General Assembly in the primary election. On May 3, 2024, however, the Governor signed Public Act 103-0586 into law, and it took effect immediately. Public Act 103-0586 repealed this provision from section 8-17.

Plaintiffs seek to fill the Republican Party's vacancy in nomination for General Assembly seats through the provision repealed by Public Act 103-0586. Plaintiffs filed this action alleging that Public Act 103-0586 violates article III, section 1 of the Illinois Constitution (guaranteeing the right to vote) as applied to plaintiffs.

The trial court found it had subject matter jurisdiction over the action and held Public Act 103-586, as applied to plaintiffs, violated article III, section 1. In so ruling, the court applied strict scrutiny review to find Public Act 103-0586 violated plaintiffs' constitutional right to vote and enjoined the State Board of Elections from applying the Act to prevent plaintiffs' names from

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

appearing on the General Election ballot. This appeal is taken from those rulings. No questions are raised on the pleadings.

Issues Presented for Review

1. Whether the trial court erred in finding it had original jurisdiction over plaintiffs' complaint?
2. Whether, assuming jurisdiction, the trial court erred in applying strict scrutiny to find Public Act 103-0586 violated article III, section 1 of the Illinois Constitution as applied to plaintiffs?

Statement of Jurisdiction

On June 5, 2024, the trial court entered a final order finding Public Act 103-0586, as applied to plaintiffs, was unconstitutional. Intervening Defendant Welch filed a notice of appeal with this Court under Supreme Court Rule 302(a). Ill. S. Ct. 302(a) (eff. July 27, 2006). This Court thus has appellate jurisdiction under Rule 302(a), though one issue in this appeal is whether the trial court, and therefore this Court, has subject matter jurisdiction over plaintiffs' action.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Statutes Involved

Ill. Const. (1970), art. III, § 1.

> "SECTION 1. VOTING QUALIFICATIONS Every United States citizen who has attained the age of 18 or any other voting age required by the United States for voting in State elections and who has been a permanent resident of this State for at least 30 days next preceding any election shall have the right to vote at such election. The General Assembly by law may establish registration requirements and require permanent residence in an election district not to exceed thirty days prior to an election. The General Assembly by law may establish shorter residence requirements for voting for President and Vice-President of the United States."

Public Act 103-586 amending 10 ILCS 5/8-17 (Act provided in appendix).

10 ILCS 5/8-17 (eff. May 3, 2024)

> In the event that a candidate of a party who has been nominated under the provisions of this Article shall die before election (whether death occurs prior to, or on, or after, the date of the primary), decline the nomination, or withdraw the candidate's name from the ballot prior to the general election, the legislative or representative committee of such party for such district shall nominate a candidate of such party to fill such vacancy. However, if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election. In proceedings to fill the vacancy in nomination, the voting strength of the members of the legislative or representative committee shall be as provided in Section 8-6 or as provided in Section 25-6, as applicable.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Statement of Facts

This appeal concerns the constitutionality of Public Act 103-0586, specifically *as applied* to plaintiffs. The trial court below held Public Act 103-0586 violated article III, section 1 of the Illinois Constitution as applied to plaintiffs-appellees and issued a permanent injunction prohibiting the Illinois State Board of Elections "from applying the provisions of Illinois Public Act No. 103-0586 which revise 10 ILCS 5/8-17 to eliminate the slating process for General Assembly elections as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election and from otherwise using the revisions to prevent Plaintiffs from being listed as candidates on the November 2024 general election ballot." (C455-66)

Public Act 103-0586, effective May 3, 2024, removed the procedure in section 8-17 of the Illinois Election Code (10 ILCS 5/8-17) that provided the following when a vacancy in nomination for a seat in the General Assembly occurs when no candidate runs for the nomination in the primary election:

> [T]the legislative or representative committee of the party [may] nominate[] a candidate to fill the vacancy in nomination within 75 days after the date of the general primary election. Vacancies in nomination occurring under this Article shall be filled by the appropriate legislative or representative committee in accordance with the provisions of Section 7-61 of this Code. (SR4)

As a result, as of May 3, 2024, the Election Code no longer permits legislative and representative committees of the Republican and Democratic Parties to "slate" candidates to fill vacancies in nomination for seats in the General Assembly if no candidate ran in the primary.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

A. Plaintiffs file a complaint for declaratory judgment and injunctive relief arguing their right to vote was violated by Public Act 103-0586.

On May 10, 2024, plaintiffs Leslie Collazo, Daniel Behr, James Kirchner, and Carl Kunz filed a complaint against the Illinois State Board of Elections, the individual board members, and the Attorney General. (C10) Plaintiff Collazo was designated to fill the vacancy in nomination by the Republican Representative Committee for the 8th Representative District on April 7, 2024. (C22) Plaintiff Behr was designated to fill the vacancy in nomination by the Republican Representative Committee for the 57th Representative District on March 19, 2024. (C22) Plaintiff Kirchner was designated to fill the vacancy in nomination by the Republican Legislative Committee for the 13th Legislative District on April 18, 2024. (C22) And plaintiff Kunz was designated to fill the vacancy in nomination by the Republican Representative Committee for the 31st Representative District on April 7, 2024. (C22) At the time the complaint was filed, these plaintiffs had not filed the necessary petition signatures to obtain ballot access in the November 2024 election, under the then existing law. (C22)

The complaint alleged Public Act 103-0586 violated article III, section 1 of the Illinois Constitution which provides that every United State citizen the age of 18 or older and who has been a resident of Illinois for 30 days preceding any election "shall have the right to vote in such election." Ill. Const. 1970, art. III, § 1. The complaint alleged that, applying strict scrutiny review, Public Act 103-0586 as applied to plaintiffs violated their right to vote. (C17) Plaintiffs

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

also filed an Emergency Motion for Temporary Restraining Order and Preliminary Injunction to give them time to obtain signatures and submit their nomination petitions before the June 3, 2024, deadline set forth in the Election Code. (C20)

B. The trial court denies plaintiffs' Motion for Temporary Restraining Order and allows Speaker Welch to intervene as a defendant in the lawsuit.

The trial court denied plaintiff's Motion for Temporary Restraining Order on May 17, 2024. (C5) On May 20, 2024, Emanuel "Chris" Welch filed a petition to intervene in the lawsuit as a defendant in his official capacity as Speaker of the Illinois House of Representatives and his individual capacity as Chair of the Democrats for the Illinois House (a legislative caucus committee), and the Democratic Township Committeeman of Proviso Township in Cook County. (C73) The trial court granted intervening-defendant Welch leave to intervene. (C6)

C. The trial court grants plaintiffs a preliminary injunction.

Having denied the motion for temporary restraining order, the Court set a hearing on plaintiffs' motion for preliminary injunction for May 23, 2024. (C5) Plaintiffs' motion for temporary restraining order was combined with request for preliminary injunction. (C20) The Attorney General filed a response to the motion for preliminary injunction. (C80) Speaker Welch also filed his response to the motion that was attached to his petition to intervene. (C90)

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

On May 23, 2024, following a hearing the day before, the trial court entered a preliminary injunction that enjoined defendants Illinois State Board of Elections and Defendant Attorney General Raoul from "rejecting Plaintiffs' nomination petitions for the November 2024 general election based on P.A. 103-0586's revisions to l0 ILCS 5/8-17." (C104)

D. The trial court sets a hearing on a permanent injunction and the parties brief the issues.

With the preliminary injunction in effect, the trial court set a hearing on the merits for June 3, 2024. (C6-7) The court set a briefing schedule in advance of the hearing. (C6) Intervening defendant Welch filed a section 2-619.1 Motion to Dismiss (735 ILCS 5/2-619.1) that argued the circuit court lacked jurisdiction because the electoral boards created by the Election Code, rather than the trial court, had original jurisdiction over the validity of candidate nomination papers. (C167-75) The motion argued the circuit court would only have jurisdiction over plaintiffs' allegations after administrative review following completion of the process for challenging nominating papers set forth in the Election Code. (C169-75) Welch also argued plaintiffs Collazo, Kunz, and Kircher should be dismissed because their petitions would not be reviewed by the State Board of Elections, but would instead be reviewed by the Municipal Officers Electoral Board for the City of Chicago. (C175-77) Finally, Welch argued plaintiffs' complaint really only raised their rights as candidates and not as voters. (C177-182) This Court has stated that the right to ballot access is a substantial right that is circumscribed by the legislature's authority

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

to regulate elections. (C178) Therefore, plaintiffs did not allege a constitutional right to vote that has been violated because the General Assembly has the right to control ballot access through the Election Code. (C177-82)

The Attorney General filed a Motion for Summary Judgment that made the following arguments. (C109) First, the relief plaintiffs were seeking is a mandatory injunction and that the court should analyze plaintiffs' claims with this framework in mind. (C114-15) Second, the proper standard to apply is the *Anderson-Burdick*[1] standard, not strict scrutiny, which imposes a flexible standard that will uphold reasonable, nondiscriminatory restrictions on ballot access rights. (C115-18) Third, Public Act 103-0586 satisfies the *Anderson-Burdick* test. (C118-20) Fourth, entering an injunction in this case is against the public interest. (C120-21) Fifth, that Plaintiffs Collazo, Kirchner, and Kunz are not entitled to injunctive relief because they have not named a necessary party, the Chicago Board of Elections. (C121-23) And finally, even if an injunction is entered, it should not be entered against the Attorney General because the Attorney General does not certify ballots or otherwise determine what candidates appear on the ballot. (C123-24)

Plaintiffs filed a Motion for Summary Judgment arguing the Act, as applied to them, does not survive strict scrutiny because it changed the

[1] Federal courts subject regulations of the electoral process to a "flexible standard," *Libertarian Party of Illinois v. Rednour*, 108 F.3d 768, 773 (7th Cir. 1997), known as the *Anderson-Burdick* test. See *Burdick v. Takushi*, 504 U.S. 428 (1992), and *Anderson v. Celebrezze*, 460 U.S. 789 (1983).

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

nomination process in the middle of an election cycle. (C126-46) Plaintiffs argued they were entitled to a permanent injunction because the application of the Act to prevent plaintiffs from using the slating process to fill vacancies in General Assembly races on the 2024 general election ballot violates their constitutional right to access the ballot, protected as part of the right to vote. (C137) Plaintiffs further relied on this Court's decision in *Tully v. Edgar*, 171 Ill. 2d 297, 307 (1996), where the Court said "[l]egislation that affects any stage of the election process implicates the right to vote[,]" to argue Public Act 103-0586 must survive strict scrutiny to be upheld. (C138) Plaintiffs then argued the Act does not survive strict scrutiny. (C138-45) The parties filed responses to the motions. (C431, 436, 452)

E. Plaintiffs add ten new candidates as plaintiffs to the lawsuit.

On May 30, 2024, plaintiffs filed an emergency motion to add new plaintiffs, Camaxtle "Max" Olivo, Juvandy Rivera, Nancy Rodriguez, Terry Nguyen Le, John Zimmers, Ron Andermann, Carlos Gonzalez, Ashley Jensen, Teresa Alexander, and Donald Puckett. (C190-93) Without objection from defendants, the motion was granted. (C7) Plaintiffs filed an amended complaint adding the new plaintiffs. (C310) Plaintiffs also filed an amended motion for summary judgment that included the new plaintiffs. (C323)

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

F. The Court holds a hearing and then issues an order granting a permanent injunction.

On June 3, 2024, the trial court held a hearing. (C8)[2] The court first heard arguments on Speaker Welch's Motion to Dismiss. (C8) After argument, the court denied the motion finding the Court had jurisdiction. (C8) The trial court then heard argument on plaintiffs' and the Attorney General's cross motions for summary judgment. (C8) Following argument, the court took those motions under advisement. (C8)

On June 5, 2024, the court issued an order granting plaintiffs a permanent injunction as follows:

> Declaratory and injunctive relief is entered as follows: The revisions to 10 ILCS 5/8-17 contained in P.A. 103-0586 are unconstitutional as applied to Plaintiffs in the November 2024 general election because the application of the amendment to Plaintiffs during the 2024 election cycle impermissibly burdens their right to vote and to have their names placed on the November ballot. The timing of the amendment, which eliminated one of the methods for ballot access that was available at the beginning of the election cycle after the March primary election had taken.
>
> The law, which became effective on May 3, 2024, as applied to Plaintiffs in the on-going 2024 election cannot reasonably be construed in a manner that would preserve its validity. The Court is cognizant that it must avoid unnecessary declarations that a statute is unconstitutional; however, here the Plaintiffs bring a constitutional challenge to the application of the revisions to

---

[2] This Court ordered the Sangamon County Circuit Clerk's office to file the Common Law Record and Report on Proceedings by June 20, 2024. The Record was timely filed, but the Clerk's office has advised that the Report on Proceedings will not be completed until June 26, 2024. Speaker Welch is filing his brief on June 24, 2024, to maintain the expedited briefing schedule ordered by the Court. He will move the Court for leave to file the Report on Proceedings Instanter when it is completed and will also move to supplement this brief with facts from the Report on Proceedings if necessary.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

> Section 5/8-17 in the midst of the 2024 election cycle. The finding of unconstitutionality is necessary to the Court's decision, and there is no alternative grounds upon which the decision can rest. Attorney General Raoul is a named defendant in this matter; therefore, separate notice under Illinois Supreme Court Rule 19 is not required. (C465-66)

On the basis of this constitutional finding, the court ordered the following injunctive relief:

> Defendant State Board of Elections and Defendant Board members are hereby enjoined from applying the provisions of Illinois Public Act No. 103-0586 which revise 10 ILCS 5/8-17 to eliminate the slating process for General Assembly elections as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election and from otherwise using the revisions to prevent Plaintiffs from being listed as candidates on the November 2024 general election ballot. (SR466)

On June 10, Speaker Welch filed a of direct appeal to this Court under Illinois Supreme Court Rule 302(a)(1). (C467-68)

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Argument

Plaintiffs seek to be candidates for the General Assembly in the 2024 General Election as the nominees slated by their local political party leaders. But Public Act 103-0586 removed the slating provision from the Election Code. Anticipating objections to their nomination papers, plaintiffs preemptively filed this lawsuit to get the circuit court to enjoin the State Board of Elections from denying their nomination papers due to Public Act 103-0586.

But the circuit court lacked jurisdiction to hear plaintiffs' lawsuit. Original jurisdiction over objections to nomination papers lies with the electoral boards created by the Election Code. The Illinois Courts only have special statutory jurisdiction upon administrative review. Until the electoral boards make their final determinations on plaintiffs' nomination papers, there is no jurisdiction for the courts. Simply put, this case is before this Court too soon. This Court should therefore find the trial court lacked jurisdiction and direct it to vacate its June 5, 2024 order.

If, however, this Court finds jurisdiction, this Court should reverse the trial court on the merits. The trial court conflated plaintiffs' alleged right to vote with their real right in interest: ballot access. While voting is a fundamental right, ballot access is not. Ballot access is a substantial right that is circumscribed by the legislature's authority to regulate elections. The trial court therefore erred in applying strict scrutiny to Public Act 103-0586. If it had jurisdiction, the court should have applied the less demanding *Anderson-*

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Burnick standard. Under that standard, Public Act 103-0586 survives constitutional scrutiny.

I. Standard of Review

The trial court denied Speaker Welch's motion to dismiss that argued the trial court lacked subject matter jurisdiction because the issues raised in plaintiffs' complaint must first go through the administrative proceeding established by the Election Code. Whether a circuit court has subject matter jurisdiction to entertain a claim presents a question of law which this Court reviews *de novo*. *McCormick v. Robertson*, 2015 IL 118230, ¶ 18;

If this Court finds the trial court had subject matter jurisdiction, then it must consider whether the trial court erred in granting plaintiffs a permanent injunction. "Generally, a reviewing court will not overturn a trial court's order concerning a permanent injunction unless that order is against the manifest weight of the evidence." *Vaughn v. City of Carbondale*, 2016 IL 119181, ¶ 22. "However, when the appeal of an order granting or denying a permanent injunction involves a question of law, the standard of review is *de novo*." As the court's order was based on its interpretations of questions of law, this Court's standard of review is *de novo*.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

II. The trial court erred by denying Speaker Welch's motion to dismiss and granting a permanent injunction because the court lacked subject matter jurisdiction over plaintiffs' complaint.

At issue in this lawsuit is whether plaintiffs are eligible to be candidates for the General Assembly through the slating process Public Act 103-0589 removed from the Election Code. No party disputes that this question should be addressed by the Illinois Courts. However, the Election Code's administrative process must be exhausted before the courts can address this question. By filing their complaint in the circuit court prior to even filing their nomination papers, plaintiffs sought to skip to the end of the administrative process before it started. And by granting injunctive relief, the trial court impermissibly assumed jurisdiction the Constitution denies it. This Court should therefore hold the circuit court lacked jurisdiction and vacate the trial court's injunction order.

a. The circuit courts lack original jurisdiction over objections to nomination papers.

Plaintiffs' amended complaint asked the trial court to enjoin "the Illinois State Board of Elections from denying Plaintiffs' nomination petitions for the November 2024 general election based on P.A. 103-0586's revisions to 10 ILCS 5/8-17." (C321) This relief seeks an end-run around the process for objecting to nomination papers provided in sections 10-8 through 10-10.1 of the Election Code. 10 ILCS 5/10-8 through 10 ILCS 5/10-10.1; see also, 10 ILCS 5/8-9.1 (incorporating sections 10-8 through 10-10.1 for General Assembly candidates' nomination papers).

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

For well over one-hundred years, this Court has held that "[a] circuit court does not have original jurisdiction over objections to nomination papers." *Cinkus v. Stickney Mun. Officers Elec. Bd.*, 228 Ill.2d 200, 209 (2008); *Dilcher v. Schorik*, 207 Ill. 528, 529 (1904). Instead, "the legislature has vested the electoral boards, and not the courts, with original jurisdiction to hear such disputes." *Cinkus*, 228 Ill.2d at 209; citing *Geer v. Kadera*, 173 Ill. 2d 398, 407 (1996); 10 ILCS 5/10-9 (designating electoral boards "for the purpose of hearing and passing upon the objector's petition").

Article VI, section 9 of the Illinois Constitution provides that "Circuit Courts shall have original jurisdiction of all justiciable matters except when the Supreme Court has original and exclusive jurisdiction relating to redistricting of the General Assembly and to the ability of the Governor to serve or resume office. Circuit Courts shall have such power to review administrative action as provided by law." Ill. Const. 1970, art. VI, § 9 (emphasis added). The Constitution "does not, however, confer any right to judicial review of final administrative decisions. The courts of this state are only empowered to review administrative actions 'as provided by law.'" *People ex rel. Madigan v. Illinois Commerce Comm'n*, 2014 IL 116642, ¶ 9, quoting, Ill. Const. 1970, art. VI, § 6 (appellate court), § 9 (circuit court).

This Court has stated a circuit court's jurisdiction of an administrative decision is dependent upon strict compliance with procedures provided by the legislature.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

> When the legislature has, through law, prescribed procedures for obtaining judicial review of an administrative decision, a court is said to exercise "special statutory jurisdiction" when it reviews an administrative decision pursuant to the statutory scheme. Special statutory jurisdiction is limited to the language of the act conferring it. A court has no powers from any other source. A party seeking to invoke a court's special statutory jurisdiction must therefore comply strictly with the procedures prescribed by the statute. If the mode of procedure prescribed by statute is not strictly pursued, no jurisdiction is conferred on the court to review it. *Illinois Commerce Comm'n*, 2014 IL 116642, ¶ 10 (internal citations and quotations omitted).

b. The Election Code provides the sole process for objecting to nomination papers.

"Pursuant to article III, section 5, of the Illinois Constitution of 1970, the Board has general supervision of Illinois's election laws." *Cooke v. Illinois State Bd. of Elections*, 2021 IL 125386, ¶ 48. This Court has stated it "views an electoral board as an administrative agency." *Id.* "Judicial review of the Board's decision is governed by the Administrative Review Law." *Id.*

Electoral Boards are administrative bodies created under the Election Code by the General Assembly for the sole purpose of conducting "administrative proceedings" regarding whether candidates' nomination papers are valid, and whether their names should appear on the ballot. 10 ILCS 5/10-9; 10-10. The Code provides:

> The electoral board shall take up the question as to whether or not the certificate of nomination or nomination papers or petitions are in proper form, and whether or not they were filed within the time and under the conditions required by law, and whether or not they are the genuine certificate of nomination or nomination papers or petitions which they purport to be, and whether or not in the case of the certificate of nomination in question it represents accurately the decision of the caucus or convention issuing it, and in general shall decide whether or not the

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

> certificate of nomination or nominating papers or petitions on file are valid or whether the objections thereto should be sustained and the decision of a majority of the electoral board shall be final subject to judicial review as provided in Section 10-10.1. 10 ILCS 5/10-10.

As a result, only after the Election Code's administrative review process is exhausted are the courts able to take jurisdiction over questions on objections to nomination papers. See, 10 ILCS 5/8-9.1; 10 ILCS 5/10-10.1; 735 ILCS 5/3-110. Section 10.1 provides that, "[e]xcept as otherwise provided in this Section, a candidate or objector aggrieved by the decision of an electoral board may secure judicial review of such decision in the circuit court of the county in which the hearing of the electoral board was held." 10 ILCS 5/10-10.1. Section 10.1 only provides for judicial review if a candidate or objector is "aggrieved" by the decision of the electoral board. But plaintiffs filed their complaint before filing their nomination papers. As of the date of filing of this brief, no electoral board has ruled upon any objection to any plaintiff's nomination papers. The trial court thus lacked jurisdiction over plaintiffs' complaint because "Circuit Courts shall have such power to review administrative action as provided by law." Ill. Const. 1970, art. VI, § 9. And the law only provides for judicial review from a decision of an electoral board.

c. Plaintiffs' constitutional challenge is required to go through the objection process.

The fact that plaintiffs raise a constitutional challenge does not change this analysis. It is true that "[a]dministrative agencies such as the Election Board have no authority to declare a statute unconstitutional or even to

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

question its validity." *Delgado v. Bd. of Election Com'rs of City of Chicago*, 224 Ill. 2d 481, 485 (2007) But it is also true that "[o]rdinarily, any issue that is not raised before the administrative agency, even constitutional issues that the agency lacks the authority to decide, will be forfeited by the party failing to raise the issue." *Bd. of Educ., Joliet Twp. High Sch. Dist. No. 204 v. Bd. of Educ., Lincoln Way Cmty. High Sch. Dist. No. 210*, 231 Ill. 2d 184, 205 (2008). This is not necessarily "a bright-line rule." *Arvia v. Madigan*, 209 Ill. 2d 520, 527 (2004). But the issue here is not whether plaintiffs waived their constitutional argument before the electoral boards. The question is whether the trial court had jurisdiction to answer the constitutional question in the first place.

Instructive, though not exactly on-point, is this Court's decision in *Ameren Transmission Co. of Illinois v. Hutchings*, 2018 IL 122973. In that case, this Court reversed a trial court's order granting property owners' motion to dismiss a utility's complaint for eminent domain. The property owners argued the agency's procedures provided by the Public Utilities Act violated their due process rights. The trial court agreed, and granted the motion to dismiss by finding the section of the Act at issue was unconstitutional both facially and as applied.

This Court reversed. It first restated the "special statutory jurisdiction" requirements. *Id.* ¶ 14. The Court then found the Public Utilities Act only permits a constitutional challenge to an agency order, rule, or regulation to go

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

to the appellate court. *Id*. As a result, even though the circuit court was sitting as a court of general jurisdiction, it had no authority to question the constitutionality of the agency procedures because it lacked statutory authority to review the agency's decision. *Id*. Here, the trial court reached the constitutional question before the administrative proceeding even started. If the circuit court in *Ameren* lacked jurisdiction to review the constitutionality of actions the agency made, then certainly the trial court in this case lacked jurisdiction to decide the constitutional question before the administrative proceeding even began.

d. By filing this lawsuit before plaintiffs even filed their nomination papers, plaintiffs raised an as applied challenge before Public Act 103-0586 has been applied.

Likewise, the trial court in this case lacked jurisdiction to address an anticipated challenge to plaintiffs' nomination papers. The jurisdiction problem is further compounded by the fact that plaintiffs' complaint makes only an "as applied" challenge. But even on the date of the filing of this brief, Public Act 103-0586 *has yet to be applied* to any plaintiff.

Plaintiffs are all potential legislative candidates who have (now) filed nomination papers with the State Board of Elections to appear on the ballot in the November general election. Once they did that, they became subject to the objection process set forth in section 10-8 of the Election Code. 10 ILCS 5/10-8. Currently, objections have been filed against these plaintiffs, but there are more objections than simply Public Act 103-0586's removal of the slating provision. For example, plaintiff Olivo's nomination papers have been

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

challenged, in part, because Olivo's nomination papers did not have on its face the required 500 signatures. (See, objector's petition (A45-6) ¶ 5) Other plaintiffs face challenges questioning whether their petitions contain a sufficient number of valid signatures. It is very possible many of the plaintiffs before this Court will never have Public Act 103-0586 applied to them because they will lose ballot access for failure to comply with other nomination paper requirements.

By granting injunctive relief to plaintiffs, the trial court violated this Court's requirement that where "a circuit court can decide a case without reaching the constitutionality of a statute, it is required to do so." *Delgado*, 224 Ill. 2d at 486. There is no need to reach the constitutional question on plaintiffs' petitions if there are additional statutory reasons for disqualification. And those statutory reasons are still being adjudicated before the various electoral boards having jurisdiction over them.

e. The trial court's order now creates confusion for the objection process.

An additional jurisdictional problem with this purported "as applied" challenge is that other candidates (not plaintiffs here) filed nomination papers before the June 3 deadline. What is the Board to do with objections to those candidates? It is axiomatic that circuit court's order only applies to the plaintiffs in this lawsuit:

> If a plaintiff prevails in an as-applied claim, he may enjoin the objectionable enforcement of the enactment only against himself, while a successful facial attack voids the enactment in its entirety

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

and in all applications. *Napleton v. Village of Hinsdale*, 229 Ill.2d 296, 306 (2008).

But there is now an order from a circuit court stating Public Act 103-0586, as applied to these plaintiffs, is unconstitutional. The State Board of Election is enjoined from applying Public Act 103-5086 for the plaintiffs only.

Furthermore, the State Board does not resolve objections to all candidates' nomination papers. Section 10-9 of the Election Code sets forth which electoral board (based on the geography of the district) will adjudicate any objections to a candidate's nomination papers. 10 ILCS 5/10-9. In this case, the State Board of Elections will make up the appropriate electoral board for only plaintiff Behr in Representative District 57, because Behr is the only plaintiff in a district with territory in more than one county. 10 ILCS 5/10-9. All other plaintiffs seek to run in districts that are either within the City of Chicago, and therefore any objections to those plaintiffs' nomination papers will be heard by Municipal Officers Electoral Board for the City of Chicago, or they seek to run in districts that have territory in Chicago and suburban Cook County, and therefore the Cook County Officers Electoral Board will be the electoral board taking up objections. (See C175-77, discussing specific districts) As a result, *three* different electoral boards (the State Board of Elections, City of Chicago, and Cook County) will adjudicate any challenges to plaintiffs' and proposed plaintiffs' nomination papers, yet only the State Board has been enjoined.

What are the Chicago and Cook County electoral boards to do with

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

plaintiffs' and the other candidates' petitions? "Under Illinois law, the decisions of circuit courts have no precedential value." *Delgado*, 224 Ill. 2d at 488. And "[a]dministrative agencies such as the Election Board have no authority to declare a statute unconstitutional or even to question its validity." *Id.* at 485. Yet a court has issued a ruling stating Public Act 103-05886 as applied to plaintiffs is unconstitutional. It forces those electoral boards to ignore the circuit court's order so as to follow their obligation that "an election board's scope of inquiry with respect to objections to nomination papers is limited to ascertaining whether those papers comply with the provisions of the Election Code governing such papers." *Id.*

And what then becomes of the objector's right to seek judicial review of the Board's decision under section 10-10.1 of the Election Code? The objectors are not parties to this case and are statutorily entitled to the Board's resolution of his or her objector's petition and the right to seek judicial review. On administrative review, another circuit judge would not be bound by the trial court's ruling, which could create conflicting rulings regarding the same plaintiff and same legal issue.

f. This Court should find the trial court lacked jurisdiction to hear plaintiffs' lawsuit and to grant injunctive relief.

For these reasons, the trial court lacked jurisdiction to address plaintiffs' "as applied" challenge because neither the Board, nor anyone else, has applied the Act to them as of yet. The Board has accepted nomination papers from plaintiffs and now the objection process is underway. The

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

constitutional question the trial court reached can only be raised on administrative review from those objections, and only if there are no other reasons why a plaintiff's nomination papers are invalid.

The Court should recognize this case for what it is: an attempt to preemptively resolve an anticipated objection to plaintiffs' nomination papers. And the trial court granted them that relief by ordering "Defendant State Board of Elections and Defendant Board members are hereby enjoined from applying the provisions of Illinois Public Act No. 103-0586 … as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election and from otherwise using the revisions to prevent Plaintiffs from being listed as candidates on the November 2024 general election ballot." (C466)

This is precisely the relief an objector seeks in an objection with the Board: an order *denying* the candidate's nomination papers. What the trial court granted plaintiffs was an order prohibiting the Board from ruling against them in pending objections. Not only is such an order premature, but it is also unfair to any objector who is not a party to this case.

The Election Code establishes a process for expeditious, orderly, and, importantly, consistent resolution of challenges to candidates' nomination papers. Candidates such as Bill Clinton, Barack Obama, Donald Trump, Joe Biden, and countless other federal, state, and local candidates, have all been subject to this process when their nomination papers were challenged. The fact that election cases usually move on a fast schedule does not grant the trial

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

court the authority to assume jurisdiction it lacks. The courts of this state, especially this Court, can handle expediency once jurisdiction vests. See, *e.g.*, *Corbin v. Schroeder*, 2021 IL 127052; *Jones v. Mun. Officers Electoral Bd. for City of Calumet City*, 2021 IL 126974; *Jackson-Hicks v. East St. Louis Elec. Bd.*, 2015 IL 118909; and *Maksym v. Bd. of Election Com'rs of City of Chicago*, 242 Ill. 2d 303 (2011).

There was no reason to rush to literal judgment in this case. The circuit court will not have jurisdiction over the issues raised in the complaint until the administrative process provided by the Election Code has been exhausted and a party to the objection proceeding files for administrative review. The Complaint should have been dismissed for lack of subject matter jurisdiction. This Court should therefore reverse the trial court's denial of Speaker Welch's motion to dismiss and vacate the trial court's June 5, 2024 order granting plaintiffs injunctive relief.

III. If the Court finds the trial court had jurisdiction and reaches the merits, this Court should reverse as Public Act 103-0586 did not violate plaintiffs' right to vote.

This Court should find the trial court lacked jurisdiction to hear plaintiffs' complaint for the reasons argued above. But if the Court were to find that the trial court had jurisdiction, it should reverse the trial court because it erred in applying strict scrutiny to plaintiffs' claims. It erred by improperly assuming that plaintiffs brought a voting rights claim, when in reality they brought a ballot access claim. While voting is a fundamental right (*Reynolds v. Sims*, 377 U.S. 533, 562 (1964)), this Court has defined ballot access as a

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

"substantial" right (*Corbin*, 2021 IL 127052, ¶ 38). As a result, the trial court should have applied the less restrictive *Anderson-Burdick* standard to plaintiffs' claims. And under that standard, Public Act 103-0586 survives plaintiffs' constitutional challenge.

a. Plaintiffs' complaint alleges an infringement of ballot access rights, not voting rights.

The trial court found that it was "faced with a unique set of circumstances where a provision of the Election Code establishing a route for ballot access was eliminated during the election cycle." (C461) The court also stated that Public Act 103-0586 "as applied to Plaintiffs in the 2024 election cycle places a severe restriction on the fundamental right to vote. The timing of the amendment, which eliminated one of the methods for ballot access that was available at the beginning of the election cycle after the March primary election had taken place, precludes Plaintiffs from having their names placed on the November 2024 ballot under any statutorily available method." (C461-62) Based on these conclusions, the court concluded "[a] strict scrutiny analysis is appropriate." (C462)

The trial court was wrong. It mixed the concepts of "ballot access" with the "right to vote" in order to apply strict scrutiny to plaintiffs' claims. Plaintiffs' complaint alleges, "[t]he elimination of the process for filling vacancies on the ballot in the general election for a political party's candidate in a race for General Assembly set forth in P.A. 103-0586, as applied to Plaintiffs seeking to fill vacancies for General Assembly races on the November

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

2024 general election ballot, is an unconstitutional violation of their *right to gain access to the ballot*." (C311) (emphasis added) Plaintiffs then allege "P.A. 103-0586 impairs the rights of suffrage exercised by Plaintiffs and others in the 2024 general election by restricting Plaintiffs' efforts to gain access to the ballot by changing the rules in the middle of that process." (C320) This allegation muddles the two concepts of "right to suffrage" and "ballot access."

The right to vote is a fundamental right. *Reynolds*, 377 U.S. at 562. This Court, however, has stated "[t]hough ballot access is a substantial right, that right is circumscribed by the legislature's authority to regulate elections." *Corbin*, 2021 IL 127052, ¶ 38. A fundamental right can be connected with a right that is not fundamental. See, *Walker v. Chasteen*, 2021 IL 126086, ¶ 37 ("while there is a fundamental right to access the courts, there is not a fundamental right to such access without expense.")

The United States Supreme Court has explained the distinction between voting rights and ballot access rights.

> [T]he rights of voters and the rights of candidates do not lend themselves to neat separation; laws that affect candidates always have at least some theoretical, correlative effect on voters. Of course, not every limitation or incidental burden on the exercise of voting rights is subject to a stringent standard of review. [The statute at issue] does not place a condition on the exercise of the right to vote, nor does it quantitatively dilute votes that have been cast. Rather, the [statute] creates barriers to candidate access to the primary ballot, thereby tending to limit the field of candidates from which voters might choose. The existence of such barriers does not of itself compel close scrutiny. *Bullock v. Carter*, 405 U.S. 134, 143 (1972).

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

The trial court erred in conflating plaintiffs' ballot access claims with claims brought by voters. Because ballot access is not a fundamental right, strict scrutiny should not have been applied. An examination of the cases the trial court relied on demonstrates this error.

b. The cases the trial court relied on demonstrate the right to vote was not infringed by Public Act 103-0586.

The trial court's order states "[w]hile there is no case law directly on point, the Court finds the instant case to be more similar to *Tully* [*v. Edgar,* 171 Ill. 2d 297 (1996)] and *Graves v. Cook Cnty. Republican Party*, 2020 IL App (1st) 181516, than it is to the cases upon which Defendants rely." (C461) These cases, however, underscore that the right to vote was not infringed by Public Act 103-0586.

In *Tully*, prior to 1996, University of Illinois Trustees were elected by voters at the November general election, including in 1994. *Tully*, 171 Ill. 2d at 300. In 1995, after the trustees were elected by the voters, the General Assembly passed a law throwing them out of office in the middle of the terms the voters had elected them to so that the Governor could replace them with his own appointees. *Id*. The plaintiff filed a lawsuit alleging the statute removing the elected trustees violated his right to vote because it "nullifies the result of a valid election and effectively removes the trustees whom the citizens elected to serve." *Id*. at 305.

The Court first determined what level of scrutiny to apply to plaintiffs' claims. It held, "[w]here challenged legislation implicates a fundamental

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

constitutional right, however, such as the right to vote, the presumption of constitutionality is lessened and a far more demanding scrutiny is required." *Id*. at 304. When the means used by a legislature to achieve a legislative goal impinge upon a fundamental right, the court will examine the statute under the strict scrutiny standard." *Id*. The Court analyzed the plaintiffs' allegations to conclude strict scrutiny should apply.

> [Plaintiff] argues that the people of the State, by their vote, determined who would serve as trustee for the succeeding six years and that the Act operates as a "post-hoc" negation of the right to vote. He claims that legislation that eliminates the right of the elected official to serve, while retaining the office to which the representatives have been elected, implicates the right to vote guaranteed in the Illinois Constitution. Tully claims that the Act injures his voting right by removing, without cause, the trustees as to whom his voting right was exercised. Tully further claims that, because the right to vote is a fundamental constitutional right, the Act may be upheld only if it withstands a strict scrutiny analysis. We agree.

Id. at 305.

Applying strict scrutiny, this Court agreed with plaintiff, concluding:

> The legislation challenged here does not simply give the votes cast by some citizens less effect than others. Rather, it establishes a mechanism for total disregard of all votes cast by citizens in a particular election. The vote cast by a citizen is not simply diluted, but is totally nullified by the legislative scheme. The Act does not simply "impair" the vote but, rather, obliterates its effect. The Act, in essence, voids the votes cast by citizens in a valid election and authorizes the Governor to select the candidates of his choice. The integrity of the vote is undermined and destroyed by the legislative scheme.

Id. at 307.

In other words, the Court held that a law removing elected officials from office *after* the voters had spoken violated those voters' right to vote. Once the

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

voters elected the trustees their right to vote was wrapped up in the trustees completing their terms of office. By removing them before their terms were complete, the legislature infringed on voters' rights.

Here, however, no one has voted, nor has anyone been elected. In fact, the genesis of this lawsuit is that not a single voter in plaintiffs' districts sought the Republican nomination for the seats at issue in the March 2024 primary. Had the General Assembly changed the Election Code to void the nominations made by voters in the March 2024 primary and give the nominations to the local party leaders through the slating process, then *Tully* would be on point. But because no vote has been cast, it simply is not.

Graves likewise dealt with the removal of a person elected by voters. In that case, shortly before the March 2016 primary, the Cook County Republican Party amended its bylaws to state, "[a] vacancy shall exist in the office of Republican Committeeman in any ward or township in which an elected or appointed committeeman votes, or has voted, in the primary for another political party in the previous eight years." *Graves*, 2020 IL App (1st) 181516, ¶ 6. In the primary (held a week after the bylaws were amended) plaintiff Graves received 2115 of the 3988 votes cast for the Republican Ward Committeeman of the 19th Ward in Chicago. *Id.* ¶ 7. A few weeks after the primary, the chairman of the Republican Party declared a vacancy because Graves had voted in a Democratic primary within eight years prior to his election. *Id.* ¶ 8.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

The appellate court framed the issue before it as "whether defendant's exercise of its fundamental right to freedom of association in enacting the bylaw change during an ongoing election impermissibly burdened the ward residents' fundamental right to vote." *Id.* ¶ 50. Relying on *Tully*, the court applied strict scrutiny and found "that such bylaw provision, enacted during a primary election and which serving to remove a validly elected committeeman from office at the conclusion of the election, was not necessary or narrowly tailored, much like the legislation at issue in *Tully*." *Id.* ¶ 61. The court concluded as follows:

> [C]itizens' fundamental right to vote and the votes cast for committeemen are constitutionally protected. We conclude that the GOP's attempt to nullify the election for ward committeeman through its bylaw revision during an ongoing primary election, while it implicated its fundamental right to freedom of association for political purpose, impermissibly and unconstitutionally burdened the citizens' fundamental right to vote.

Id. ¶ 67

This case is quite different from *Tully* and *Graves*. In both of those cases, the new law (*Tully*) or bylaw (*Graves*) nullified the choices voters had made by depriving the victorious candidate the office to which they had been fairly elected. Here, in contrast, no one has been elected by the voters. No one has even been nominated by the voters. Unlike in *Tully* and *Graves*, here not a single vote has been, or will be, affected by the enactment of Public Act 103-0586. As a result, the voter nullification that drove this Court's decision in *Tully* (and the appellate court in *Graves*) is simply not present here.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Consistent with this conclusion, the appellate court has specifically rejected the very analysis the trial court relied on: that *Tully* dictates that any law impacting the right to vote should be subjected to strict scrutiny. See, *Gercone v. Cook County Officers Elec. Bd.*, 2022 IL App. (1st) 220724-U, ¶ 54:

> Courts have nevertheless drawn a distinction between laws that impinge on the right to vote, and are thus subject to strict scrutiny, and laws that merely affect the right to vote, and are therefore only subject to rational basis analysis. *Id.*

This Court itself has subsequently limited its holding in *Tully*. In 1997, the Court stated that in *Tully* the harm to voters was that "the act in question violated the electorate's right to vote, in that it nullified the voters' choice by eliminating, midterm, the right of the elected officials to serve out the balance of their terms." *E. St. Louis Fed'n of Teachers, Local 1220, Am. Fed'n of Teachers, AFL-CIO v. E. St. Louis Sch. Dist. No. 189 Fin. Oversight Panel*, 178 Ill. 2d 399, 414 (1997). The harm was not to candidates who want to get on the ballot. It was to voters who had already cast their votes for successful candidates who, by virtue of their election, were office holders.

The trial court was thus incorrect to find *Tully* and *Graves* controlling. Instead, the court should have found the less restrictive *Anderson-Burdick* was the proper method of constitutional analysis.

c. The proper analysis for this ballot access case is the *Anderson-Burdick* standard.

In general, ballot access statutes are not subject to strict scrutiny. Instead, courts avoid such a stringent standard because "[a]s a practical matter, there must be a substantial regulation of elections if they are to be fair

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

and honest and if some sort of order, rather than chaos, is to accompany the democratic process." *Storer v. Brown*, 415 U.S. 724, 730 (1974). The fact that a state's system creates hurdles which tend to limit the field … does not require that regulations be narrowly tailored to advance a compelling state interest. *Bullock*, 405 U.S. at 143.

When reviewing a challenge to a state's election related laws, a court must weigh "the character and magnitude of the asserted injury to the rights protected" against "the precise interests put forward by the State as justifications for the burden imposed by its rule." *Burdick v. Takushi*, 504 U.S. 428, 434 (1992). In applying this standard, courts must also consider "the extent to which [the State's] interests make it necessary to burden the plaintiff's rights." *Id.* A "severe" restriction must be "narrowly drawn to advance a state interest of compelling importance." *Norman v. Reed*, 502 U.S. 279, 289 (1992). But "reasonable, nondiscriminatory restrictions" are generally justified by the state's "important regulatory interests." *Libertarian Party of Illinois v. Rednour*, 108 F.3d 768, 773 (7th Cir.1997). This standard applies to challenges to Illinois petition related laws. *Nader v. Keith*, 04 C 4913, 2004 WL 1880011, at *5 (N.D. Ill. Aug. 23, 2004), aff'd, 385 F.3d 729 (7th Cir. 2004) ("the mere fact that a state's system creates hurdles which tend to limit the field of candidates from which voters can choose by itself does not require that regulations be narrowly tailored to advance a compelling state interest."). This

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

standard is known as the *Anderson-Burdick* standard. See *Burdick v. Takushi*, 504 U.S. 428 (1992), and *Anderson v. Celebrezze*, 460 U.S. 789 (1983).

Under the *Anderson-Burdick* standard, courts must weigh the "'character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments ... "against 'the precise interests put forward by the State as justifications for the burden imposed by its rule.'" *Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. 789 (1983)). If an electoral regulation imposes a "severe" restriction on First or Fourteenth Amendment rights, strict scrutiny applies. *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997). If, on the other hand, the State has imposed "reasonable, nondiscriminatory restrictions on these rights ... the [S]tate's important regulatory interests will generally be sufficient to justify the regulations." *Libertarian Party*, 108 F.3d at 773 (citing *Burdick*, 504 U.S. at 434); see also *Timmons*, 520 U.S. at 358.

Illinois courts routinely apply federal standards in election cases. *Rudd v. Lake Cnty. Electoral Bd.*, 2016 IL App (2d) 160649 ¶ 13. Since *Tully* was decided, Illinois courts have continued to apply the *Anderson-Burdick* test in election cases. See, *e.g., Oettle v. Guthrie*, 2020 IL App (5th) 190306 ¶¶ 11-14; *Qualkinbush v. Skubisz*, 357 Ill. App. 3d 594, 604-05 (1st Dist. 2005); *Green Parry v. Henrichs*, 355 Ill. App. 3d 445, 447 (3d Dist. 2005). While each of these cases were brought under different constitutional provisions than article III, section 1, each implicated the right to vote. It is therefore telling that none of

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

these cases cited *Tully* or applied strict scrutiny. Instead, they applied the *Anderson-Burdick* test.

d. Public Act 103-0586 satisfies the *Anderson-Burdick* standard.

Turning to the Act, it cannot be said to be a severe restriction on ballot access. It applies equally to vacancies in nomination for seats in the General Election for both the Democratic and Republican parties. And each plaintiff could have, but chose not to, run in the primary election. In fact, not a single voter in each of plaintiffs' district filed nomination papers to run in the Republican primary, which is why plaintiffs are now seeking to be slated to fill a vacancy in nomination. None of the plaintiffs have asserted that they are unable to run as independent or new party candidates, but even if they cannot, they can certainly run as write-in candidates. 10 ILCS 5/17-16.1.

Instead, the Act imposes a reasonable restriction on ballot access. Any candidate seeking to carry an established party's banner in the general election must first prevail in the party's primary election and run the risk that their party's voters may choose someone else. This not only ensures that a party's primary voters, not local party leaders, will have the ultimate say in who represents the party in the general election, but it also gives voters dissatisfied with the results of the primary election a real chance to organize an alternative in the form of an independent or third-party candidate. 10 ILCS 5/10-2; 10-3.

Prior to the Act, the vacancy in the nomination process effectively stifled the opportunity for voters to support either independent or third-party

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

candidates. Both independent and new party candidates must file their nomination papers no later than 134 days prior to the general election. 10 ILCS 5/10-6. This year, that date is June 24, 2024. In the ordinary course, if a group of voters is dissatisfied with the winner of their party's primary election, they have more than three months to organize, identify a candidate, and file the necessary nomination papers with the Board in order to qualify for the general election ballot.

If, however, the same group of voters is dissatisfied with the person chosen by the party leaders through the vacancy in nomination process, they must do the same amount of work in just three weeks. As plaintiffs recognize, under the vacancy in nomination process, chosen candidates must file their nomination papers no later than June 3, 2024. Voters dissatisfied with the major parties' nominees have only three weeks until the June 24, 2024, deadline for independent and new party filings. Not only that, but they must file three times more petition signatures than candidates who run in the primary election or are chosen by party leaders to fill vacancies in nomination.[3] By eliminating this post-primary selection process, the Act has the effect of encouraging, rather than limiting, alternative choices. Giving voters a realistic opportunity to consider independent and third-party candidates can hardly be called unreasonable.

[3] Independents and new parties are required to have 3,000 valid signatures for the Senate and 1,500 for the House. 10 ILCS 5/10-3.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

The Act is non-discriminatory; it applies to Democrats and Republicans equally. While there are more Republican vacancies this year, it could be the opposite in the next election cycle. While plaintiffs may decry the Act as some sort of political dirty trick,[4] that does not make the Act unconstitutional. In upholding an Illinois law that had the effect of disqualifying a candidate, the 7th Circuit Court of appeals noted that "[p]olitics is a rough-and-tumble game, where hurt feelings and thwarted ambitions are a necessary part of robust debate." *Jones v. Markiewicz-Qualkenbush*, 892 F.3d 935, 939 (7th Cir. 2018). The court went on to say that "[i]t is impossible to imagine the judiciary attempting to decide when a politically retaliatory step goes 'too far' without displacing the people's right to govern their own affairs and making the judiciary just another political tool for one faction to wield against its rivals." *Id.* Finally, the court concluded, "[t]he price of political dirty tricks must be collected at the ballot box rather than the courthouse." *Id.*

Plaintiffs lament that the Election Code was changed before they filed their nomination papers, but that is insufficient to invoke the rights of voters. This case is assuredly a ballot access case rather than a voter rights case. Plaintiffs seek the same thing that the plaintiffs sought in *Corbin*, *Jackson-*

---

[4] As a matter of policy there was not much objection to Public Act 103-0586. Only four members of the House and three members of the Senate voted "no" on the bill. See, https://www.ilga.gov/legislation/votehistory.asp?DocNum=2412&DocTypeID=SB&LegID=147311&GAID=17&SessionID=112&GA=103&SpecSess= (last visited June 24, 2024)

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Hicks, and all these other ballot access cases: to have their names appear on the ballot. This case impacts the right to vote in the same way as the challenged laws did in all of those cases in that it narrows the field of candidates appearing on the ballot.

In *Corbin*, this Court concluded: "[t]hough we remain cognizant that ballot access is a substantial right, we believe the best safeguard of that right is fidelity to the Election Code[.]" *Corbin*, 2021 IL 127052, ¶ 46. This Court should reverse the trial court under this important principle.

CONCLUSION

WHEREFORE, intervening defendant-appellant EMANUEL "CHRIS" WELCH, in his official capacity as Speaker of the Illinois House of Representatives and his individual capacity, respectfully requests the Court reverse the trial court's finding that it has subject matter jurisdiction and vacate its June 5, 2024 order, or in the alternative reverse the trial court and find Public Act 103-0586 is not unconstitutional as applied to plaintiffs.

Respectfully submitted,

EMANUEL "CHRIS" WELCH

By: /s/ Michael J. Kasper
MICHAEL J. KASPER

Adam R. Vaught
Special Assistant Attorney General
827 S. LaGrange Rd., Suite 208
LaGrange, IL 60525
Phone: (217) 720-1961
avaught@kilbridevaught.com

Michael J. Kasper
Special Assistant Attorney General
151 N. Franklin, Suite 2500
Chicago, IL 60606
Phone: (312) 704-3292
mjkasper60@mac.com

Attorneys for intervening-defendant appellant Emanuel "Chris" Welch

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 9,623 words.

/s/ *Adam R. Vaught*

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

STATE OF ILLINOIS)
)
COUNTY OF COOK)

CERTIFICATE OF FILING AND PROOF OF SERVICE

I, Adam R. Vaught, attorney for intervening defendant-appellant Emanuel "Chris" Welch, certify that I certify that on June 25, 2024, I electronically filed the foregoing Appellant's Brief with the Clerk of the Court for the Supreme Court of Illinois, by using the Odyssey eFileIL system.

I further certify that the other participants in this appeal, named below, were served with the Appellant's Brief at the e-mail addresses below on June 25, 2024 before 11:59 pm.

Jeffrey M. Schwab (#6290710)
Jacob H. Huebert (#6305339)
James J. McQuaid (#6321108)
Liberty Justice Center
440 N. Wells Street, Suite 200
Chicago, Illinois 60654
jschwab@libertyjusticecenter.org
jhuebert@libertyjusticecenter.org
jmcquaid@libertyjusticecenter.org

Jane Elinor Notz
Solicitor General
Office of the Illinois Attorney General
115 S. LaSalle Street
Chicago, Illinois 60603
CivilAppeals@ilag.gov (primary)
Jane.Notz@ilag.gov (secondary)

Under penalties as provided by law pursuant to § 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109), the undersigned certifies that the statements set forth in this instrument are true and correct.

/s/Adam R. Vaught
Adam R. Vaught
Special Assistant Attorney General
82 S. LaGrange Rd., Suite 208
LaGrange, IL 60525
Phone: (217) 720-1961
avaught@kilbridevaught.com

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

APPENDIX

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

APPENDIX TABLE OF CONTENTS

Table of Contents for the Record on Appeal 1

Notice of Appeal 3

Trial Court's June 5, 2024 Order 6

Public Act 103-0586 19

Rios v. Olivo, 24-EB-RGA-012 objector's petition 45

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

APPEAL TO THE ILLINOIS SUPREME COURT

FROM THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT

SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO

Plaintiff/Petitioner

Reviewing Court No: 130769

Circuit Court/Agency No: 2024CH000032

Trial Judge/Hearing Officer: NOLL

v.

EMANUEL "CHRIS" WELCH

Defendant/Respondent

COMMON LAW RECORD - TABLE OF CONTENTS

Page 1 of 2

Date Filed	Title/Description	Page No.
	DocketSheet	C 4-C 9 (Volume 1)
05/10/2024	Complaint	C 10-C 19 (Volume 1)
05/13/2024	Motionncy Motion for Temporary Restraining Order	C 20-C 30 (Volume 1)
05/14/2024	Motion for Service by Special Order of Court	C 31-C 35 (Volume 1)
05/14/2024	Notice of Motion	C 36-C 38 (Volume 1)
05/16/2024	Entry of Appearance	C 39-C 40 (Volume 1)
05/16/2024	Entry of Appearance	C 41 (Volume 1)
05/16/2024	Notice of Filing	C 42-C 43 (Volume 1)
05/17/2024	Notice of Hearing	C 44-C 45 (Volume 1)
05/17/2024	Summons - Issued	C 46-C 59 (Volume 1)
05/20/2024	Entry of Appearance	C 60-C 61 (Volume 1)
05/20/2024	Notice of Filing	C 62-C 63 (Volume 1)
05/20/2024	Notice of Filing	C 64-C 66 (Volume 1)
05/20/2024	Notice of Filing	C 67-C 69 (Volume 1)
05/20/2024	Notice of Motion	C 70-C 72 (Volume 1)
05/20/2024	Petition to Intervene	C 73-C 79 (Volume 1)
05/20/2024	Response to Motion for Preliminary Injuction	C 80-C 89 (Volume 1)
05/21/2024	Memorandum in Opposition to Motion for Preliminary Inunction	C 90-C 101 (Volume 1)

Purchased from re:SearchIL

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

COMMON LAW RECORD - TABLE OF CONTENTS

Date Filed	Title/Description	Page No.
05/21/2024	Notice of Filing	C 102-C 103 (Volume 1)
05/23/2024	Order Preliminary Injunction	C 104-C 108 (Volume 1)
05/29/2024	Motion for Summary Judgment	C 109-C 125 (Volume 1)
05/29/2024	Motion for Summary Judgment	C 126-C 166 (Volume 1)
05/29/2024	Motion to Dismiss	C 167-C 182 (Volume 1)
05/29/2024	Notice of Filing	C 183-C 184 (Volume 1)
05/29/2024	Notice of Filing	C 185-C 186 (Volume 1)
05/29/2024	Notice of Filing	C 187-C 189 (Volume 1)
05/30/2024	Motion to Join Additional Plaintiffs	C 190-C 309 (Volume 1)
05/31/2024	Amended Complaint	C 310-C 322 (Volume 1)
05/31/2024	Amended Motion for Summary Judgment and Permanent Injunction	C 323-C 423 (Volume 1)
05/31/2024	Notice of Filing	C 424-C 425 (Volume 1)
05/31/2024	Notice of Filing	C 426-C 427 (Volume 1)
05/31/2024	Notice of Filing	C 428-C 430 (Volume 1)
05/31/2024	Response in Opposition to Amended MSJ	C 431-C 435 (Volume 1)
05/31/2024	Response to Motion for Summary Judgment	C 436-C 451 (Volume 1)
05/31/2024	Response to Motion Intervenor Defendant Welch s Response to Plaintiffs	C 452-C 454 (Volume 1)
06/05/2024	Order Plaintiffs Amended Combined Motion	C 455-C 466 (Volume 1)
06/10/2024	Notice of Appeal - Non-Accelerated Appeal	C 467-C 482 (Volume 1)
06/11/2024	Notification of Appeal to Court Reporter	C 483 (Volume 1)
06/12/2024	Docketing Order	C 484 (Volume 1)
06/13/2024	Notification of Appeal Fee Due	C 485 (Volume 1)
06/13/2024	Request for Preparation of Record on Appeal Request for report on proc	C 486-C 490 (Volume 1)
06/13/2024	Request for preparation of record on appeal	C 491 (Volume 1)
06/14/2024	Order on Motion to Place Appeal on Accelerated docket	C 492-C 494 (Volume 1)

Purchased from re:SearchIL
SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

EFILED
6/10/2024 2:31 PM
Joseph B. Roesch
7th Judicial Circuit
Sangamon County, IL
2024CH000032

APPEAL TO THE ILLINOIS SUPREME COURT

**FROM THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS**

LESLIE COLLAZO, DANIEL BEHR, JAMES KIRCHNER, CARL KUNZ, CAMAXTLE "MAX" OLIVO, JUVANDY RIVERA, NANCY RODRIGUEZ, TERRY NGUYEN LE, JOHN ZIMMERS, RON ANDERMANN, CARLOS GONZALEZ, ASHLEY JENSEN, TERESA ALEXANDER, and DONALD PUCKETT,	)	
Plaintiffs-appellees,	)	No. 2024 CH 0032
v.	)	
EMANUEL "CHRIS" WELCH, *in his official capacity as Speaker of the Illinois House of Representatives and his individual capacity,*	)	The Honorable GAIL NOLL, Circuit Judge presiding
Intervening defendant-appellant,	)	
THE ILLINOIS STATE BOARD OF ELECTIONS, CASANDRA B. WATSON, *in her official capacity as Chair of the Illinois State Board of Elections*; LAURA K. DONAHUE, *in her official capacity as Vice Chair of the Illinois State Board of Elections*; JENNIFER M. BALLARD CROFT, CRISTINA D. CRAY, TONYA L. GENOVESE, CATHERINE S. MCCRORY, RICK S. TERVEN, SR., and JACK VRETT, *in their official capacities as Members of the Illinois State Board of Elections*; and KWAME RAOUL, *in his official capacity as Attorney General of the State of Illinois,*	)	
Defendants.	)	

NOTICE OF APPEAL

Under Illinois Supreme Court Rule 302(a)(1), Intervening Defendant EMANUEL "CHRIS" WELCH, in his official capacity as Speaker of the Illinois House of Representatives and his individual capacity, hereby appeals directly to the Illinois

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Supreme Court from the final order entered by the Honorable Judge Gail Noll of the Circuit Court for the Seventh Judicial Circuit, Sangamon County, Illinois, on June 5, 2024, in which the circuit court granted plaintiffs' motion for summary judgment and granting injunctive relief against the Illinois State Board of Elections by finding revisions to 10 ILCS 5/8-17 contained in P.A. 103-0586 violates Article III, Section 1 of the Illinois Constitution as applied to plaintiffs in the November 2024 general election because the application of the amendment to plaintiffs during the 2024 election cycle impermissibly burdens their right to vote and to have their names placed on the November ballot. A copy of the circuit court's June 5, 2024 order is attached as Exhibit A.

By this appeal, Intervening Defendant EMANUEL "CHRIS" WELCH, in his official capacity as Speaker of the Illinois House of Representatives and his individual capacity, requests that the Illinois Supreme Court reverse and vacate the circuit court's order and grant any other appropriate relief.

Respectfully submitted,

EMANUEL "CHRIS" WELCH

By: */s/* Michael J. Kasper
MICHAEL J. KASPER

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Michael J. Kasper
Special Assistant Attorney General
151 N. Franklin, Suite 2500
Chicago, IL 60606
Phone: (312) 704-3292
mjkasper60@mac.com

Adam R. Vaught
Special Assistant Attorney General
82. S. LaGrange Rd., Suite 208
LaGrange, IL 60525
Phone: (217) 720-1961
avaught@kilbridevaught.com

attorneys for intervening-defendant appellant
Emanuel "Chris" Welch

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

FILED
JUN 0 5 2024
38
Joseph B. Roesch Clerk of the Circuit Court

IN THE CIRCUIT COURT
OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No.: 24–CH–32
	)	
THE ILLINOIS STATE BOARD OF ELECTIONS, et al.,	)	
	)	
	)	
Defendants.	)	

ORDER

This case came before the Court on June 3, 2024 for hearing on Plaintiffs' Amended Combined Motion for Summary Judgment and Permanent Injunction and Defendant Attorney General Kwame Raoul's Motion for Summary Judgment. Plaintiffs, who are prospective candidates for seats in the Illinois General Assembly, seek a declaratory judgment that Public Act 103-0586's revisions to 10 ILCS 5/8-17, as applied to Plaintiffs for the November 2024 general election, violate their constitutional right to access the ballot as protected by Article II, section 1 of the 1970 Illinois Constitution. Plaintiffs seek a permanent injunction preventing Defendants from enforcing this portion of the Act against Plaintiffs, including using the revisions as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election or otherwise using that provision to prevent Plaintiffs' names from being listed on the November 2024 ballot. Considering the law, the facts, and the arguments of counsel, the Court finds and orders as set forth below.

The material facts are not in dispute. Article 8 of the Election Code governs nominations for election to seats in the Illinois General Assembly. With respect to the 2024 November general election for the seats at issue in the case, potential candidates for the General Assembly from an established political party could begin circulating nominating petitions on September 5, 2023.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

These potential candidates were required to file their nominating papers with the State Board of Elections during the filing period, which was from November 27, 2023 to December 4, 2023. The 2024 Illinois primary election was held on March 19, 2024.

At the beginning of the 2024 election cycle, on September 5, 2023, the law of the State of Illinois provided multiple avenues for a candidate to access the ballot for General Assembly races in the November 2024 general election. These same avenues were available on the petition filing deadline, December 4, 2023, and on and after the March 19, 2024 primary. On May 3, 2024, P.A. 103-0586 completely eliminated one of the previously available routes to ballot access; the act removed the post-primary legislative or representative committee nomination process that had been available under Section 5/8-17 for races in which there was no candidate for nomination of a party in the primary.

Section 5/8-17 addresses ballot vacancies in General Assembly races. 10 ILCS 5/8-17. Until May 3, 2024, Section 5/8-17 provided in relevant part as follows:

> In the event that a candidate of a party who has been nominated under the provisions of this Article shall die before election (whether death occurs prior to, or on, or after, the date of the primary) or decline the nomination or should the nomination for any other reason become vacant, the legislative or representative committee of such party for such district shall nominate a candidate of such party to fill such vacancy. **However, if there was no candidate for the nomination of the party in the primary, except as otherwise provided in this Code, no candidate of that party for that office may be listed on the ballot at the general election, unless the legislative or representative committee of the party nominates a candidate to fill the vacancy in nomination within 75 days after the date of the general primary election. Vacancies in nomination occurring under this Article shall be filled by the appropriate legislative or representative committee in accordance with the provisions of Section 7-61 of this Code.** In proceedings to fill the vacancy in nomination, the voting strength of the members of the legislative or representative committee shall be as provided in Section 8-6.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

(emphasis added). This case arises out of Public Act 103-0586 (effective 5/3/2024) which amended Section 5/8-17. After P.A. 103-0586, Section 5/8-17 now provides in relevant part as follows:

> In the event that a candidate of a party who has been nominated under the provisions of this Article shall die before election (whether death occurs prior to, or on, or after, the date of the primary), decline the nomination, or withdraw the candidate's name from the ballot prior to the general election, the legislative or representative committee of such party for such district shall nominate a candidate of such party to fill such vacancy. **However, if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election.** In proceedings to fill the vacancy in nomination, the voting strength of the members of the legislative or representative committee shall be as provided in Section 8-6 or as provided in Section 25-6, as applicable.

(emphasis added).

Section 5/8-17's 75-day window to fill vacancies in nominations through the legislative or representative committee nomination process ("slating process") began on the day of the primary election, March 19, 2024, and was to end on June 3, 2024. However, when P.A. 103-0586 became effective on May 3, 2024, the slating process was eliminated in General Assembly races where there was no candidate for the party's nomination in the primary.[1] The law as amended expressly states that when "there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election."

Under Section 5/8-17 as it existed prior to May 3, 2024, when an established party had a ballot vacancy following the primary election because no one ran in the primary, the legislative or representative committee of the party could nominate a candidate to fill the vacancy. The nominee would then need to gather a sufficient number of signatures under 10 ILCS 5/7-61, which was set at the same number of signatures that an established party candidate would have been required to

[1] The provisions of Section 5/8-17 that allow for slating when a nominated candidate dies before election, declines the nomination, or withdraws his or her name from the ballot remain intact.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

file during the original filing period, from November 27, 2023 to December 4, 2023.[2] The circulation period for petitions under the now deleted slating process began on the day the appropriate committee nominated the individual. The nominee was then required to file proper nominating paperwork with the State Board of Elections within 75 days of the primary, i.e. by June 3, 2024.

For each seat at issue here, there was no candidate for the nomination of the Republican party in the March 2024 primary election. Plaintiffs were in the course of availing themselves of the slating process contained in Section 5/8-17 at the time P.A. 103-0586 amended the statute on May 3, 2024 to delete the language relating to that process for races in which there was no candidate for nomination of a party in the primary. Plaintiffs filed this lawsuit on May 10, 2024, seeking declaratory and injunctive relief. Plaintiffs contend that the revisions to 10 ILCS 5/8-17 are unconstitutional as applied to them in the November 2024 general election. On May 23, 2024, this Court entered a preliminary injunction under which Defendant State Board of Elections and Defendant Kwame Raoul were preliminarily enjoined from rejecting Plaintiffs' nomination petitions for the November 2024 general election based on P.A. 103-0586's revisions to 10 ILCS 5/8-17. Counsel for the Board represented that the Board accepted for filing all nominating petitions that were tendered to it from potential candidates, Plaintiffs and other individuals, seeking to proceed under the now deleted slating process in General Assembly races. Counsel for the Board also confirmed that subsequent to the March 2024 primary election at least one individual filed nominating petitions for a General Assembly seat with the State Board of Elections under Section 5/8-17 prior to the slating process being removed from the statute on May 3, 2024.

[2] The number of signatures required for an established party candidate for the General Assembly is less than that required for an independent or third-party candidate.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

ANALYSIS

Plaintiffs and Defendant Raoul filed cross-motions for summary judgment. Intervening Defendant Welch filed a response opposing Plaintiffs' motion for summary judgment. Summary judgment is appropriate when "the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." 735 ILCS 5/2-1005(c). As a threshold matter, the Court finds that this case is justiciable. While the Defendant Board of Elections has declined to take a position, the matter presents an actual controversy between adverse parties given the Defendant Attorney General's interest in upholding P.A. 103-0586 as passed by the General Assembly. Plaintiffs have a strong interest in the resolution of their constitutional claim to determine whether they may continue to avail themselves of the now deleted slating process. The issues are legal ones, fit for judicial determination, and given the urgent timeline associated with certifying and printing the ballots for the November 2024 general election, both sides would experience hardship if judicial consideration was withheld.

Plaintiffs raise an as-applied constitutional challenge to P.A. 103-0586's revisions to Section 5/8-17. Plaintiffs do not contend that the General Assembly cannot amend Section 5/8-17 to remove the slating process in the future. Rather, they assert that the application of the amendment to them in the middle of the 2024 election cycle violates their right to vote and to have their names placed on the November 2024 ballot. The law as amended is clear. Effective May 3, 2024, when "there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election." 10 ILCS 5/8-17. The question before the Court is whether the General Assembly's exercise of its power to completely eliminate one avenue for ballot access during an election cycle impermissibly burdens Plaintiffs' right to vote and, if so, whether injunctive relief is appropriate.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

In 1974, the United States Supreme Court recognized that, "as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes." *Storer v. Brown*, 415 U.S. 724, 730 (1974). The legislature enjoys great freedom in enacting legislation, but that power is subject to constitutional limitation. Legislation challenged in court enjoys a presumption of constitutionality. When a state election law provision imposes only reasonable, nondiscriminatory restrictions on the rights of voters, the State's important interest in regulating elections is generally sufficient to justify the restrictions. *See Burdick v. Takushi*, 504 U.S. 428 (1992); *Anderson v. Celebrezze*, 460 U.S. 780 (1983).

However, if an electoral regulation imposes a severe restriction on the right to vote, strict scrutiny applies. The Illinois Supreme Court has held that when "challenged legislation implicates a fundamental constitutional right, . . . such as the right to vote, the presumption of constitutionality is lessened and a far more demanding scrutiny is required." *Tully v. Edgar*, 171 Ill.2d 297, 304 (1996) (*citing Potts v. Illinois Department of Registration & Education*, 128 Ill.2d 322, 329 (1989)). In cases that implicate fundamental constitutional rights, the court examines the challenged statute under a strict scrutiny standard. *Id.* Plaintiffs assert that the strict scrutiny standard applies here. Defendant Raoul and Intervening Defendant Welch argue that the less stringent *Anderson-Burdick* standard applies.

"No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined." *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964). The Illinois Supreme Court "has determined that the right to vote is implicated by legislation that restricts a candidate's effort to gain access to the ballot." *Tully*, 171 Ill.2d at 306-07 (*citing Anderson v. Schneider*, 67 Ill.2d 165, 172–73 (1977)). However, the law does not require that

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

every legislation that places a restriction on ballot access be subject to strict scrutiny. The Court is faced with a unique set of circumstances where a provision of the Election Code establishing a route for ballot access was eliminated during the election cycle. While there is no case law directly on point, the Court finds the instant case to be more similar to *Tully* and *Graves v. Cook Cnty. Republican Party,* 2020 IL App (1st) 181516, than it is to the cases upon which Defendants rely.

Both *Tully* and *Graves* involved timing issues and considered when changes to laws involving elections could be made without impermissibly burdening the right to vote. In *Tully*, the Illinois Supreme Court examined the constitutionality of an act which changed the Board of Trustees of the University of Illinois from an elective to an appointive office. The act in question was to take effect post-election, in the middle of the terms of the duly-elected board members, removing them from office prior to the expiration of their current terms. In *Graves*, the First District Appellate Court examined whether a change relating to candidate eligibility for committeemen in the bylaws of the Cook County Republican Party which was enacted after early voting started in the 2016 March primary election but prior to election day violated the fundamental right to vote. The plaintiff in *Graves* did not dispute whether the Cook County Republican Party could enact such provision, but asserted that the bylaw enacted and applied during the primary election was a violation of the right to vote. Both the *Tully* court and the *Graves* court applied a strict scrutiny analysis.

The challenged amendment as applied to Plaintiffs in the 2024 election cycle places a severe restriction on the fundamental right to vote. The timing of the amendment, which eliminated one of the methods for ballot access that was available at the beginning of the election cycle after the March primary election had taken place, precludes Plaintiffs from having their

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

names placed on the November 2024 ballot under any statutorily available method.[3] A strict scrutiny analysis is appropriate.

Under the strict scrutiny analysis, the Court "must consider three questions: (1) Does the Act advance a compelling state interest? (2) Is the provision . . . necessary to achieve the legislation's asserted goal? and (3) Are the provisions in the legislation the least restrictive means available to attain the legislation's goal?" *Tully*, 171 Ill. 2d at 311. No relevant legislative history associated with P.A. 103-0586 has been identified. Defendant Raoul submits that the important government interest at issue is the need to prevent political insiders from having control over which candidates are slated and to ensure that the voters, and only the voters, make this determination.

Assuming the proffered reason satisfies the first prong, P.A. 103-0586's revisions to Section 5/8-17 do not meet the strict scrutiny standard because they fail to satisfy the second and third prongs. As was the case in *Tully* and *Graves*, in the present case the legislation's goal could be achieved by other less restrictive means that would not impinge upon the fundamental right to vote. The General Assembly could make the revisions effective for the next election, rather than in the midst of the current election. Everyone would then be on notice that, in General Assembly races, when there was no candidate for the nomination of the party in the primary, no candidate of that party for that office can be listed on the ballot at the general election. While the election cycle for seats in the General Assembly is long, spanning 14 months, that does not mean that the legislature has only a small window to act, given that the General Assembly can designate an effective date in the future when it enacts legislation. Changing the rules relating to ballot access in the midst of an election cycle removes certainty from the election process and is not necessary to achieve the legislation's proffered goal. As applied to Plaintiffs, P.A. 103-0586's revisions to

[3] "A person . . . who voted the ballot of an established political party at a general primary election may not file a statement of candidacy as a candidate of a different established political party, a new political party, or as an independent candidate for a partisan office to be filled at the general election immediately following the general primary for which the person filed the statement or voted the ballot." 10 ILCS 5/7-43.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Section 5/8-17 do not satisfy the strict scrutiny standard and therefore the act impermissibly violates Plaintiffs' right to vote as guaranteed under the Illinois Constitution. Declaratory judgment is appropriate.

Plaintiffs are entitled to declaratory judgment even if the less stringent *Anderson-Burdick* standard urged by Defendants applies. Under *Anderson-Burdick*, when a state election law provision imposes only reasonable, nondiscriminatory restrictions on the rights of voters, the State's important interest in regulating elections is generally sufficient to justify the restrictions. However, to withstand *Anderson-Burdick* scrutiny, the statute must be reasonable and not arbitrary or discriminatory. P.A. 103-0586's revisions to Section 5/8-17 are not retroactive. The act was effective immediately, which means that the slating process was eliminated in the midst of the 75-day post-primary window previously available to fill vacancies. At least one potential candidate filed nominating petitions for a General Assembly seat with the State Board of Elections under Section 5/8-17 prior to the slating process being removed from the statute on May 3, 2024. The act arbitrarily treats potential candidates seeking to use the now deleted slating process within the 75-day post-primary window differently and does not apply the same rules to all potential candidates.

The Court turns to Plaintiffs request for a permanent injunction. Plaintiffs seek a permanent injunction preventing Defendants from enforcing P.A. 103-0586's revisions to Section 5/8-17 against Plaintiffs, including using the revisions as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election or otherwise using that provision to prevent Plaintiffs' names from being listed on the November 2024 ballot. A party seeking an injunction must demonstrate (1) a clear and ascertainable right in need of protection, (2) that he or she will suffer irreparable harm if the injunction is not granted, and (3) that no adequate remedy at law exists. *Swigert v. Gillespie*, 2012 IL App (4th) 120043, ¶ 27.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

The record does not support a finding that a permanent injunction against Defendant Raoul is appropriate. Summary judgment in favor of Defendant Raoul is granted on this issue. The Attorney General is not authorized to deny nominating petitions or to certify a candidate's name for the ballot. The Court adopts Counsel for Defendant Raoul's arguments on this point. The request for permanent injunctive relief enjoining Defendant Raoul is denied and the preliminary injunction entered against him on May 23, 2024 is dissolved.

The Court finds that permanent injunctive relief against the Defendant State Board of Elections and the Defendant Board members is appropriate. The Board is responsible for determining whether a candidate has met the qualifications for appearing on the ballot and for certifying the names of eligible candidates for local county clerks to place on the ballots. Plaintiffs have a clearly ascertainable right to be free from unconstitutional restriction on their right to vote which under the circumstances of this case includes their right to ballot access under the law as it existed prior to May 3, 2024. Under 10 ILCS 5/10-8, "[e]xcept as otherwise provided in this Code, certificates of nomination and nomination papers . . . being filed as required by this Code, and being in apparent conformity with the provisions of this Act, shall be deemed to be valid unless objection thereto is duly made . . . ." The Election Code as amended now provides in Section 5/8-17, if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election. If Plaintiffs' nomination petitions are rejected based on P.A. 103-0586's revisions to 10 ILCS 5/8-17, they will suffer irreparable harm in that they will lose the opportunity to run as party candidates in the 2024 general election. Additionally, the timing of the amendment, which occurred after the March primary election, precludes Plaintiffs from having their names placed on the November ballot under any of the statutorily available routes to ballot access. Under these circumstances, no adequate remedy at law exists.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Furthermore, the balance of hardships weighs in favor of injunctive relief. A permanent injunction does not prevent the General Assembly from amending its own laws, rather it prevents the application of such an amendment in the middle of an election cycle. Absent injunctive relief, Plaintiffs are deprived of an avenue of ballot access that existed prior to May 3, 2024, and under the facts of this case, they face an absolute barrier preventing them from having their names placed on the November 2024 ballot.

The Court is not persuaded by the argument that Plaintiffs are seeking a mandatory injunction or that Plaintiffs have failed to name necessary parties, specifically the local election boards or the State Board sitting as the State Officers Electoral Board. Counsel for the Board requested that if injunctive relief was ordered that there be clarification as to its scope. "If a plaintiff prevails in an as-applied claim, he may enjoin the objectionable enforcement of the enactment only against himself, while a successful facial attack voids the enactment in its entirety and in all applications." *Napleton v. Vill. of Hinsdale*, 229 Ill. 2d 296, 306 (2008). This Court's permanent injunction is limited to the named Plaintiffs and extends only to the Defendant State Board of Elections and the Defendant Board members.

THEREFORE, for the reasons set forth above, it is hereby ordered:

1. Plaintiffs' Motion for Summary Judgment is ALLOWED, in part.
2. Defendant Raoul's Motion for Summary Judgment is ALLOWED, in part.
3. Declaratory and injunctive relief is entered as follows: The revisions to 10 ILCS 5/8-17 contained in P.A. 103-0586 are unconstitutional as applied to Plaintiffs in the November 2024 general election because the application of the amendment to Plaintiffs during the 2024 election cycle impermissibly burdens their right to vote and to have their names placed on the November ballot. The timing of the amendment, which eliminated one of the methods for ballot access that was available at the beginning of the election cycle after the March primary election had taken

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

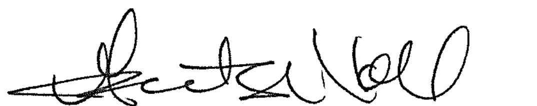
place, precludes Plaintiffs from having their names placed on the November ballot under any statutorily available method. The challenged amendment as applied to Plaintiffs in the 2024 election cycle places a severe restriction on the fundamental right to vote, and therefore, the proper standard is strict scrutiny, which it does not meet.

The law, which became effective on May 3, 2024, as applied to Plaintiffs in the on-going 2024 election cannot reasonably be construed in a manner that would preserve its validity. The Court is cognizant that it must avoid unnecessary declarations that a statute is unconstitutional; however, here the Plaintiffs bring a constitutional challenge to the application of the revisions to Section 5/8-17 in the midst of the 2024 election cycle. The finding of unconstitutionality is necessary to the Court's decision, and there is no alternative grounds upon which the decision can rest. Attorney General Raoul is a named defendant in this matter; therefore, separate notice under Illinois Supreme Court Rule 19 is not required.

With respect to injunctive relief, based on the Court's declaratory judgment regarding P.A. 103-0586's revisions to 10 ILCS 5/8-17, Defendant State Board of Elections and Defendant Board members are hereby enjoined from applying the provisions of Illinois Public Act No. 103-0586 which revise 10 ILCS 5/8-17 to eliminate the slating process for General Assembly elections as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election and from otherwise using the revisions to prevent Plaintiffs from being listed as candidates on the November 2024 general election ballot. All other requests for relief are denied.

5. This is a final order. There is no just reason for delaying enforcement or appeal of this order, or both. THE CLERK IS DIRECTED TO FORWARD A COPY OF THIS ORDER TO COUNSEL OF RECORD.

Date: 6-5-2024



Gail L. Noll
Circuit Judge

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

STATE OF ILLINOIS)
)
COUNTY OF COOK)

PROOF OF SERVICE

I, Michael J. Kasper, attorney for intervening defendant-appellant Emanuel "Chris" Welch, certify that I electronically filed via Odyssey EFile IL the foregoing Appearance with the Clerk of the Appellate Court First District on the 10th day of June 2024.

The undersigned further certifies that on the 10th day of June 2024, an electronic copy of the foregoing Notice of Appeal is being served either through the Court's electronic filing manager or an approved electronic filing service provider to:

Jeffrey M. Schwab (#6290710)
Jacob H. Huebert (#6305339)
James J. McQuaid (#6321108)
Liberty Justice Center
440 N. Wells Street, Suite 200
Chicago, Illinois 60654
jschwab@libertyjusticecenter.org
jhuebert@libertyjusticecenter.org
jmcquaid@libertyjusticecenter.org

Joshua Ratz
Tarryn Gardner
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62701
joshua.ratz@ilag.gov
Tarryn.gardner@ilag.gov

Hal Dworkin
Assistant Attorney General
Office of the Illinois Attorney General
115 S. LaSalle Street
Chicago, Illinois 60603
Hal.Dworkin@ilag.gov

Under penalties as provided by law pursuant to § 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109), the undersigned certifies that the statements set forth in this instrument are true and correct.

/s/Michael J. Kasper

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Public Act 103-0586

SB2412 Enrolled LRB103 24993 KTG 51327 b

AN ACT concerning State government.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

ARTICLE 1

Section 1-5. The Election Code is amended by changing Sections 7-11, 7-12, 7-61, 8-17, and 25-6 as follows:

(10 ILCS 5/7-11) (from Ch. 46, par. 7-11)

Sec. 7-11. Any candidate for President of the United States may have his name printed upon the primary ballot of his political party by filing in the office of the State Board of Elections not more than 141 ~~113~~ and not less than 134 ~~106~~ days prior to the date of the general primary, in any year in which a Presidential election is to be held, a petition signed by not less than 3000 or more than 5000 primary electors, members of and affiliated with the party of which he is a candidate, and no candidate for President of the United States, who fails to comply with the provisions of this Article shall have his name printed upon any primary ballot; provided ~~: Provided~~, however, that if the rules or policies of a national political party conflict with such requirements for filing petitions for President of the United States in a presidential preference primary, the Chair of the State central committee of such

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

national political party shall notify the State Board of Elections in writing, citing by reference the rules or policies of the national political party in conflict, and in such case the Board shall direct such petitions to be filed in accordance with the delegate selection plan adopted by the state central committee of such national political party. Provided, further, unless rules or policies of a national political party otherwise provide, the vote for President of the United States, as herein provided for, shall be for the sole purpose of securing an expression of the sentiment and will of the party voters with respect to candidates for nomination for said office, and the vote of the state at large shall be taken and considered as advisory to the delegates and alternates at large to the national conventions of respective political parties; and the vote of the respective congressional districts shall be taken and considered as advisory to the delegates and alternates of said congressional districts to the national conventions of the respective political parties.

(Source: P.A. 100-1027, eff. 1-1-19.)

(10 ILCS 5/7-12) (from Ch. 46, par. 7-12)

Sec. 7-12. All petitions for nomination shall be filed by mail or in person as follows:

(1) Except as otherwise provided in this Code, where the nomination is to be made for a State, congressional,

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

or judicial office, or for any office a nomination for which is made for a territorial division or district which comprises more than one county or is partly in one county and partly in another county or counties (including the Fox Metro Water Reclamation District), then, except as otherwise provided in this Section, such petition for nomination shall be filed in the principal office of the State Board of Elections not more than 141 ~~113~~ and not less than 134 ~~106~~ days prior to the date of the primary, but, in the case of petitions for nomination to fill a vacancy by special election in the office of representative in Congress from this State, such petition for nomination shall be filed in the principal office of the State Board of Elections not more than 113 ~~85~~ days and not less than 110 ~~82~~ days prior to the date of the primary.

Where a vacancy occurs in the office of Supreme, Appellate or Circuit Court Judge within the 3-week period preceding the 134th ~~106th~~ day before a general primary election, petitions for nomination for the office in which the vacancy has occurred shall be filed in the principal office of the State Board of Elections not more than 120 ~~92~~ nor less than 113 ~~85~~ days prior to the date of the general primary election.

Where the nomination is to be made for delegates or alternate delegates to a national nominating convention, then such petition for nomination shall be filed in the

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

principal office of the State Board of Elections not more than <u>141</u> ~~113~~ and not less than <u>134</u> ~~106~~ days prior to the date of the primary; provided, however, that if the rules or policies of a national political party conflict with such requirements for filing petitions for nomination for delegates or alternate delegates to a national nominating convention, the chair of the State central committee of such national political party shall notify the Board in writing, citing by reference the rules or policies of the national political party in conflict, and in such case the Board shall direct such petitions to be filed in accordance with the delegate selection plan adopted by the state central committee of such national political party.

(2) Where the nomination is to be made for a county office or trustee of a sanitary district then such petition shall be filed in the office of the county clerk not more than <u>141</u> ~~113~~ nor less than <u>134</u> ~~106~~ days prior to the date of the primary.

(3) Where the nomination is to be made for a municipal or township office, such petitions for nomination shall be filed in the office of the local election official, not more than <u>127</u> ~~99~~ nor less than <u>120</u> ~~92~~ days prior to the date of the primary; provided, where a municipality's or township's boundaries are coextensive with or are entirely within the jurisdiction of a municipal board of election commissioners, the petitions shall be filed in the office

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

of such board; and provided, that petitions for the office of multi-township assessor shall be filed with the election authority.

(4) The petitions of candidates for State central committeeperson shall be filed in the principal office of the State Board of Elections not more than 141 ~~113~~ nor less than 134 ~~106~~ days prior to the date of the primary.

(5) Petitions of candidates for precinct, township or ward committeepersons shall be filed in the office of the county clerk not more than 141 ~~113~~ nor less than 134 ~~106~~ days prior to the date of the primary.

(6) The State Board of Elections and the various election authorities and local election officials with whom such petitions for nominations are filed shall specify the place where filings shall be made and upon receipt shall endorse thereon the day and hour on which each petition was filed. All petitions filed by persons waiting in line as of 8:00 a.m. on the first day for filing, or as of the normal opening hour of the office involved on such day, shall be deemed filed as of 8:00 a.m. or the normal opening hour, as the case may be. Petitions filed by mail and received after midnight of the first day for filing and in the first mail delivery or pickup of that day shall be deemed as filed as of 8:00 a.m. of that day or as of the normal opening hour of such day, as the case may be. All petitions received thereafter shall be deemed as

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

filed in the order of actual receipt. However, 2 or more petitions filed within the last hour of the filing deadline shall be deemed filed simultaneously. Where 2 or more petitions are received simultaneously, the State Board of Elections or the various election authorities or local election officials with whom such petitions are filed shall break ties and determine the order of filing, by means of a lottery or other fair and impartial method of random selection approved by the State Board of Elections. Such lottery shall be conducted within 9 days following the last day for petition filing and shall be open to the public. Seven days written notice of the time and place of conducting such random selection shall be given by the State Board of Elections to the chair of the State central committee of each established political party, and by each election authority or local election official, to the County Chair of each established political party, and to each organization of citizens within the election jurisdiction which was entitled, under this Article, at the next preceding election, to have pollwatchers present on the day of election. The State Board of Elections, election authority or local election official shall post in a conspicuous, open and public place, at the entrance of the office, notice of the time and place of such lottery. The State Board of Elections shall adopt rules and regulations governing the procedures for the conduct

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

of such lottery. All candidates shall be certified in the order in which their petitions have been filed. Where candidates have filed simultaneously, they shall be certified in the order determined by lot and prior to candidates who filed for the same office at a later time.

(7) The State Board of Elections or the appropriate election authority or local election official with whom such a petition for nomination is filed shall notify the person for whom a petition for nomination has been filed of the obligation to file statements of organization, reports of campaign contributions, and annual reports of campaign contributions and expenditures under Article 9 of this Code. Such notice shall be given in the manner prescribed by paragraph (7) of Section 9-16 of this Code.

(8) Nomination papers filed under this Section are not valid if the candidate named therein fails to file a statement of economic interests as required by the Illinois Governmental Ethics Act in relation to his candidacy with the appropriate officer by the end of the period for the filing of nomination papers unless he has filed a statement of economic interests in relation to the same governmental unit with that officer within a year preceding the date on which such nomination papers were filed. If the nomination papers of any candidate and the statement of economic <u>interests</u> ~~interest~~ of that candidate are not required to be filed with the same officer, the

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

candidate must file with the officer with whom the nomination papers are filed a receipt from the officer with whom the statement of economic interests is filed showing the date on which such statement was filed. Such receipt shall be so filed not later than the last day on which nomination papers may be filed.

(9) Except as otherwise provided in this Code, any person for whom a petition for nomination, or for committeeperson or for delegate or alternate delegate to a national nominating convention has been filed may cause his name to be withdrawn by request in writing, signed by him and duly acknowledged before an officer qualified to take acknowledgments of deeds, and filed in the principal or permanent branch office of the State Board of Elections or with the appropriate election authority or local election official, not later than the date of certification of candidates for the consolidated primary or general primary ballot. No names so withdrawn shall be certified or printed on the primary ballot. If petitions for nomination have been filed for the same person with respect to more than one political party, his name shall not be certified nor printed on the primary ballot of any party. If petitions for nomination have been filed for the same person for 2 or more offices which are incompatible so that the same person could not serve in more than one of such offices if elected, that person must withdraw as a

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

candidate for all but one of such offices within the 5 business days following the last day for petition filing. A candidate in a judicial election may file petitions for nomination for only one vacancy in a subcircuit and only one vacancy in a circuit in any one filing period, and if petitions for nomination have been filed for the same person for 2 or more vacancies in the same circuit or subcircuit in the same filing period, his or her name shall be certified only for the first vacancy for which the petitions for nomination were filed. If he fails to withdraw as a candidate for all but one of such offices within such time his name shall not be certified, nor printed on the primary ballot, for any office. For the purpose of the foregoing provisions, an office in a political party is not incompatible with any other office.

(10)(a) Notwithstanding the provisions of any other statute, no primary shall be held for an established political party in any township, municipality, or ward thereof, where the nomination of such party for every office to be voted upon by the electors of such township, municipality, or ward thereof, is uncontested. Whenever a political party's nomination of candidates is uncontested as to one or more, but not all, of the offices to be voted upon by the electors of a township, municipality, or ward thereof, then a primary shall be held for that party in such township, municipality, or ward thereof; provided

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

that the primary ballot shall not include those offices within such township, municipality, or ward thereof, for which the nomination is uncontested. For purposes of this Article, the nomination of an established political party of a candidate for election to an office shall be deemed to be uncontested where not more than the number of persons to be nominated have timely filed valid nomination papers seeking the nomination of such party for election to such office.

(b) Notwithstanding the provisions of any other statute, no primary election shall be held for an established political party for any special primary election called for the purpose of filling a vacancy in the office of representative in the United States Congress where the nomination of such political party for said office is uncontested. For the purposes of this Article, the nomination of an established political party of a candidate for election to said office shall be deemed to be uncontested where not more than the number of persons to be nominated have timely filed valid nomination papers seeking the nomination of such established party for election to said office. This subsection (b) shall not apply if such primary election is conducted on a regularly scheduled election day.

(c) Notwithstanding the provisions in subparagraph (a) and (b) of this paragraph (10), whenever a person who has

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

not timely filed valid nomination papers and who intends to become a write-in candidate for a political party's nomination for any office for which the nomination is uncontested files a written statement or notice of that intent with the State Board of Elections or the local election official with whom nomination papers for such office are filed, a primary ballot shall be prepared and a primary shall be held for that office. Such statement or notice shall be filed on or before the date established in this Article for certifying candidates for the primary ballot. Such statement or notice shall contain (i) the name and address of the person intending to become a write-in candidate, (ii) a statement that the person is a qualified primary elector of the political party from whom the nomination is sought, (iii) a statement that the person intends to become a write-in candidate for the party's nomination, and (iv) the office the person is seeking as a write-in candidate. An election authority shall have no duty to conduct a primary and prepare a primary ballot for any office for which the nomination is uncontested unless a statement or notice meeting the requirements of this Section is filed in a timely manner.

(11) If multiple sets of nomination papers are filed for a candidate to the same office, the State Board of Elections, appropriate election authority or local election official where the petitions are filed shall

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

within 2 business days notify the candidate of his or her multiple petition filings and that the candidate has 3 business days after receipt of the notice to notify the State Board of Elections, appropriate election authority or local election official that he or she may cancel prior sets of petitions. If the candidate notifies the State Board of Elections, appropriate election authority or local election official, the last set of petitions filed shall be the only petitions to be considered valid by the State Board of Elections, election authority or local election official. If the candidate fails to notify the State Board of Elections, election authority or local election official then only the first set of petitions filed shall be valid and all subsequent petitions shall be void.

(12) All nominating petitions shall be available for public inspection and shall be preserved for a period of not less than 6 months.

(Source: P.A. 101-523, eff. 8-23-19; 102-15, eff. 6-17-21; 102-687, eff. 12-17-21.)

(10 ILCS 5/7-61) (from Ch. 46, par. 7-61)

Sec. 7-61. Whenever a special election is necessary, the provisions of this Article are applicable to the nomination of candidates to be voted for at such special election.

In cases where a primary election is required, the officer

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

or board or commission whose duty it is under the provisions of this Code relating to general elections to call an election shall fix a date for the primary for the nomination of candidates to be voted for at such special election. Notice of such primary shall be given at least 15 days prior to the maximum time provided for the filing of petitions for such a primary as provided in Section 7-12.

Any vacancy in nomination under the provisions of this Article 7 occurring on or after the primary and prior to certification of candidates by the certifying board or officer must be filled prior to the date of certification. Any vacancy in nomination occurring after certification but prior to 15 days before the general election shall be filled within 8 days after the event creating the vacancy. The resolution filling the vacancy shall be sent by U. S. mail or personal delivery to the certifying officer or board within 3 days of the action by which the vacancy was filled; provided, if such resolution is sent by mail and the U. S. postmark on the envelope containing such resolution is dated prior to the expiration of such 3-day limit, the resolution shall be deemed filed within such 3-day limit. Failure to so transmit the resolution within the time specified in this Section shall authorize the certifying officer or board to certify the original candidate. Vacancies shall be filled by the officers of a local municipal or township political party as specified in subsection (h) of Section 7-8, other than a statewide political party, that is

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

established only within a municipality or township and the managing committee (or legislative committee in case of a candidate for State Senator or representative committee in the case of a candidate for State Representative in the General Assembly or State central committee in the case of a candidate for statewide office, including, but not limited to, the office of United States Senator) of the respective political party for the territorial area in which such vacancy occurs.

The resolution to fill a vacancy in nomination shall be duly acknowledged before an officer qualified to take acknowledgments of deeds and shall include, upon its face, the following information:

(a) the name of the original nominee and the office vacated;

(b) the date on which the vacancy occurred;

(c) the name and address of the nominee selected to fill the vacancy and the date of selection.

The resolution to fill a vacancy in nomination shall be accompanied by a Statement of Candidacy, as prescribed in Section 7-10, completed by the selected nominee and a receipt indicating that such nominee has filed a statement of economic interests as required by the Illinois Governmental Ethics Act.

The provisions of Section 10-8 through 10-10.1 relating to objections to certificates of nomination and nomination papers, hearings on objections, and judicial review, shall apply to and govern objections to resolutions for filling a

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

vacancy in nomination.

Any vacancy in nomination occurring 15 days or less before the consolidated election or the general election shall not be filled. In this event, the certification of the original candidate shall stand and his name shall appear on the official ballot to be voted at the general election.

A vacancy in nomination occurs when a candidate who has been nominated under the provisions of this Article 7 dies before the election (whether death occurs prior to, on or after the day of the primary), or declines the nomination; provided that nominations may become vacant for other reasons.

If the name of no established political party candidate was printed on the consolidated primary ballot for a particular office and if no person was nominated as a write-in candidate for such office, a vacancy in nomination shall be created which may be filled in accordance with the requirements of this Section. Except as otherwise provided in this Code, if the name of no established political party candidate was printed on the general primary ballot for an ~~a particular~~ office nominated under this Article and if no person was nominated as a write-in candidate for such office, a vacancy in nomination shall be filled only by a person designated by the appropriate committee of the political party and only if that designated person files nominating petitions with the number of signatures required for an established party candidate for that office within 75 days after the day of

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

the general primary. The circulation period for those petitions begins on the day the appropriate committee designates that person. The person shall file his or her nominating petitions, statements of candidacy, notice of appointment by the appropriate committee, and receipt of filing his or her statement of economic interests together. These documents shall be filed at the same location as provided in Section 7-12. The electoral boards having jurisdiction under Section 10-9 to hear and pass upon objections to nominating petitions also shall hear and pass upon objections to nomination petitions filed by candidates under this paragraph.

A candidate for whom a nomination paper has been filed as a partisan candidate at a primary election, and who is defeated for his or her nomination at such primary election, is ineligible to be listed on the ballot at that general or consolidated election as a candidate of another political party.

A candidate seeking election to an office for which candidates of political parties are nominated by caucus who is a participant in the caucus and who is defeated for his or her nomination at such caucus is ineligible to be listed on the ballot at that general or consolidated election as a candidate of another political party.

In the proceedings to nominate a candidate to fill a vacancy or to fill a vacancy in the nomination, each precinct,

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

township, ward, county, or congressional district, as the case may be, shall, through its representative on such central or managing committee, be entitled to one vote for each ballot voted in such precinct, township, ward, county, or congressional district, as the case may be, by the primary electors of its party at the primary election immediately preceding the meeting at which such vacancy is to be filled.

For purposes of this Section, the words "certify" and "certification" shall refer to the act of officially declaring the names of candidates entitled to be printed upon the official ballot at an election and directing election authorities to place the names of such candidates upon the official ballot. "Certifying officers or board" shall refer to the local election official, the election authority, or the State Board of Elections, as the case may be, with whom nomination papers, including certificates of nomination and resolutions to fill vacancies in nomination, are filed and whose duty it is to certify candidates.

(Source: P.A. 102-15, eff. 6-17-21; 103-154, eff. 6-30-23.)

(10 ILCS 5/8-17) (from Ch. 46, par. 8-17)

Sec. 8-17. The death of any candidate prior to, or on, the date of the primary shall not affect the canvass of the ballots. If the result of such canvass discloses that such candidate, if he had lived, would have been nominated, such candidate shall be declared nominated.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

In the event that a candidate of a party who has been nominated under the provisions of this Article shall die before election (whether death occurs prior to, or on, or after, the date of the primary), ~~or~~ decline the nomination, or withdraw the candidate's name from the ballot prior to the general election ~~or should the nomination for any other reason become vacant~~, the legislative or representative committee of such party for such district shall nominate a candidate of such party to fill such vacancy. However, if there was no candidate for the nomination of the party in the primary, ~~except as otherwise provided in this Code,~~ no candidate of that party for that office may be listed on the ballot at the general election~~, unless the legislative or representative committee of the party nominates a candidate to fill the vacancy in nomination within 75 days after the date of the general primary election. Vacancies in nomination occurring under this Article shall be filled by the appropriate legislative or representative committee in accordance with the provisions of Section 7-61 of this Code~~. In proceedings to fill the vacancy in nomination, the voting strength of the members of the legislative or representative committee shall be as provided in Section 8-6 or as provided in Section 25-6, as applicable.

(Source: P.A. 102-15, eff. 6-17-21.)

(10 ILCS 5/25-6) (from Ch. 46, par. 25-6)

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Sec. 25-6. General Assembly vacancies.

(a) When a vacancy occurs in the office of State Senator or Representative in the General Assembly, the vacancy shall be filled within 30 days by appointment of the legislative or representative committee of that legislative or representative district of the political party of which the incumbent was a candidate at the time of his election. Prior to holding a meeting to fill the vacancy, the committee shall make public (i) the names of the committeeperson on the appropriate legislative or representative committee, (ii) the date, time, and location of the meeting to fill the vacancy, and (iii) any information on how to apply or submit a name for consideration as the appointee. A meeting to fill a vacancy in office shall be held in the district or virtually, and any meeting shall be accessible to the public. The appointee shall be a member of the same political party as the person he succeeds was at the time of his election, and shall be otherwise eligible to serve as a member of the General Assembly.

(b) When a vacancy occurs in the office of a legislator elected other than as a candidate of a political party, the vacancy shall be filled within 30 days of such occurrence by appointment of the Governor. The appointee shall not be a member of a political party, and shall be otherwise eligible to serve as a member of the General Assembly. Provided, however, the appropriate body of the General Assembly may, by resolution, allow a legislator elected other than as a

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

candidate of a political party to affiliate with a political party for his term of office in the General Assembly. A vacancy occurring in the office of any such legislator who affiliates with a political party pursuant to resolution shall be filled within 30 days of such occurrence by appointment of the appropriate legislative or representative committee of that legislative or representative district of the political party with which the legislator so affiliates. The appointee shall be a member of the political party with which the incumbent affiliated.

(c) For purposes of this Section, a person is a member of a political party for 23 months after (i) signing a candidate petition, as to the political party whose nomination is sought; (ii) signing a statement of candidacy, as to the political party where nomination or election is sought; (iii) signing a Petition of Political Party Formation, as to the proposed political party; (iv) applying for and receiving a primary ballot, as to the political party whose ballot is received; or (v) becoming a candidate for election to or accepting appointment to the office of ward, township, precinct or state central committeeperson.

(d) In making appointments under this Section, each committeeperson of the appropriate legislative or representative committee shall be entitled to one vote for each vote that was received, in that portion of the legislative or representative district which he represents on

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

the committee, by the Senator or Representative whose seat is vacant at the general election at which that legislator was elected to the seat which has been vacated and a majority of the total number of votes received in such election by the Senator or Representative whose seat is vacant is required for the appointment of his successor; provided, however, that in making appointments in legislative or representative districts comprising only one county or part of a county other than a county containing 2,000,000 or more inhabitants, each committeeperson shall be entitled to cast only one vote.

(e) Appointments made under this Section shall be in writing and shall be signed by members of the legislative or representative committee whose total votes are sufficient to make the appointments or by the Governor, as the case may be. Such appointments shall be filed with the Secretary of State and with the Clerk of the House of Representatives or the Secretary of the Senate, whichever is appropriate.

(f) An appointment made under this Section shall be for the remainder of the term, except that, if the appointment is to fill a vacancy in the office of State Senator and the vacancy occurs with more than 28 months remaining in the term, the term of the appointment shall expire at the time of the next general election at which time a Senator shall be elected for a new term commencing on the determination of the results of the election and ending on the second Wednesday of January in the second odd-numbered year next occurring. If a vacancy

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

in office of State Senator occurs with more than 28 months remaining in the term and after the period for filing petitions for the general primary election, then the appropriate legislative committee for the applicable political party may fill a vacancy in nomination for that office in accordance with Section 7-61 for the next general election, except that each committeeperson of the appropriate legislative committee shall be entitled to one vote for each vote received, by the Senator whose seat is vacant, in the portion of the legislative district that the committeeperson represents on the committee, at the most recent general election at which that Senator was elected. A majority of the total number of votes received in that election by the Senator whose seat is vacant is required to fill the vacancy in nomination. However, in filling a vacancy in nomination in a legislative district composed of only one county or part of a county, other than a county containing 2,000,000 or more inhabitants, each committeeperson shall be entitled to cast only one vote. Whenever a Senator has been appointed to fill a vacancy and was thereafter elected to that office, the term of service under the authority of the election shall be considered a new term of service, separate from the term of service rendered under the authority of the appointment.

(Source: P.A. 102-15, eff. 6-17-21.)

ARTICLE 2

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Section 2-1. Short title. This Article may be cited as the Election Worker Protection and Candidate Accountability Referendum Act. References in this Article to "this Act" mean this Article.

Section 2-5. Referendum. The State Board of Elections shall cause a statewide advisory question of public policy to be submitted to the voters at the general election to be held on November 5, 2024. The question shall appear in the following form:

"Should any candidate appearing on the Illinois ballot for federal, State, or local office be subject to civil penalties if the candidate interferes or attempts to interfere with an election worker's official duties?"

The votes on the question shall be recorded as "Yes" or "No".

Section 2-10. Certification. The State Board of Elections shall immediately certify the question set forth in Section 2-5 of this Act to be submitted to the voters of the entire State to each election authority in Illinois.

Section 2-15. Repeal. This Act is repealed on January 1,

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

2025.

ARTICLE 3

Section 3-1. Short title. This Article may be cited as the Property Tax Relief and Fairness Referendum Act. References in this Article to "this Act" mean this Article.

Section 3-5. Referendum. The State Board of Elections shall cause a statewide advisory question of public policy to be submitted to the voters at the general election to be held on November 5, 2024. The question shall appear in the following form:

"Should the Illinois Constitution be amended to create an additional 3% tax on income greater than $1,000,000 for the purpose of dedicating funds raised to property tax relief?"

The votes on the question shall be recorded as "Yes" or "No".

Section 3-10. Certification. The State Board of Elections shall immediately certify the question set forth in Section 3-5 of this Act to be submitted to the voters of the entire State to each election authority in Illinois.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

Section 3-15. Repeal. This Act is repealed on January 1, 2025.

ARTICLE 4

Section 4-1. Short title. This Article may be cited as the Assisted Reproductive Health Referendum Act. References in this Article to "this Act" mean this Article.

Section 4-5. Referendum. The State Board of Elections shall cause a statewide advisory question of public policy to be submitted to the voters at the general election to be held on November 5, 2024. The question shall appear in the following form:

"Should all medically appropriate assisted reproductive treatments, including, but not limited to, in vitro fertilization, be covered by any health insurance plan in Illinois that provides coverage for pregnancy benefits, without limitation on the number of treatments?"

The votes on the question shall be recorded as "Yes" or "No".

Section 4-10. Certification. The State Board of Elections

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

shall immediately certify the question set forth in Section 4-5 of this Act to be submitted to the voters of the entire State to each election authority in Illinois.

Section 4-15`. Repeal. This Act is repealed on January 1, 2025.

ARTICLE 99

Section 99-97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99-99. Effective date. This Act takes effect upon becoming law.

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF NOMINATION OBJECTIONS TO
NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE
OFFICE OF REPRESENTATIVE IN THE GENERAL ASSEMBLY FOR THE 1st
REPRESENTATIVE DISTRICT OF THE STATE OF ILLINOIS

Berenice Garcia-Rios,)
)
Petitioner-Objector,)
)
v.) 24-EB-RGA-012
)
Camaxtle "Max" Olivo,)
)
Respondent-Candidate.)

2024 JUN 10 PM 2:17
STATE BOARD OF ELECTIONS CHICAGO OFFICE

OBJECTOR'S PETITION

INTRODUCTION

Berenice Garcia-Rios, hereinafter sometimes referred to as the Objector, states as follows:

1. The Objector resides at 5246 S. Talman, Chicago, Illinois, Zip Code 60632, in the 1st Representative District of the State of Illinois, and is a duly qualified, legal and registered voter at that address.

2. The Objector's interest in filing this Petition is that of a voter desirous that the laws governing the filing of nomination papers for the office of Representative in the General Assembly for the 1st Representative District of the State of Illinois are properly complied with, and that only qualified candidates appear on the ballot for said office.

OBJECTIONS

3. The Objector makes the following objections to the purported nomination papers ("Nomination Papers") of Camaxtle "Max" Olivo as a candidate for the office of Representative in the General Assembly for the 1st Representative District of the State of Illinois ("Office") to be voted for at the General Election on November 5, 2024 ("Election"). The Objector states that the Nomination Papers are insufficient in fact and law for the following reasons:

4. Pursuant to State law, nomination papers for the Office to be voted for at the Election must contain the signatures of not fewer than 500 duly qualified, registered and legal voters of the 1st Representative District of the State of Illinois collected in the manner prescribed by law. In addition, nomination papers must truthfully allege the qualifications of the candidate, be gathered and presented in the manner provided for in the Illinois Election Code, and otherwise executed in the form provided by law. The Nomination Papers purport to contain the signatures

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM

of in excess of 500 such voters, and further purport to have been gathered, presented and executed in the manner provided by the Illinois Election Code.

5. The Nomination Papers, on their face, do not contain a sufficient number of petition signatures signed by registered voters of the 1st Representative District for the Candidate to qualify for the ballot, even assuming each and every signature is valid. The Candidate's failure to file a sufficient number petition signatures with his Nomination Papers renders his Nomination Papers invalid in their entirety.

6. The Nomination Papers are invalid because they were filed in violation of Section 8-17 of the Election Code, which provides "if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election." 10 ILCS 5/8-17. Because no candidate of the Republican Party appeared on the ballot in the 2024 primary election for the 1st Representative District, the name of no candidate for that party may appear on the ballot at the Election. As a result, the Candidate's Nomination Papers are invalid. The Objector is aware of the Circuit Court of Sangamon County's decision holding that the provision of Section 8-17 added to the statute pursuant to Public Act 103-586 was unconstitutional as applied to certain candidates (*see Collazo v. Illinois State Board of Elections*, 24 CH 32 (06/05/24), and which is currently pending appeal to the Illinois Supreme Court.

WHEREFORE, the Objector requests: a) a hearing on the objections set forth herein; b) an examination by the aforesaid Electoral Board of the official records relating to voters in the 1st Representative District, to the extent that such examination is pertinent to any of the matters alleged herein; c) a ruling that the Nomination Papers are insufficient in law and fact, and d) a ruling that the name of Camaxtle "Max" Olivo shall not appear and not be printed on the ballot for election to the office of Representative in the General Assembly of the 1st Representative District of the State of Illinois, to be voted for at the Election to be held November 5, 2024.

Berenice Garcia-Rios

OBJECTOR

Address:
5246 S. Talman
Chicago, IL 60632

SUBMITTED - 28248981 - Adam Vaught - 6/25/2024 11:27 AM