
IN THE
SUPREME COURT OF MARYLAND

September Term, 2026

Nos. 21, 22

MARYLAND STATE BOARD OF ELECTIONS, *et al.*,

Appellants,

v.

MICHAEL L. HOWELL, *et al.*,

Appellees.

On Appeal from the Circuit Court for Anne Arundel County
(Robert J. Thompson, Judge)

On Appeal from the Circuit Court for Dorchester County
(James S. Sarbanes, Judge)

REPLY BRIEF OF APPELLANTS

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REPLY BRIEF OF APPELLANTS

REPLY ARGUMENT

I. THE GENERAL ASSEMBLY DID NOT ENACT TITLE VII OF THE ELECTION LAW ARTICLE AS THE EXCLUSIVE MEANS TO PRESCRIBE THE FORM OF A BALLOT QUESTION.

Both sets of plaintiffs argue that the General Assembly enacted Election Law §§ 7-103 and 7-105 as the means to “prescribe[]” the “form” of ballot questions, generally, under Article XIV. *Howell* Appellees’ Br. 25; *Wheatley* Appellees’ Br. 37-44. According to plaintiffs, the General Assembly relinquished its constitutional authority to

draft ballot questions on its own (i.e., individually prescribing the “form” of a proposed amendment) by enacting statutes of general applicability that *require*, among other things, the Secretary of State to “prepare and certify” all ballot language related to an Article XIV proposal. *Howell Appellees’ Br.* 22-26; *Wheatley Appellees’ Br.* 39.¹ Plaintiffs’ thus assert that §§ 7-103 and 7-105 are directly applicable to the General Assembly under all circumstances.

The shortcoming in plaintiffs’ argument is the language of Article XIV itself. When the Maryland Constitution directs the General Assembly to provide a generally applicable method for executing a constitutional process “by law,” it does so expressly. *See, e.g.,* Md. Const. art. III, §§ 3, 49, 50; art. IV, § 14A. The same is true for constitutional processes related to elections and, specifically, ballot questions. In contrast

¹ Plaintiffs further assert that the language at Election Law § 7-105(b)(3)(i) excepting the General Assembly is a “narrow exception,” *Howell Appellees’ Br.* 35, or plays a “limited role,” *Wheatley Appellees’ Br.* 41, in which the which the General Assembly is excused only from the duty to prepare a portion of a specimen ballot. But both characterizations fail to take account of the entire provision. That subparagraph provides that a “statement required under paragraph (1) is sufficient” when it is contained in the General Assembly’s enactment “and the enactment clearly specifies that the statement is to be used *on the ballot*.” Elec. Law § 7-105(b)(3)(i) (emphasis added). The term “ballot,” as the *Howell* plaintiffs correctly conceded, “does not include . . . a specimen ballot.” *Howell Appellees’ Br.* 36. Section 7-105(b)(3)(i) is thus not a “mousehole” excepting the General Assembly only from the production of summarizing statements for specimen ballots. *Howell Appellees’ Br.* 36. The latter part of the provision is an express acknowledgment that the General Assembly can draft summary language for submission to voters unencumbered by statutory requirements. *Stop Slots MD 2008 v. State Bd. of Elections*, 424 Md. 163, 192 n.16 (2012) (“[W]hen the General Assembly submits a proposed amendment to voters for approval pursuant to Article XIV, it may, itself, prescribe the language that will appear as the ballot question, § 7–105(b)(3), or, in the alternative, that language may be drafted by the Secretary of State, § 7–103(c).”)

with Article XIV’s command that “an amendment . . . shall be submitted, in a form to be prescribed *by the General Assembly*,” Article XVI, which governs referenda, requires the General Assembly to “prescribe *by law* the form of the petition” by which a legislative enactment can be referred to voters, Md. Const. art. XVI, § 4 (emphasis added).

Even within Article XIV, differences in constitutional language reveal the flaw in plaintiffs’ argument. Article XIV, § 2, providing procedures for constitutional conventions, requires the General Assembly “to provide by Law for taking . . . the sense of the People in regard to calling a Convention for altering this Constitution.” Section 2 further requires the General Assembly to “provide by Law for the assembling of such convention.” XIV, § 1, however, contains no such language. The Legislature is permitted to have its proposed amendment “submitted” in a “form” it “prescribe[s],” rather than a form prescribed by law it enacts. *See also* Article XIV, § 1 (requiring election returns for ballot questions be delivered to the Governor “in the manner prescribed in other cases”).

Contrary to plaintiffs’ suggestion, *Howell* Appellees’ Br. at 22, Article XIV does not grant the General Assembly power to enact laws constraining the constitutional prerogative to propose future amendments and have them submitted to voters. *See also Board of Supervisors of Elections for Anne Arundel County v. Attorney Gen.*, 246 Md. 417, 429 (1967) (noting how the legislative power to enact laws and legislative actions relating to constitutional amendments “differ greatly and significantly from one another”). The constitutional provision applies to one proposed amendment at a time, permitting the General Assembly to prescribe the specific form “the proposed

amendment” takes when it is “submitted . . . to the qualified voters for adoption or rejection.”

Title 7, and §§ 7-103 and 7-105 in particular, thus cannot be read as a generally applicable process for all Article XIV ballot questions. The statutes themselves were written as a broad framework for ballot questions that arise from a multitude of sources. *See* Elec. Law § 7-101 (listing nine types of ballot questions to which the Title applies, and a tenth providing that it applies to “any other question” to be voted on an election conducted under the Election Law Article). In enacting these statutes, the General acted in the exercise of its power, under Article III, § 49, to “regulate by Law” the “manner of holding elections.” And these statutes can apply to the Article XIV process, Elec. Law § 7-101(1)(ii), only through the delegations of authority to the executive branch enacted in §§ 7-103 and 7-105.

To hold otherwise would produce untenable results, for which neither set of plaintiffs have accounted. Under plaintiffs’ view, the Secretary of State would have remained obliged to “prepare and certify” a ballot question had the General Assembly enacted Chapter 881 prior to July 1. Elec. Law § 7-103(c)(1). But there would be nothing to “prepare” under that circumstance, where the enactment already specified the language to be submitted to voters. *See Maryland Dep’t of Health v. Boulden*, 2026 WL 2042111, *13 (Md. July 15, 2026) (observing that this Court will construe a statute so that no term or phrase is rendered “surplusage” or “meaningless”). Moreover, a 15-day comment period would have followed, after which the Secretary of State would have been bound to review the comments and “make any necessary changes,” Elec. Law § 7-

103(c)(5), despite the General Assembly mandating “the question” to appear on the ballot. 2026 Md. laws ch. 881. Plaintiffs’ arguments about the applicability of certain statutory deadlines and requirements fails to account for how the entire statutory process would proceed if Title VII were held universally applicable to the General Assembly. *Dove v. Simmons*, 2026 WL 2015701, at *17 (Md. July 13, 2025) (“[W]here a statutory provision is a part of a statutory scheme, that provision will be interpreted within the context of that statutory scheme.” (quotation omitted)).

II. PLAINTIFFS’ PARSING OF SINGULAR TERMS IS INCONSISTENT WITH HOW THIS COURT CONDUCTS JUDICIAL REVIEW OF A BALLOT QUESTION.

The *Wheatley* plaintiffs argue that Question 3 is misleading and deceptive. *Wheatley* Appellees’ Br. 14-31. Their argument proceeds by highlighting the terms “certain standards,” “clarifies,” and “requiring the criteria” from the question and characterizes them as “antonyms” of terms found in the proposed amendment. *Wheatley* Appellees’ Br. 16-19. By engaging in “word-flipping,” in the words of the *Wheatley* plaintiffs, the General Assembly has fashioned a “badly deceptive ballot question.” *Wheatley* Appellees’ Br. 21. But the *Wheatley* plaintiffs miss the forest for the trees, parsing individual words without examining the actual effect of the proposed amendment or the question as a whole.

This Court does not decide the sufficiency of a ballot question’s language by comparing the question’s individual terms to singular words in the proposed constitutional amendment or referred enactment. The language of the question must balance conveying the “scope and effect” of the amendment without “cloud[ing]” a voter

with “undue detail.” *Maryland State Bd. of Elections v. Ambridge*, 489 Md. 404, 459 (2025) (quotation omitted). The requisite analysis is holistic, gleaning the operative effect of a provision and determining whether the entire question, read as a whole, conveys that effect. *See, e.g., Kelly v. Vote kNOw Coalition of Md.*, 331 Md. 164, 175 (1993) (“[I]t is the substantive meaning of the language and the ability of the average voter to understand the referred measure that is at issue.”) Scrutinizing individual word choices is exactly what this Court seeks to avoid because “[i]t is not the function of this court to rephrase the language of the summary and title to achieve the best possible statement of intent of the amendment.” *Ambridge*, 489 Md. at 459 (quoting *Kelly*, 331 Md. at 174-75.)

This case thus bears much in common with *Kelly v. Vote kNow Coalition of Maryland*, where this Court upheld ballot language describing an abortion law that had been petitioned to referendum. 331 Md. at 177. In pertinent part, the ballot language in *Kelly* stated that the law

[r]evises Maryland’s abortion law to prohibit state interference with woman’s abortion decision before fetus is viable, or, under certain conditions, at any time and to provide certain exceptions to the requirement that a physician notify an unmarried minor’s parent or guardian prior to minor’s abortion; repeals pre-abortion information requirements about abortion alternatives; repeals some, and clarifies other, provisions related to abortion referrals[.]

Id. at 168-69. Plaintiffs challenged the language as misleading because it allegedly misrepresented “the true nature and purpose of the act” by using “vague, ambiguous and obtuse generalizations such as ‘certain conditions’ and ‘certain exceptions’ to obscure the actual scope and effect” of the measure and “disguise” its crucial elements. *Id.* at 169. This Court rejected the challenge, highlighting the limitations inherent in the need to be

concise, and finding it sufficient that the language identified the existence of conditions and exceptions without identifying their particular content. *Id.* at 176-77.

Question 3 similarly succeeds in balancing accuracy and concision. The “scope” of the amendment proposed in Chapter 881 is the criteria for the State’s congressional districts. *Ambridge*, 489 Md. at 459. The “effect” of the amendment is to make federal law (current federal constitutional requirements and federal legislation) the only applicable criteria for congressional districting. The means of accomplishing that effect is subtraction—removal of all other potential criteria (express and otherwise) that could be imposed by state law. But the final effect of the proposed amendment is to have judicial review of a congressional districting plan proceed under federal law. The *Wheatley* plaintiffs and the circuit court miss this point entirely, mistaking the means by which the amendment operates for its effect. *See Wheatley Appellees’ Br.* 15 (“HB2100’s proposed amendment would ‘remove all Maryland Constitutional standards and protections from congressional districting plans’” (quoting Suppl. E. 153).)

Question 3 reasonably conveys both the scope and effect of the proposed amendment. The first clause of the question makes clear that “certain standards” in the State constitution, those enumerated specifically as criteria for districting, apply “only” to the legislative districting process. The third clause provides that the amendment “requires” that “the criteria” for congressional districting be “applicable federal laws.” By writing the third clause with exclusive language—“the criteria”—the question accurately conveys that no other criteria will be applicable to congressional districting. The first clause of the question bolsters that notion by expressing with clarity that the

only express districting criteria in state law would be confined to legislative districting. Far from deceiving or misleading, the ballot question states outright the “effect” of the amendment. *Ambridge*, 489 Md. at 459.

Even viewed in isolation, the General Assembly’s use of the phrase “certain standards” is not misleading. The question provides a summarizing clause for each of the three revisions proposed by the amendment. The first revision adds language to Article III, § 4, a constitutional provision that enumerates four standards for drawing districts: adjoining territory, compactness, substantially equal population, and due regard to natural and political boundaries. The General Assembly could have listed all four standards in the ballot question but that would have caused more questions in the minds of voters, such as “what is compactness” or “how much regard is due regard.” Instead, the General Assembly properly used a succinct phrase, “certain standards,” to keep the question free of legal jargon. *See Kelly*, 331 Md. at 175.

Nor is the General Assembly’s use of the term “clarifies” deceptive. The verb refers to the amendment’s addition of language to Article III, § 4. The added language qualifies the constitutional phrase “[e]ach legislative district,” by specifying that “district” means those “for the election of a member of the Senate and Members of the House of Delegates.” 2026 Md. Laws ch. 881. The amendment thus clarifies which districts must be drawn with an eye towards adjoining territory, compactness, substantially equal population, and due regard to natural and political boundaries.² To

² The *Wheatley* plaintiffs correctly acknowledge that the circuit court ruling in *Szeliga v. Lamone*, No. C-02-CV-21-001816, 2022 WL 2132194 (Cir. Ct. Anne Arundel

that end, the ballot question reflects the proposed amendment perfectly. “Clarifies” in the first clause of the question is not meant to describe the final change in the proposed amendment, which prevents state law from governing congressional districting.

Finally, the *Wheatley* plaintiffs’ accusation—that the General Assembly has purposefully sought to obtain a constitutional amendment through “deception” and “manipulation,” *Wheatley Appellees’* Br. 1, 16, 18, 19, 21—lacks any basis in reality. At every turn of the Article XIV process, both the Governor and General Assembly have publicly stated that they were acting to amend the constitution in order to differentiate between criteria for the two different types of districting (with federal law for congressional districting and Article III, § 4 for legislative districting). (*See* E. 109 (Governor’s proclamation convening a special session); *see also* E. 112 (preamble to HB 2100); E. 113 (text of amendment proposed in H.B. 2100); E. 271 (Dep’t of Legis. Servs., Summary, Chapter 881 (H.B. 2100))). The General Assembly’s actions do not somehow

Mar. 25, 2022), is not binding precedent. *Wheatley Appellees’* Br. 20. They nonetheless challenge “clarifies” as insufficient to describe how the proposed amendment operates to overrule the *Szeliga* ruling. *Wheatley Appellees’* Br. 19. But the amendment does not operate on the ruling; it seeks to address the state of the law after a circuit court became the first judicial tribunal in the State to ever apply Article III, § 4 to congressional districts. And it seeks to address the state of the law given *Matter of 2022 Legislative Districting of the State*, 481 Md. 507 (2022), in which this Court subsequently suggested that *Szeliga* was decided wrongly. *See* Dan Friedman and Barnett Harris, *Is Federal Congressional in Maryland Governed by Article III, § 4 of the State Constitution? An Analysis of the Trial Court Decision in Szeliga v. Lamone*, 83 Md. L. Rev. 1261, 1310 n.201 (2024) (listing six instances in the opinion where this Court undercut the reasoning and conclusion reached in *Szeliga*). The proposed amendment was not changing or overruling established law, *see Ingram v. Hamilton*, 179 F. 4th 251, 257 (4th Cir. 2026) (noting, for purposes of qualified immunity, that the state of the law is established or settled when announced in a published decision of a governing appellate court); it was clarifying the state of the law that *Szeliga* questioned.

obscure the public record of statements and documents expressing exactly what the *Wheatley* plaintiffs argue—that the amendment removes all state constitutional criteria from applying to congressional districting. All these documents are “easily accessible” to voters now, *Stop Slots*, 424 Md. at 193, and some will be mailed directly to voters directly in the coming weeks, Elec. Law § 7-105(a). The General Assembly could not, at this point, “obtain [the] amendment[] through deception and manipulation.” *Wheatley* Appellees’ Br. 1.

III. THE SINGLE SUBJECT REQUIREMENT IN ARTICLE XIV DOES NOT REQUIRE PROPOSED CHANGES TO BE INTERRELATED OR DEPENDENT ON ONE ANOTHER.

Both sets of plaintiffs challenge the amendment proposed in Chapter 881 by alleging that it violates the single subject requirement in Article XIV. *Howell* Appellees Br. 43; *Wheatley* Appellees’ Br. 46. But in doing so, plaintiffs rely on elements that are not present in a single subject analysis: interrelatedness and dependency. The *Wheatley* plaintiffs rely on cases outside of Maryland for the argument that changes in a proposed amendment must be “required for proper operation of each other,” “interlocking,” “functionally interrelated,” or “dependent” on one another. *Wheatley* Appellees’ Br. 49-51. The *Howell* plaintiffs misread *Andrews v. Govern*, 294 Md. 285 (1982), to make the same argument. *Howell* Appellees Br. 43. But their arguments are unsupported by the law in Maryland. Neither the constitutional provision itself nor the cases interpreting it suggest that the single subject requirement demands that a proposed amendment contain only interrelated or functionally dependent component changes.

The language in *Andrews* on which the *Howell* plaintiffs rely did not require proposed amendments to contain only “interlocking concepts” that are “so functionally interrelated as to present a single subject.” 294 Md. at 300. In that case, plaintiffs challenged the submission of two, separate constitutional amendments whose passage were made contingent on one another. *Id.* at 286. This Court approved of the contingency because the two amendments were “interlocking concepts” and so functionally related that they *could* have been proposed as a single amendment. *Id.* at 300-01. This Court thus did *not* hold, as the *Howell* plaintiffs argue, that all proposed amendments must present interlocking concepts. Rather it held that two separate amendments presented to voters as contingent on one another was acceptable because they were interlocking concepts. *Id.* at 301.

This Court in *Andrews* confirmed that an amendment must clear only a low bar to satisfy the single subject requirement. A “single amendment” must deal with a “single subject,” and may not present component changes that “deal with different or dissimilar subjects.” 294 Md. at 297. *Andrews* cited *Hillman v. Stockett*, 183 Md. 641, 649 (1944), with approval, while explaining, “it would be a violation of § 1 to include two or more different and unrelated subjects in one amendment.” *Id.* at 294. In neither *Andrews* nor *Hillman* did this Court hold that more is required.

The point is made clear by *Hillman*, where this Court commented that two of the four component changes in the proposed amendment were “interrelated” and “dependent,” thus implying that two were not. 183 Md. at 652. Yet, all four component changes related back to the same subject matter, “the State judiciary,” which satisfied the

single subject requirement. *Id.* at 653. The same remains true in this case, where all three component changes relate back to the same “particular subject”—the drawing of election districts.

Indeed, the General Assembly proposed, and the people adopted, a similar multi-component amendment in 1969. In Chapter 785 of the 1969 Legislative Session, the General Assembly proposed an amendment with four component changes. 1969 Md. Laws ch. 785. The amendment proposed to repeal Section 2, 4, 5, and 6 of Article III and to reenact new sections to stand in their place. *Id.* Section 2 dealt with the membership of the Legislature, Section 4 dealt with districting criteria, Section 5 vested the Supreme Court with original jurisdiction to hear challenges to the legislative districting and apportionment of the State, and Section 6 dealt with a legislator’s term of office. *Id.* All four changes related back to the same subject: membership in the General Assembly. And the proposed amendment was ratified, unchallenged, at the next ensuing general election on Nov. 3, 1970.

Chapter 881 seeks to do less than what Chapter 785 did nearly six decades ago. Defining the criteria for districting and providing for the jurisdiction to hear a districting challenge relate back to the same subject matter.

CONCLUSION

The judgments of the Circuit Court for Anne Arundel County and the Circuit Court for Dorchester County should be reversed.

Respectfully submitted,

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CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8-112

1. This brief contains 3258 words, excluding the parts of the brief exempted from the word count by Rule 8-503.
2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.

/s/ Daniel M. Kobrin

Daniel M. Kobrin

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CERTIFICATE OF SERVICE

I certify that, on this 2nd day of September, 2026, the
Reply Brief of Appellants in the captioned case was filed electronically and served
electronically by the MDEC system on all persons entitled to service.

/s/ Daniel M. Kobrin

Daniel M. Kobrin