

SC101801

**In the
Supreme Court of Missouri**

PEOPLE NOT POLITICIANS, et al.,

Appellants,

v.

MISSOURI SECRETARY OF STATE DENNY HOSKINS,

Respondent.

Appeal from the Circuit Court of Cole County
The Honorable Christopher K. Limbaugh

BRIEF OF RESPONDENT

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INTRODUCTION

Appellants brazenly ask this Court to decide a hypothetical case. No one disputes that the signatures at issue had no impact on the Secretary of State's finding that Appellants' referendum petition could not qualify for the ballot. The Secretary's certificate of insufficiency rests solely on constitutional grounds—his declining to count the disputed signatures has not impacted the process at all. And this Court's decision in the appeal concerning the merits of the Secretary's finding the petition insufficient will fully redress Appellants' injuries if they prevail. In short, this dispute will have no impact. Yet, here we are.

Mootness doctrine exists for cases precisely like this one. Special-interest groups funded by out-of-state dark money want an advisory opinion that can potentially benefit them in the future. But any court recognizing that it can only act in the context of a live case or controversy will not answer questions “simply as a vehicle for the vindication of value interests.” *Hollingsworth v. Perry*, 570 U.S. 693, 707 (2013) (internal quotation marks omitted). This Court should heed that charge and not supply an answer absent a live controversy (especially because an answer may never be needed).

This case also does not qualify for the capable-of-repetition-but-evading-review exception to mootness. The very fact that we are here shows that if Appellants' referendum petition had been rejected based on the signature

count, the dispute could have been fully resolved. Appellants can offer no reason to suggest that a future case would differ. This Court should dismiss this appeal as moot.

Even if this Court reaches the merits (again, it shouldn't), no better authority than Schoolhouse Rock supplies the answer. Until the Governor acts on a bill passed by the General Assembly, it remains just that—"only a bill." Nothing in the text of the Missouri Constitution, the State's history, or this Court's precedent suggests that the referendum power can be used against unenacted bills. The Constitution itself makes clear that the purpose of the referendum is to "reject laws"—not bills. Mo. Const. art. III, § 49.

Only when the Governor signs a bill (or his time for doing expires by operation of law) does it become susceptible to the People's awesome referendum power. As this Court once put it, "[t]he people cannot refer a measure until it has been adopted by the General Assembly and signed by the Governor." *State ex rel. Drain v. Becker*, 240 S.W. 229, 232 (Mo. banc 1922). Thus, special-interest groups dissatisfied with the mere prospect of a bill getting enacted cannot preemptively collect signatures for a referendum until the Governor either signs the bill or his time to do so expires. Mo. Const. art. III, § 31. The Secretary correctly chose not reward this abuse of the People's right in refusing to count any signatures collected prior to Governor Kehoe signing House Bill 1.

The same goes for signatures collected prior to the Secretary's approval of the referendum petition as to form. This Court has held that the Secretary should reject erroneous petitions "at the beginning of the process, when an error in form can be corrected with minimum disruption to the citizens' constitutional power" of initiative and referendum petitions. *Coleman v. Ashcroft*, 696 S.W.3d 347, 351–52 (Mo. banc 2024). In other words, this Court plainly recognizes that the Secretary should have a chance to review and correct errors "before signatures are gathered" precisely to "protect[] that interest" accorded to Missourians. *Id.* at 352 (emphasis added). Appellants would have this Court now throw all that caution to the wind—jeopardizing potentially tens of thousands of signatures that can be collected before the Secretary finishes review of a petition. This Court should not buy Appellants' unwise invitation to backtrack on its decision in *Coleman*.

It is already far too easy for out-of-state special interests funded by dark money to abuse the initiative and referendum processes meant for the People of Missouri. The State's Constitution, implementing statutes, and this Court's decisions carefully calibrate a system whereby only those matters that Missourians (rather than wealthy coastal elites) actually care about make the ballot. This Court should not upset that calibration. Hence, if this Court reaches the merits, it should affirm the circuit court.

STATEMENT OF FACTS

On August 29, 2025, Governor Kehoe issued a proclamation to convene the Missouri General Assembly in extraordinary session to pass legislation designating new congressional districts. D13 at ¶ 22. The General Assembly so convened on September 3, 2025. D13 at ¶ 24. On September 12, the Missouri General Assembly truly agreed to and finally passed House Bill 1, an act “[t]o repeal sections 128.345, [128.346,] and 128.348, RSMo, and to enact in lieu thereof twelve new sections relating to the composition of congressional districts.” D14 at ¶ 7–8; D16. That same day, the General Assembly finally adjourned from the special session. *See* D17.

Also on that same day, Appellant Richard von Glahn submitted two referendum-petition sample sheets, R-001 and R-002, for House Bill 1 to the Secretary of State. D14 at ¶ 10; D18; D19. On September 14, the Secretary informed von Glahn that the referendum petitions had been referred to the Attorney General for review of legal sufficiency as to form. D14 at ¶ 15; D21.

On September 15, von Glahn submitted a third referendum petition sample sheet, R-003, for HB 1. D14 at ¶ 17; D22. The Secretary informed von Glahn that the third referendum petition had been referred to the Attorney General for review of legal sufficiency as to form. D14 at ¶ 19; D23. On September 18, Appellants People Not Politicians and von Glahn sued the

Secretary of State in Cole County Circuit Court seeking declaratory and injunctive relief. *See generally* D124.

On September 26, the Secretary informed von Glahn that the three referendum-petition sample sheets had been rejected due to an insufficiency in form. D14 at ¶ 24; D25. The Secretary made this determination based on the Attorney General's assessment that the referendum-petition sample sheets were insufficient as to form because HB 1 had not yet been enacted. D25.

On September 28, Governor Kehoe signed HB 1 into law. D14 at ¶ 26. Before this, People Not Politicians had already collected around 32,600 signatures in support of the referendum petition. D14 at ¶ 29. The following day, von Glahn submitted a fourth referendum petition sample sheet, R-004, on HB 1 to the Secretary. D14 at ¶ 29; D26. That same day, he and People Not Politicians filed an amended petition in Cole County Circuit Court. *See generally* D2. The amended petition challenged the Secretary's denial of R-001, R-002, and R-003 as to form (Count I) and sought a declaration on the validity of the signatures collected after R-004 was submitted but before the Secretary made a determination of its sufficiency as to form (Count II). D2 at ¶¶ 63–78, 79–86.

On October 14, the Secretary approved R-004 as to form in accordance with the Attorney General's opinion. D14 at ¶ 30; D27. In the period between R-004's submission on September 29 and the Secretary's approval of it as to

form on October 14, People Not Politicians collected around 70,200 signatures in support of its referendum petition. D14 at ¶ 32.

On December 8, the case proceeded to a bench trial. *See* D132. The parties submitted proposed judgments two days later. *See* D132. On December 12, the circuit court issued an order holding the “case in abeyance until the requisite number of signatures ha[d] been certified or up until enough signatures ha[d] been rejected so as to prevent [the] referendum from appearing on the ballot.” D132.

In the weeks and months following the circuit court’s order, the parties submitted several rounds of briefing on whether the case was ripe for judgment. *See, e.g.,* D92; D96; D97; D98; D103; D104; D108; D114. Dissatisfied with the abeyance, on April 1, 2026, Appellants petitioned the Court of Appeals for a writ of prohibition requiring the circuit court to end the abeyance and issue judgment. *See* Pet. for Writ of Prohibition, *State ex rel. People Not Politicians v. Limbaugh*, WD88821 (Mo. App. W.D. Apr. 1, 2026). On April 7, the Court of Appeals for the Western District denied the petition without opinion. Order, *State ex rel. People Not Politicians v. Limbaugh*, WD88821 (Mo. App. W.D. Apr. 7, 2026).

On August 4, the Secretary issued a certificate finding Appellants’ referendum petition insufficient. *See* Judgment, *von Glahn v. Hoskins*, 26AC-CC00440, at ¶ 16 (Cole Cnty. Aug. 19, 2026). The certificate concluded, in

reliance on an opinion from the Attorney General, that the Missouri Constitution does not permit referenda on congressional maps. *Id.* at ¶ 17. The certificate did not find the referendum petition insufficient based on the number of signatures obtained. *See id.* The merits of the Secretary's certificate of insufficiency are now before this Court in a separate appeal. *See generally von Glahn v. Hoskins*, SC101805.

On August 17, the circuit court entered judgment in favor of the Secretary on both counts of the amended petition following the Secretary's finding the referendum petition insufficient. D116. On August 18, Appellants filed their notice of appeal to the Missouri Court of Appeals, Western District. D117. Shortly afterwards, this Court ordered the case transferred to it under Rule 83.01. Order, (Aug. 18, 2026).

ARGUMENT

I. **This Court Should Dismiss This Appeal for Lack of Jurisdiction Because the Underlying Case Is Moot (Responds to Point III).**

Standard of Review: This Court has a “duty to determine” whether it has jurisdiction over an appeal. *Leach v. Armstrong*, 149 S.W.2d 865, 866 (Mo. 1941). “A threshold determination in any appellate review is whether the controversy is moot.” *State ex rel. Griffith v. Precythe*, 574 S.W.3d 761, 762 (Mo. banc 2019). Hence, this Court assesses any questions of mootness *de novo*. *State ex rel. Mo. Coal. for the Env’t v. Joint Comm. on Admin. Rules*, 519 S.W.3d 805, 810 (Mo. banc 2017). Contrary to Appellants’ assertion—unsupported by citation—that this Court reviews a circuit court’s decision to hold a matter in abeyance *de novo*, see App. Br. 47, the trial court’s holding a matter in abeyance is reviewed for abuse of discretion, *State ex rel. Great Am. Ins. Co. v. Jones*, 396 S.W.2d 601, 605 (Mo. banc 1965).

Argument: A decision in this case will not affect whether Appellants’ referendum reaches Missouri voters in November. As Appellants necessarily concede, “the Secretary issued a certificate of insufficiency relating to the Referendum Petition without addressing the number of valid signatures submitted.” App. Br. 27; *accord id.* at 52 (emphasizing that “the Secretary’s sufficiency determination *made no finding whatsoever* regarding the number of signatures submitted”). The matter of signatures is the *only* dispute in this

appeal—whether the Secretary properly rejected Appellants’ referendum petition will be decided in *von Glahn v. Hoskins*, SC101805. Because Appellants’ only avenue for receiving relief is through that case and because a decision here would be merely advisory, this case is “plainly moot”—so much so that the Court could justifiably dispose of this “matter in an unpublished order.” *Alaska v. U.S. Dep’t of Agric.*, 17 F.4th 1224, 1226 (D.C. Cir. 2021) (internal quotation marks omitted). Moreover, because this case was not justiciable below, the circuit court did not abuse its discretion in holding this case in abeyance pending the Secretary’s final decision on the referendum petition’s sufficiency.

A. This case is moot.

Appellants ask for relief that this Court has no jurisdiction to grant. A party’s ability to pursue an appeal “is not a matter of mere technical concern. Judicial integrity and restraint demand” that the Court act within its jurisdiction. *Comm. for Educ. Equality v. State (Comm. for Educ. Equality I)*, 878 S.W.2d 446, 450 (Mo. banc 1994). Deciding only matters properly before the Court goes to the very heart of the judicial power: “To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound by strict rules and precedents which serve to define and point out their duty in every particular case that comes before them.” *Id.* (quoting *The Federalist* No. 78

(Alexander Hamilton)). Reaching out and deciding matters beyond a court's jurisdiction "is to erode the very foundation of the rule of law." *Id.*

Tellingly, Appellants do not attempt to identify a continuing injury to keep this case alive. *See* App. Br. 52–53. In their opening, Appellants gestured at an ongoing injury "to the approximately 100,000 Missourians whose signatures were not even processed." *Id.* at 11. Appellants provided no argument or citation that this qualifies as a cognizable injury. *See id.*; *see also id.* at 52–53. More to the point, none of these signatories are (or ever have been) parties to the case currently before the Court. *See id.* at 9 (explaining who the plaintiffs are). So Appellants cannot rely on signatories' putative injury. *See Comm. for Educ. Equality I*, 878 S.W.2d at 450 n.3 (recognizing that plaintiffs cannot invoke the rights of third parties for standing purposes).

Given these deficiencies, Appellants focus solely on the narrow "capable of repetition, yet evading review" exception to mootness. App. Br. 53. Appellants cannot meet this "very narrow" exception. *See In re Mo.-Am. Water Co.*, 516 S.W.3d 823, 829 (Mo. banc 2017). They say without any elaboration that a future similar dispute will "evade all judicial review." App. Br. 52. Granting Appellants the big assumption that a future referendum campaign will begin collecting signatures before the Governor signs a bill or the Secretary approves a petition as to form, Appellants' argument still does not hold. The Court need look no farther than this very case—it's here fully decided by the

circuit court, briefed, and ready to go. If the number of signatures made any difference to whether the referendum qualifies for the ballot, the Court could decide the question. Appellants are mum as to why a future case (with a record where the signature count mattered) would be any different. *See id.* at 52–53.

Appellants briefly allude, without much explanation, to this Court's decision in *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484 (Mo. banc 2022). App. Br. 52–53. But the case does not provide the get-out-of-justiciability-free card that Appellants would like. *No Bans* cited this Court's decision in *State ex rel. Reser v. Rush*, 562 S.W.2d 365, 367 (Mo. banc 1978), to invoke the mootness exception. *See* 638 S.W.3d at 489 n.9. Importantly, *Reser* emphasized how the dispute at issue “has risen throughout the state in the administration of this law.” 562 S.W.2d at 367. And *No Bans* explained that the challenged provisions had prevented all but one referendum from having enough time to collect sufficient signatures. 638 S.W.3d at 491. In short, this Court suspended the usual mootness rules for known and repeated problems—as opposed to potential one-offs.

By contrast, Appellants have pointed to *zero* instances where a dispute like this has arisen before and kept proponents from qualifying for the referendum. Indeed, as Appellants concede, questions of mootness centrally featured in this case. *See* App. Br. 52 (explaining that mootness “animated

Respondent's [sic] abeyance order"). Yet Appellants mustered no arguments to show a history of disputes like this one. *See id.* at 52–53.

There's a good explanation why—collecting signatures before the Secretary approves a petition as to form defies the protections accorded to the People's referendum right. As this Court recognized in *Coleman v. Ashcroft*, review of a petition as to form critically occurs “at the beginning of the process, when an error in form can be corrected with minimum disruption to the citizens' constitutional power.” 696 S.W.3d 347, 351–52 (Mo. banc 2024). Thus, this Court explained, approval as to form occurs “*before* signatures are gathered—[to] protect[] that interest.” *Id.* at 352 (emphasis added). Under *Coleman*, Appellants' dispute should therefore be a (wrongheaded) one-off.

Appellants also want a major overhaul—asking that statutes and constitutional provisions be reimaged to open the referendum process to unenacted bills. *See* App. Br. 35–36. When this Court in *Coleman* faced a similarly big request to hold Section 116.200.1 unconstitutional, it properly hesitated. 696 S.W.3d at 371. The Court recognized that similar disputes could certainly happen again, but it held the claim moot. *See id.* at 371–72. The Court should do the same now.

All told, Appellants are making a big ask of this Court to forego its usual “integrity and restraint” and decide a novel legal question—on a record where the question did not even present Appellants with an impediment. *Comm. for*

Educ. Equality I, 878 S.W.2d at 450. As courts in Missouri recognize, the “exceptions to the mootness doctrine are to be narrowly construed.” *In Interest of J.T.S.*, 462 S.W.3d 475, 478 (Mo. App. W.D. 2015). Thus, this Court should stay within the lines drawn by *Reser*, *No Bans*, and *Coleman*, avoid making a potentially unnecessary decision now, and dismiss this appeal as moot.

B. The circuit court properly held this case in abeyance pending the Secretary’s review.

Appellants are also wrong in asserting that the circuit court abused its discretion in holding this case in abeyance until the Secretary issued a certification decision. App. Br. 45–52. The court had two sound reasons for doing so. First, Appellants’ claim that the Secretary improperly declined to count the disputed signatures was not ripe because the Secretary had not made a final decision on the petition’s sufficiency. See Mo. Rev. Stat. § 116.200.1 (providing for a cause of action after that determination). Second, the claim could have become (and indeed did become) moot. Thus, the circuit court properly held the case in abeyance. See *Mo. Soybean Ass’n v. Mo. Clean Water Comm’n*, 102 S.W.3d 10, 26 (Mo. banc 2003) (impact must be “felt in a concrete way” (quoting *Abbott Labs., Inc. v. Gardner*, 387 U.S. 136, 148 (1967))).

Beginning with the ripeness concern, Missouri law provides for a challenge to the Secretary’s decision on a petition’s sufficiency “within ten days after the certification is made.” Mo. Rev. Stat. § 116.200.1. Prior to issuing

the certificate, the Secretary had made no final decision on the petition's sufficiency—with respect to signatures or compliance with the Missouri Constitution. Only this statutory-directed method to challenge a determination and granting court review provides Appellants the exact “remedy” for this kind of dispute. *ACLU of Mo. v. Ashcroft*, 577 S.W.3d 881, 897 (Mo. App. W.D. 2019). Thus, prior to the Secretary's sufficiency decision, the dispute over signatures was (and indeed still is) an “abstract disagreement[].” *Mo. Soybean Ass'n*, 102 S.W.3d at 26 (quoting *Abbott Labs.*, 387 U.S. at 148).

Put differently, the question of signature validity was not “appropriate for judicial resolution.” *Id.* at 27 (citing *Abbott Labs.*, 387 U.S. at 149). An issue is appropriate for judicial resolution when the determination is “final,” the issue presents a “purely legal” question, and “no further . . . proceedings [are] contemplated.” *Id.* Again, there was no final decision during the circuit court's abeyance—the Secretary had not issued a certificate as to sufficiency or insufficiency. *See* Mo. Rev. Stat. § 116.150. But even assuming (contrary to Missouri law) that the Secretary's treatment of the disputed signatures qualified as “final” and granting that whether those signatures were valid given their collection date presents a “purely legal” question, the statutory scheme for referendum petitions specifies “further . . . proceedings.”

Specifically, after the referendum petition is submitted to the Secretary, he “makes a determination on the sufficiency of the petition.” *Id.* § 116.150.1. But before the Secretary makes that final decision as to certifying a referendum petition, he has wide latitude regarding how he goes about verifying signatures. *See id.* §§ 116.120–.140. Only after this verification process is complete and the Secretary declines to certify a petition may “any citizen may apply to the circuit court of Cole County to compel [the Secretary] to reverse his decision.” *Id.* § 116.200.1. Requiring litigation to await the Secretary’s final determination as to a petition’s sufficiency ensures that courts (and outside special interests) will not attempt to micromanage how the Secretary reviews a petition. *See ACLU of Mo.*, 577 S.W.3d at 893 (describing how the statutes “reflect a calculated intent by the general assembly to balance procedural oversight of the referendum process with the people’s ability to meaningfully exercise the power of referendum”).

Therefore, the statutory scheme directs when and how Appellants could challenge the acceptance or rejection of signatures (indeed, a matter that never came to pass). This scheme provides a legal “remedy” to “compel the secretary of state to reverse a petition certification decision.” *Id.* at 897. Therefore, the existence of this legal remedy illustrates that “further . . . proceedings [are] contemplated,” that the dispute over signatures was not fit for judicial review,

and that the circuit court did not abuse its discretion in holding the case in abeyance. *Mo. Soybean Ass'n*, 102 S.W.3d at 27.

Appellants only response to these points is highlighting *Coleman's* warning to opponents of initiative petitions not to wait until the Secretary's certification to "challenge the Secretary's decision approving a petition's form" so as to avoid "getting trapped between the Scylla and Charybdis of sections 116.200.1 and 115.125.3." 696 S.W.3d at 354; *see* App. Br. 50–51. The warning does not apply here for two reasons.

First, *Coleman* involved challengers who waited until the Secretary issued a certificate of sufficiency for inclusion of an initiative petition on the ballot to challenge the Secretary's approval of an initiative petition as to form. *See* 696 S.W.3d at 357, 371–72. The Court noted that because the opponents only challenged whether "a petition's form was proper," the opponents should have tried to bring their suit earlier. *Id.* at 372. Indeed, the Court's admonition makes sense for matters going to approval as to form—but it does not apply to matters involving Secretary's certifying a petition as sufficient or insufficient.

Second, along these lines, *Coleman* recognized that questions over signatures specifically come at the end of the process and hence are adjudicated "under section 116.200.1." *Id.* at 353. As the Court explained, "this cannot be avoided when the claim challenges whether a sufficient number of valid

signatures were submitted to the Secretary. That is the last decision the Secretary makes, and it necessarily comes at the end of the initiative process.” *Id.* Sure enough, the Secretary did not rely on signature counts here—meaning the matter of signatures never became relevant and the circuit court did not abuse its discretion in holding the matter in abeyance until certification.

To the extent that the circuit court believed that the Secretary’s action could moot out Appellants’ claims, its concern proved prescient. For all the reasons explained above, the Secretary’s finding the referendum petition insufficient on constitutional grounds mooted Appellants’ dispute over signatures. The circuit court therefore did not abuse its discretion in awaiting the Secretary’s final decision.

II. A Referendum Petition May Only Challenge an Enacted Law and the Failure to Do So Renders the Petition Insufficient as to Form (Responds to Point I).

Standard of Review: Whether the circuit court properly interpreted the Missouri Constitution and Chapter 116 is a question of law. *See Luther v. Hoskins*, 730 S.W.3d 567, 570 (Mo. banc 2026). “Questions of law involving constitutional interpretation are reviewed *de novo*.” *Id.* The same goes for questions of statutory interpretation. *See Finnegan v. Old Republic Title Co. of St. Louis, Inc.*, 246 S.W.3d 928, 930 (Mo. banc 2008) (“Statutory interpretation is an issue of law that this Court reviews *de novo*.”).

Argument: Appellants seek to defy common-sense civics. They argue that the circuit court erred in finding that the Secretary of State had the authority to reject R-001, R-002, and R-003 as to form. App. Br. 32. They contend that the Secretary’s review was of the substance of each petition because Section 160.030 does not explicitly state that the Governor’s signature is necessary before a referendum petition may be filed, *id.* at 32–36, and that an unenacted bill is susceptible to the referendum power, *id.* at 36–40. But the plain text of the statutory and constitutional provisions governing referenda require that an act of the General Assembly be enacted into law as prescribed by Article III, Sections 31 and 32. Precedent likewise confirms that “[t]he people cannot refer a measure until it has been adopted by the General Assembly and signed by the Governor.” *State ex rel. Drain v. Becker*, 240 S.W. 229, 232 (Mo. banc 1922). R-001, R-002, and R-003 therefore did not properly state the measure to be referred to the People—an error as to form. Appellants thus are not entitled to relief.¹

A. Referendum petitions may only challenge enacted laws.

The question for this Court is simple: what is “an[] act of the general assembly” under Article III, Section 49 that may be challenged by a referendum? Appellants offer a deceptively simple argument: HB 1 and

¹ If the Court reaches this case’s merits, the Secretary takes no position on the questions of intervention raised in Appellants’ Points Relied On IV and V.

Article III, Section 49 both contain the words “an act,” therefore HB 1 was referable at the moment of its passage. App. Br. 36–37. But that easy syllogism conflicts with basic tenants of constitutional interpretation and operation. Article III, when read as a whole, forecloses using the referendum power against bills presented to the Governor but not yet signed (or otherwise enacted into law per Article III, Section 31). This fact dooms Appellants’ claim.

“This Court’s primary goal in interpreting Missouri’s constitution is to ascribe to the words of a constitutional provision the meaning that the people understood them to have when the provision was adopted.” *C.S. v. Mo. Highway Patrol Crim. Just. Info. Serv.*, 716 S.W.3d 264, 267 (Mo. banc 2025) (quoting *State v. Honeycutt*, 421 S.W.3d 410, 414–15 (Mo. banc 2013)). “[T]he rules of statutory interpretation mirror the rules for the interpretation of constitutional provisions.” *Luther*, 730 S.W.3d at 570. “When a term is undefined, the Court looks to its plain and ordinary meaning as found in the dictionary.” *StopAquila.org v. City of Peculiar*, 208 S.W.3d 895, 902 (Mo. banc 2006). Like statutes “passed in the same legislative session as part of the same legislative act, this Court must attempt to harmonize” the provisions of the Constitution, which were simultaneously adopted in 1945. *State ex rel. T.J. v. Cundiff*, 632 S.W.3d 353, 357 (Mo. banc 2021).

The Constitution’s initiative and referendum provisions, Article III, Sections 49–53, are derived from the initiative and referendum provision of the

1875 Missouri Constitution, Article IV, Section 57 adopted in 1908. “This single-paragraph section [was] broken down in the present Constitution into five separate sections, numbered 49 to 53, inclusive.”² The referendum provisions, Sections 49, 52(a), and 52(b), contain a few clarifying words but otherwise are identical to the original provision.³

Let’s start with the relevant text. Article 3, Section 49 provides,

The people reserve power to propose and enact or reject laws and amendments to the constitution by the initiative, independent of the general assembly, and also reserve power to approve or reject by referendum any act of the general assembly, except as hereinafter provided.

² The Constitution of the State of Missouri: Adopted by the People on February 27, 1945, with Annotations and Appendix Comparing the Provisions Therein with the Provisions in the Constitution of 1875, as Amended and in Force on That Date 55 (Lester G. Seacat, ed., 1945), https://scholarship.law.missouri.edu/cgi/viewcontent.cgi?article=1004&context=mo_constitutions_race.

³ *Id.* at 55–57. Section 49: “The people reserve power to propose and enact or reject laws and amendments to the Constitution by the initiative, independent of the general assembly, and also reserve power to approve or reject by referendum any act of the general assembly, except as hereinafter provided.” (changes underlined). Section 52(a): no changes. Section 52(b): “The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people shall be had at the general state elections, except when the general assembly shall order a special election. Any measure referred to the people shall take effect when approved by a majority of the votes cast thereon, and not otherwise. This section shall not be construed to deprive any member of the general assembly of the right to introduce any measure.” (change underlined). None of these changes have any bearing on the question of what may be challenged by a referendum.

Plainly, Section 49 equates “laws” susceptible for “reject[ion]” with “any act of the general assembly.” The provision’s use of the word “laws” as opposed to “bills” cannot be an accident of draftsmanship. Instead, the equated use of “laws” with “any act of the general assembly” conveys that the measure susceptible to referral is something that has become law per the Governor’s action (or inaction): “If the bill be approved by the governor it shall become a law.” Mo. Const. art. III, § 31. In short, the framers deliberately chose to make “reject[ing] laws,” not “bills” the People’s reserved referendum right.

The ordinary meaning of “an[] act of the general assembly” confirms that straightforward reading—referring to a bill enacted into law by the Governor. An “act” is “[t]he formal product of a legislature or other deliberative body exercising its powers; esp., statute.” *Act*, BLACK’S LAW DICTIONARY (12th ed. 2024). Similarly, an “act of legislation” is “[a] formal change in the law that existed previously” or “[a] statute.” *Act of Legislation*, BLACK’S LAW DICTIONARY (12th ed. 2024). For an act to be “[t]he formal product of a legislature” it must go through the formality of the complete legislative process.

The Constitution provides two ends to General Assembly’s involvement in the legislative process. A bill may either be presented to the Governor or referred to the People by the General Assembly. Mo. Const. Art. III, §§ 31, 52(a). When the General Assembly refers a bill to the People, the popular vote

takes the place of presentment. *See Brown v. Morris*, 290 S.W.2d 160, 168 (Mo. banc 1956). The bill containing the referral is enacted and becomes “[t]he formal product” of the General Assembly when it is truly agreed to and finally passed because there is no longer any way for the General Assembly to participate in the process. But a bill that is presented to the Governor does not complete the legislative process until the Governor signs it into law because, until it is signed (or not acted upon), there is the potential that the General Assembly will participate in the process again if the Governor vetoes the bill. *See* Mo. Const. art. III, §§ 31–32.

The General Assembly did not refer HB 1 to the People. Because it went through gubernatorial presentment, it did not become the final product of the General Assembly until the Governor signed it into law. Hence, under Section 49, HB 1 was not subject to referendum until this occurred.

The surrounding constitutional text in the referendum provisions reinforces this understanding. Like statutes “passed in the same legislative session as part of the same legislative act, this Court must attempt to harmonize” these referendum provisions, which were all simultaneously adopted in 1945 Constitution. *State ex rel. T.J.*, 632 S.W.3d at 357. And the referendum provisions are materially the same as the original referendum and initiative provision adopted in 1908. *See* The Constitution of the State of Missouri, *supra* note 1, at 55–57. None of the other referendum provisions use

“act,” so the meaning of “act” cannot be readily taken from these provisions. See Mo. Const. art. III, §§ 52–53. However, the meaning of “act” can be discerned from “harmoniz[ing]” Section 49 with its implementing provisions. *State ex rel. T.J.*, 632 S.W.3d at 357. Notably, in detailing the referendum exceptions and procedures, Section 52(a) uses both “law[]” and “bill.” (None of the other provisions use either these terms in context.⁴) Examining how Section 52(a) uses these terms shows that an “act” can only be a law.

Section 52(a) establishes the procedure for how to refer a law to the People by referendum: the signature requirements and the timing. But in doing so, it excepts “laws” dealing with public emergencies and appropriations—not “bills.” This word choice is telling. The exception is for the substance of enacted laws. If a public-emergency or appropriations provision—once enacted into law—will ultimately be exempted from a referendum, then it would be absurd and contradictory to allow a referendum petition to proceed before that bill has been signed by the Governor (or has become law if the Governor failed to act within the allotted time). Any other reading—allowing for an unenacted bill to get referred—would disharmonize the meaning of this constitutional provision. Instead, the plain meaning of this

⁴ Article III, Section 53 uses “laws,” but it is not in reference to the subject of a referendum petition.

provision confirms that a referendum may only be initiated on a law enacted per Article III, Section 31.

Section 52(a) first uses “bill” to refer to legislative referenda. “A referendum may be ordered . . . by the general assembly, as other bills are enacted.” Mo. Const. art. III, § 52(a). The use of “bill” in this context refers to the mechanism by which it is enacted: the normal legislative process. The only difference comes after the bill is finally passed and signed by the presiding officers, when the bill is immediately referred to the People *instead* of being presented to the Governor. *See Brown*, 290 S.W.2d at 168–69. Any bill that is not referred directly to the People must therefore go through presentment for it to have completed the legislative process. *See* Mo. Const. art. III, § 31. Any other reading would render Section 31 superfluous in this context.

“Bill” is also used in the timing sentence of Section 52(a): “Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the general assembly which passed the bill on which the referendum is demanded.” Appellants suggest that the mere use of “bill” makes it synonymous with “act of the general assembly.” App. Br. 37–38. But “[c]rucial words must be viewed in context, and courts must assume that words were used purposefully.” *State ex rel. Upchurch v. Blunt*, 810 S.W.2d 515, 516 (Mo. banc 1991). Unlike with “law” in the first sentence, “bill” is not used in reference to the subject of the referendum.

Instead, it is part of the restrictive clause (“which passed the bill on which the referendum is demanded”) giving essential information about the timing requirements. As the timing provision links filing the referendum petition with the “adjournment of the session of the general assembly,” it stands to reason that the Missouri Constitution links the time with General Assembly’s part of the legislative action—“pass[ing] the bill.” See Mo. Const. art. III, § 31 (“Every bill which shall have passed the house of representatives and the senate . . .”). So Section 52(a)’s “bill” does not give meaning to an “act” of the General Assembly.

The remainder of Article III confirms this understanding. The powers of initiative and referendum are legislative in nature. *State ex rel. Stokes v. Roach*, 190 S.W. 277, 280 (Mo. banc 1916). The constitutional provisions governing them must therefore be “read in harmony with all related provisions,” notably those governing how the General Assembly exercises the same legislative power. *Comm. for Educ. Equality v. State (Comm. for Educ. Equality II)*, 294 S.W.3d 477, 488 (Mo. banc 2009). These provisions clearly define when something is a “bill,” “law,” and “act.” A bill is the vehicle through which the General Assembly passes laws. Mo. Const. art. III, § 21. A bill is “finally passed” when “a majority of the members elected to each house be recorded as voting favorably.” Mo. Const. art. III, § 27.

But a bill cannot proceed to “become a law” until it is signed by the presiding officer of each house and the secretary or chief clerk “present[s] *the bill* in person to the governor.” Mo. Const. art. III, § 30 (emphasis added). “If *the bill* be approved by the governor it shall become a law.” Mo. Const. art. III, § 31 (emphasis added). Alternatively, “[i]f any bill shall not be returned by the governor within the time limits prescribed by this section it shall become law in like manner as if the governor had signed it.” *Id.* Thus, a bill is just a bill from the time of its introduction until the Governor signs it (or lets it become law by not acting on it).

Article III, Section 29 states that “an appropriation act” is a type of “law passed by the general assembly.” Similarly, Article III, Section 32 provides that a bill becomes “an authentic act” when the General Assembly overrides the Governor’s veto. Hence, similar to Article III, Section 49, Section 42 uses “law” and “act” interchangeably but differently than “bill” when declaring that “[n]o local or special *law* shall be passed” unless the details of it are published “thirty days prior to the introduction of the *bill* into the general assembly” and proof of the publication is “filed with the general assembly before the *act* shall be passed.” (emphasis added).

Finally, Article III, Section 41 provides that “[t]he general assembly shall not indirectly enact a special or local *law* by the partial repeal of a general law; but laws repealing local or special *acts* may be passed.” (emphasis added). The

General Assembly repeals laws, not bills. Thus, once again, “law” and “act” therefore mean the same thing, and neither means “bill.”

All of these provisions were enacted with the ratification of the 1945 Constitution. See The Constitution of the State of Missouri, *supra* note 1 at 41–56. It is clear that “the people understood” “law” and “act” to mean the same thing “when the provision[s] w[ere] adopted.” C.S., 716 S.W.3d at 267. The Framers understood “laws” and “acts” to refer to “bills” that had been enacted into law through the legislative process, culminating in action (or inaction) by the Governor per Article III, Section 31. Section 49’s reference to “act[s] of the general assembly” therefore only includes fully enacted laws. Appellants’ interpretation collapses the differences between a “bill” and a “law,” which would “be inconsistent . . . with how legislation is normally enacted.” *Coleman*, 696 S.W.3d at 375 (Powell, J., concurring); see also *Schoolhouse Rock!, I’m Just a Bill*, YOUTUBE (1975).⁵

Finally, precedent resoundingly confirms the cogent reading of the text. As this Court has long recognized, “[t]he people cannot refer a measure until it has been adopted by the General Assembly *and signed by the Governor*.” *State ex rel. Drain*, 240 S.W. at 232 (emphasis added). This remains true today—the referendum can only be had on a bill “signed [into law] by the governor.” See

⁵ <https://youtu.be/SZ8psP4S6BQ?si=Q2oddhNs2itAGDAa> (last accessed Aug. 22, 2026).

No Bans on Choice, 638 S.W.3d at 491 (determining that a referendum campaign benefitted when “the challenged legislation [was] signed by the governor . . . 113 days before the final adjournment of the legislative session”). All told, constitutional text, history, precedent, and common sense show that the Missouri Constitution did not grant a right to pursue referenda against uncoded bills. *Cf. Cummings v. Missouri*, 71 U.S. (4 Wall.) 277, 325 (1866) (“The Constitution deals with substance, not shadows.”). Because only a codified law can predicate a referendum, R-001, R-002, and R-003 were not valid referendum petitions.

For their part, Appellants emphasized how a referred enactment “only becomes a ‘law’ if it is approved by a majority of Missouri voters.” App. Br. 35. Hence, Appellants suggest that a “referred act” cannot mean a “law” signed by the Governor because the referred law supposedly does not take effect. *See id.* Once again, Appellants short change reading Article III as a whole for the sake of (convenient) simplicity—confusing a bill’s becoming law with when a law goes into effect. Article III, Section 31 makes crystal clear that “[i]f the bill be approved by the governor it shall become a law.” Likewise, “[i]f any bill shall not be returned by the governor within the time limits prescribed by this section it shall become law in like manner as if the governor had signed it.” *Id.*

Crucially, Section 31 says an enactment “shall become a law” even though other provisions delay the law’s going into effect—such as, Section 29’s

normal ninety-day post-adjournment period for the law to take effect. In short, the fact that laws signed by the Governor do not always immediately take effect proves nothing for Appellants. Again, what matters is the text.

Appellants' remaining arguments to the contrary are unpersuasive. First, they claim that Section 52(b)'s removal of the Governor's veto power to referred bills shows that gubernatorial approval is not required. App. Br. 38. But this only deals with bills referred directly by the General Assembly, in which case the bill never goes to the Governor for approval or veto. *Brown*, 390 S.W.2d at 168–69 (gubernatorial presentment not required for bills referred directly by the General Assembly). This argument further ignores this Court's explicit holding in *Maggard v. State* that a law is not “referred to the people,” as the phrase is used in Section 52(b), until a legal, sufficient, and timely referendum petition is filed. 733 S.W.3d 411, 419–20 (Mo. banc 2026). It is only well after the bill becomes a law that this occurs. HB 1 had not been “referred to the people” by the General Assembly or through a referendum petition at any time relevant to this case. *See id.*; accord *State ex rel. Drain*, 240 S.W. at 232 (“The people cannot refer a measure until it has been adopted by the General Assembly and signed by the Governor . . .”).

Appellants' argument would also create a conflict between constitutional provisions. Article III, Section 31 requires that, when a bill is presented to the Governor, he “*shall* return” the bill with his signature or veto. But under

Appellants' theory, a legal, sufficient, and timely referendum petition could be submitted to the Secretary before the Governor signed or vetoed the bill. The Governor would therefore lose his power to veto the bill under Section 52(b) before the expiration of Section 31's constitutionally guaranteed time in which he may approve or veto the bill. This Court must instead read Section 52(b) "in harmony with" Section 31, a "related provision[]," and reject Appellants' theory. *Comm. for Educ. Equality II*, 294 S.W.3d at 488. Section 52(b) offers Appellants no support.

Appellants next claim that requiring gubernatorial approval impermissibly shortens the time in which a referendum petition must be filed. App. Br. 39–40. In doing so, they rely heavily on *No Bans*, where this Court invalidated legislation that "unreasonably shorten[ed] the timeframe for petition circulation." 638 S.W.3d at 492. But this is unpersuasive for two reasons.

First, *No Bans* itself forecloses Appellants' argument, as it recognized that the period for signature collection for the 2018 right-to-work referendum began when "the challenged legislation [was] signed by the governor . . . 113 days before the final adjournment of the legislative session." *Id.* at 491. Second, this case is fundamentally different because it deals not with statutory requirements, but with the Missouri Constitution itself. As this Court has said, "restrictions on the people's power of [referendum] must be found in the

constitution.” *Coleman*, 696 S.W.3d at 352. After all, it is the Missouri Constitution that delineates the initiative and referendum rights. See Mo. Const. art. III, §§ 49–53.

No Bans recognized that the General Assembly may legitimately use the legislative process itself to shorten the time in which a referendum petition may be circulated. 638 S.W.3d at 491. No logical reason exists for why the Governor may not do so as well using the same legislative process outlined in the Missouri Constitution. See Mo. Const. art. III, § 31. Thus, Appellants end up insisting that the Missouri Constitution itself is an impediment to the right of referendum—but this Court must take the Missouri Constitution as it finds it. See *Trump v. Barbara*, 146 S. Ct. 2438, 2456 (2026) (“[P]ostenactment history cannot override the text.”). Appellants are not entitled to relief.

B. The first three petitions did not challenge an enacted law, rendering them insufficient as to form.

Having determined that R-001, R-002, and R-003 were invalid because they did not challenge a law, the issue becomes whether they suffered an insufficiency as to form or substance. “Chapter 116 describes two occasions where the secretary of state’s review is required during the referendum process: (i) the pre-signature collection review of a sample sheet authorized by section 116.332; and (ii) the post-signature collection review of a submitted referendum petition and its signatures authorized by section 116.120.” *ACLU*

of *Mo.*, 577 S.W.3d at 889. Under Section 116.332.1, the Secretary of State and Attorney General’s pre-signature collection review is limited to the sample sheet’s “sufficiency as to form.” A sample sheet is “sufficien[t] as to form” when it substantially complies with the example form in Section 116.030. *ACLU of Mo.*, 577 S.W.3d at 890–91. Meanwhile, the Secretary’s post-signature collection review under Section 116.120 includes whether the petition “complies with the Constitution of Missouri and with [Chapter 116].” *Id.* at 892 (quoting Mo. Rev. Stat. § 116.120.1).

The form provided by Section 116.030 requires that target of the referendum be an enacted law, not a bill. Part of the Secretary’s review as to form is ensuring “compliance” over the “insertion of required or requested information” in “blank spaces.” *Id.* at 891. One of these blank spaces is for the “title of law.” Mo. Rev. Stat. § 116.030. The chapter also requires that the referendum proponent attach to the form “all sections of *existing law* . . . which would be repealed by the measure.” *Id.* § 116.050.2(2) (emphasis added). R-001, R-002, and R-003 were not for an enacted law and did not “[i]nclude all sections of existing law . . . which would be repealed by the measure,” so the Secretary properly rejected these sample sheets. *Id.* Said differently, there was no “law” with a “title” capable of meeting the form’s requirements prior to the Governor’s signing HB 1. *Id.* § 116.030.

Confirming that a petition is sufficient as to form is not a mere clerical act. It helps ensure that “the constitutional requirements for placing a[] [measure] on the ballot have been met.” *Mo. Elec. Coops. v. Kander*, 497 S.W.3d 905, 913–14 (Mo. App. W.D. 2016) (cleaned up) (quoting *Missourians to Protect the Initiative Process v. Blunt*, 799 S.W.2d 824, 828 (Mo. banc 1990)). True, current precedent limits the Secretary’s review of the petition as to form. Specifically, the Secretary cannot reject as to form a petition whose aim may not be lawful. *See ACLU of Mo.*, 577 S.W.3d at 891 (explaining that “the plain and ordinary dictionary meaning of the word ‘form’” precluded substantive legal review of the referendum’s aim); *accord id.* (reasoning that “the qualifier ‘as to form’ would be rendered unnecessary and superfluous if review of a sample sheet for ‘sufficiency’ extended to all matters, including substantive and constitutional matters”).⁶ Appellants therefore try to pigeonhole the denials of R-001, R-002, and R-003 as rejections rooted in substantive legal concerns. *See App. Br.* 33–34.

But their critiques prove way too much. Obvious deficiencies that do not comply with the rules of the statutory form—like attaching an unsigned bill rather than a “law”—are not judgments based substantive legal considerations

⁶ While unnecessary in this case (indeed, inappropriate given this case’s mootness), this Court should consider in a future case whether the Western District Court of Appeal’s decision that the Secretary cannot consider the lawfulness of a petition’s aim when reviewing as to form is correct.

and need not be approved. *See ACLU of Mo.*, 577 S.W.3d at 891 (citing a definition of “form” as a “procedure according to rule or rote” (quoting WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 892 (1993))). Allowing a referendum petition on a bill would not comport with the statutory meaning of “law.” Mo. Rev. Stat. § 116.030. Meanwhile, correctly construing “law” does not render any provision “unnecessary and superfluous.” *ACLU of Mo.*, 577 S.W.3d at 891.

Appellants’ only effort to grapple with the text of Section 116.030 is their assertion that “nothing in the statute governing the form of the sample sheets even references a gubernatorial signature.” App. Br. 33. But including a reference in the statute to the Governor’s signature would be odd, and even problematic. The statute requires that the petition seek to refer “any law.” Mo. Rev. Stat. § 116.030. Legislation only becomes enacted law after either the Governor signs the bill or the time for the Governor to act on the bill expires. Mo. Const. art. III, § 31. So a statutory reference to the Governor’s signature would be both superfluous and potentially confusing given that a bill can become law through the Governor’s inaction. *See id.* (“If any bill shall not be returned by the governor within the time limits prescribed by this section it shall become law in like manner as if the governor had signed it.”).

Under Appellants’ interpretation, a referendum petition seeking to refer a bill that went into effect five years ago or the law of a different jurisdiction

would have to be approved as to form if it otherwise complied with Section 116.030. This would mean that if Appellants filed a sample sheet with the Secretary of State seeking a referendum on House Bill 4 from the First Extraordinary Session of the 93rd General Assembly at the 2026 general election, the Secretary would have to wait until after signature collection to reject the petition. The blanks would be filled in, but the petition would be facially insufficient because it was untimely. But if such absurdities must be approved as to form, one is left to wonder what's the point of review as to form. It also contradicts *Coleman*'s admonition that matters regarding a petition's legal deficiencies should not always have to wait until the end of the process. See 696 S.W.3d at 371–72.

Substantial compliance with Section 116.030 requires that the form list a law that is, according to the four corners of the sample sheet, within the scope of the referendum power. A bill that has not been signed into law therefore does not substantially comply with Section 116.030.

Appellants argue that, in any event, R-001, R-002, and R-003 substantially complied with Section 160.030 because they were identical to R-004, the approved sample sheet. App. Br. 34. But this ignores the glaring fact that HB 1 fundamentally changed when it was signed into law during the period between R-003's rejection and R-004's approval. While Appellants claim that this fact is not relevant, it changed the meaning of "House Bill 1 of the

Second Extraordinary Session of the 103rd General Assembly.” R-003 and R-004 targeted fundamentally different things such that they are only “identical” to the extent a fraudulent check and a real check are “identical.” R-003 did not substantially comply with Section 160.030.

Appellants also argue that reading “law” to mean “law” is inaccurate because a law referred to the people is not “enacted” until approved by the voters. App. Br. 34–35. Again, this fundamentally misunderstands the legislative process. A bill that is signed into law by the Governor does not cease to be a law and revert to being a bill by mere referral to the People. As Section 52(b) and *Maggard* make clear, an enacted law that is referred to the People by petition simply does not go into effect unless or until it is approved at the polls. 733 S.W.3d at 420 (explaining that whether referred law “take[s] effect” will be determined by vote).

A law that is referred to the People and rejected remains on the books but never goes into effect. This is clear from history. In 2017, the Secretary of State certified the sufficiency of a referendum on Senate Bill 19, which was ultimately rejected by the voters.⁷ But Section 290.590, as amended by SB 19, is still in the Revised Statutes as the current version of the section, simply

⁷ Aug. 7, 2018 Official Election Returns, Missouri Secretary of State <https://www.sos.mo.gov/CMSImages/ElectionResultsStatistics/2018PrimaryElection.pdf> (last accessed Aug. 22, 2026).

lacking an effective date. *See* Mo. Rev. Stat. § 290.590. Law means law. Appellants' argument fails.

Finally, as has become common, Appellants end their argument with the claim that any interpretation of Section 160.030 under which they lose would render the law unconstitutional. App. Br. 35–36; *see also Maggard*, 733 S.W.3d at 420. But as explained above, the constitutional right to referendum does not extend to bills before they are signed into law. *Supra* Part II.A. There is no conflict between the circuit court's interpretation of Section 160.030 and the Constitution. If the Court reaches the merits, it should hold that there was no valid petition on which to collect signatures until R-004.

Appellants' argue about what the law should be, not what the law is. But the Missouri Constitution is clear: A referendum petition may only be filed after the completion of the legislative process, which includes the Governor's signature (or his declining to act). *See State ex rel. Drain*, 240 S.W. at 232 (“The people cannot refer a measure until it has been adopted by the General Assembly and signed by the Governor . . .”). And the failure to list a “law” on the summary sheet because HB 1 was not yet enacted rendered R-001, R-002, and R-003 facially insufficient as to form. The circuit court got both questions right. Appellants are not entitled to relief on the claim that signatures collected prior to the Governor's signing HB 1 were valid.

III. The Secretary of State Properly Disregarded Signatures Collected Before the Final Referendum Petition Was Approved as to Form for Circulation (Responds to Point II).

Standard of Review: Whether the circuit court properly applied the Missouri Constitution and Chapter 116 is a question of law. *See Luther* at 570. Questions of law involving constitutional and statutory interpretation are reviewed *de novo*. *See id.*; *Finnegan*, 246 S.W.3d at 930.

Argument: Appellants argue that the circuit court erred in allowing the Secretary of State to refuse to count signatures collected before the referendum petition R-004 was approved as to form. App. Br. 41. They claim that holding otherwise goes against the plain text of the governing statutes, *id.* at 42–43, would allow for gamesmanship, *id.* at 43–44, and would ultimately render those statutes unconstitutional, *id.* at 44–45. But these arguments would require this Court to disregard the governing statutes and stretch its precedent beyond the breaking point. Thus, Appellants are not entitled to relief.

As discussed above, Plaintiffs submitted three referendum petitions before the Governor signed HB 1 into law. And the Secretary properly rejected these petitions as to form. *See supra* Part II.B. Because these petitions were invalid, all signatures collected in support of them occurred “during the ‘pre-signature collection stage’ of the referendum process.” *ACLU of Mo.*, 577 S.W.3d at 890 (emphasis added). Section 116.332.1 specifically requires that a petitioner have submitted a valid sample sheet to the Secretary “[b]efore . . .

a referendum petition may be circulated for signatures.” If a valid sample sheet must be submitted to allow signature gathering, signatures collected on a sample sheet rejected as to form are *per se* invalid. Hence, under the statute and because no valid referendum petition yet existed, the Secretary could not count any of the approximately 32,600 signatures gathered prior to September 28, 2025. *See* D14 at ¶ 29.

And because the rejection of referendum petitions as to form did not “interfere with or impede a right conferred by the constitution,” not counting those signatures can no more “interfere with or impede” the constitutional right of the referendum. *See No Bans on Choice*, 638 S.W.3d at 489 (quoting *Rekart v. Kirkpatrick*, 639 S.W.2d 606, 608 (Mo. banc 1982)). Nothing in Missouri law prohibits requiring that a proponent submit a valid referendum petition before collecting signatures.

This Court has held that the signature-circulation time periods under Section 116.332.1 for an initiative are “established by Mo. Const. art. III, § 50.” *Upchurch*, 810 S.W.2d at 517. Section 50 is the form-and-procedure provision for initiative petitions, and its only explicit time requirement is that the initiative petition be “filed . . . not less than six months before the election.” Mo. Const. art. III, § 50; *see also Upchurch*, 810 S.W.2d at 517. Nonetheless, this Court held it “clear” that the time period was “framed by reference to

general elections” and initiative petition sample sheets could only be submitted “after one general election.” *Upchurch*, 810 S.W.2d at 517.

Article III, Section 52(a) of the Missouri Constitution is the referendum-provision analog to Section 50. Section 52(a) also only has one explicit time requirement: Referendum petitions must be “filed . . . not more than ninety days after the final adjournment of the session.” Like with Section 50, Section 52(a)’s time period is “clear.” See *Upchurch*, 810 S.W.2d at 517. Here, the time period is properly framed by reference to “laws.” See Mo. Const. art. III, § 52(a) (excepting emergency and appropriations “laws”). “Although the authority is not semantically explicit, the constitutional provision[] [is] nonetheless plain in meaning.” See *Upchurch*, 810 S.W.2d at 517. Therefore, Section 52(a) permits submission of sample referendum petitions to the Secretary of State from any time after enactment until ninety days after the final adjournment of the session.

This point is illustrated by *State ex rel. Basinger v. Ashcroft*, 677 S.W.3d 562 (Mo. App. W.D. 2023), which operationalized *Upchurch*. There, a petitioner had filed his sample initiative petition for 2024 election two months before the 2022 election and thus was outside the time period proscribed by Section 50 as interpreted by *Upchurch*. *Id.* at 567. As a result, the Secretary’s obligation to process the initiative petition “did not arise until” after the election. *Id.* Allowing the petitioner in *Basinger* to have counted any

signatures collected in the meantime would have defeated the court's ruling. Besides a different constitutional time period, referendum petitions are no different. Hence, the Missouri Constitution does not allow the Secretary to count signatures collected before the enactment of HB 1.

As for signatures collected on R-004 before the Secretary's approval, these too are invalid. In *No Bans*, this Court held that the statutory "prohibition on collecting referendum petition signatures prior to the Secretary's certification of the official ballot title 'interferes with and impedes' the constitutional right of referendum." 638 S.W.3d at 492. The Secretary proceeds to certifying the ballot title only after the referendum petition is deemed sufficient as to form. See Mo. Rev. Stat. 116.334. But while this ballot-title certification is ongoing, the petitioner has an approved referendum petition. See *No Bans on Choice*, 638 S.W.3d at 492. Unlike certifying the ballot title, the Secretary's approval of the referendum petition as to form "occur[s] at the beginning of the process." *Coleman*, 696 S.W.3d at 351. This approval is vitally "important" to protecting the "citizens' constitutional power of [referendum] petition." *Id.* at 351–52. It allows the Secretary to correct an error in form "with minimum disruption." *Id.* at 351.

Letting petitioners collect signatures on a referendum petitions before approval as to form will sow confusion. For example, a voter wanting to sign a referendum petition could (as here) sign an invalid referendum petition. But

when later approached with a valid referendum petition over the same law, she could not sign it believing she had already signed a previously valid petition. In this way, her signature could go uncounted. One need look no farther than the record in this case to see the impact of proponents jumping the gun on collecting signatures. Notably, between September 15 and September 28, Appellants collected approximately 32,600 signatures on the first three referendum petitions. D14 at ¶ 29. Because those petitions are invalid as to form, hence those signatures were wasted. Yet, signatories may have never realize that they signed an invalid petition.

Alternatively, one could imagine a situation where the first petition was valid. But the voter, believing the first petition was invalid, signed a second petition and unwittingly exposed himself to liability for ballot fraud. *See* Mo. Rev. Stat. § 116.090.1(1). Providing basic ground rules to keep overzealous proponents from gathering signatures on invalid petitions does not “interfere with or impede” the citizens’ right of referendum. *See No Bans on Choice*, 638 S.W.3d at 489. On the contrary, as this Court explained, letting the Attorney General and the Secretary first rectify any errors as to form “before signatures are gathered—protects [the People’s] interest.” *Coleman*, 696 S.W.3d at 351–52. In short, the Secretary’s approval as to form provides a clear line of demarcation to citizens for when they can safely sign a referendum petition and have their voice heard. *See id.* This Court should not backtrack on that

line and hold that the Secretary must count any signatures collected prior to his approval as to form.

Moving to Appellants' fears of gamesmanship, these fears are misplaced. The time for deciding sufficiency as to form is fast—it must be completed within fifteen days of receipt. Mo. Rev. Stat. § 116.332.4. This is hardly enough time for gamesmanship to impede the right to referendum.

Nor did any gamesmanship occur here. The Secretary did not reject R-001 and R-002 and then rescind that rejection, as Appellants assert. See App. Br. 43. Instead, the Secretary delayed processing the petition for two days before sending it to the Attorney General to begin the statutory review as to form. D20; D21. The “gamesmanship” complained of was two-day long delay in processing that was ultimately completed within the statutory timeline (and at worst was a simple mistake). If Appellants want a different process, they can make their pitch to the General Assembly.

Appellants' finally argue that requiring approval before signature collection unconstitutionally shortens the timeframe for signature can be collection. App. Br. 44–45. But this argument stretches *No Bans* beyond its breaking point. *No Bans* focused on the degree to which the challenged laws impeded the right of referendum, noting that they did so “unreasonably.” 638 S.W.3d at 492. But a law that facilitates the referendum right, such as Section 116.030, may reasonably shorten the timeframe without violating the

right to referendum. The pre-signature approval as to form must be completed within fifteen days of when the Secretary receives the petition. Mo. Rev. Stat. § 116.332.4. This is a far cry from the fifty-one days which the laws in *No Bans* gave to the Secretary. See 638 S.W.3d at 491. And, again, as *Coleman* emphasized, this review by the Secretary and the Attorney General is “so important” because it allows for errors to “be corrected with minimum disruption to the citizens’ constitutional power.” 696 S.W.3d at 351–52. Hence, the review process does not “unreasonably” impede the right to referendum.

Appellants’ arguments also fail because there is no “right” to have a full ninety days for signature collection. Appellants’ position disregards the actual text, harmonizing constitutional provisions, and precedent. First, the “plain language” does not grant proponents a right to a firm ninety-day signature-gathering window. Article III, Section 52(a) only sets a due date for petitions to be “filed.” Nothing in the text creates a right to ninety days to collect signatures. Finding such a right would require reading out “not more than ninety days” and changing it to “at least ninety days.” See Mo. Const. art. III, § 52(a). Even ignoring Plaintiffs’ effort to convert Section 52(a)’s language from “not more than” to “at least” ninety days, it is likewise nonsensical to suggest that the words “be filed” means “gather signatures.” See *id.*

Second, because no law (except for an appropriation act) can “take effect until ninety days after the adjournment,” *id.* § 29, Section 52(a)’s requirement

that a referendum petition be filed within ninety days after adjournment is “not arbitrary” but rather is “consistent” with Section 29. *Maggard*, 733 S.W.3d at 414; *ACLU of Mo.*, 577 S.W.3d at 888–89; *see also Upchurch*, 810 S.W.2d at 516 (“This Court is required to give due regard to the primary objectives of the constitutional provision under scrutiny, as viewed in harmony with all related provisions.”). Finding a novel right to ninety days for a proponent to collect signatures would break this harmony. Section 116.030 constitutionally requires approval as to form before signature collection.

The circuit court properly found the contested signatures invalid. To hold otherwise would render approval as to form superfluous and burden the State’s interest in protecting the People’s right to referendum through an orderly process. *See Coleman*, 696 S.W.3d at 351–52 (emphasizing the importance of that process). Appellants are not entitled to relief on the merits.

CONCLUSION

This Court should dismiss this case as moot. Alternatively, if the Court reaches the merits, it should affirm.

Respectfully submitted,

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CERTIFICATE OF SERVICE AND COMPLIANCE

I hereby certify that a true and correct copy of the foregoing was filed and served electronically via Missouri CaseNet on August 25, 2026 to all counsel of record.

The undersigned further certifies that the foregoing brief complies with the limitations contained in Rule No. 84.06(b) and that the brief contains 11,854 words.

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