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SUPREME COURT OF TEXAS
BLAKE A. HAWTHORNE, CLERK

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August 12, 2025

Mr. Blake A. Hawthorne, Clerk
Supreme Court of Texas
201 W. 14th St., Ste. 104
Austin, Texas 78711

RE: *In re State of Texas*, No. 25-0687

Dear Mr. Hawthorne:

Texas State Senators Carol Alvarado, César Blanco, Molly Cook, Sarah Eckhardt, Roland Gutierrez, Juan "Chuy" Hinojosa, Nathan Johnson, José Menéndez, Borris Miles, Royce West, and Judith Zaffirini, by and through the undersigned counsel, submit this letter brief as amici curiae in support of the Respondents in the above-captioned matter. As members of the Texas Senate, the amici have a substantial interest in the resolution of this matter. The amici have a direct stake in preserving constitutionally sanctioned legislative tools to safeguard minority rights. Quorum-breaking is among the few procedural mechanisms available to slow or halt legislation with irreversible consequences. A judicial prohibition of this tactic would irreparably diminish a legislator's ability to represent their constituents, particularly when fundamental rights are at stake.

The Attorney General's petition seeks an unprecedented judicial intervention into the internal proceedings of the Texas Legislature. For the reasons set forth below, the affirmative act of quorum-breaking is a constitutionally recognized legislative tactic, and any discipline for such conduct lies exclusively within the rules and authority of each chamber under the Texas Constitution. The relief requested is not granted by statute or the Constitution, and to the extent any statute purports to authorize it, such law is superseded by the Constitution.

I. The Texas Constitution Vests Expulsion Power Solely in the Legislature.

The Texas Constitution expressly states that "[t]wo-thirds of each House shall constitute a quorum to do business" and that "[each House may] compel the attendance of absent members, in such manner and under such penalties as each House may provide." *See* Tex. Const. Art. III, § 10. This provision acknowledges the possibility of intentional absence and leaves enforcement to the internal rules of each chamber. In fact, this Court has specifically acknowledged the right to engage in the act of quorum-breaking by a minority faction under Article III. *See In re Abbott*, 628 S.W.3d 288, 292 (Tex. 2021) ("*Just as Article III, section 10 enables 'quorum-breaking' by a minority faction of the legislature,* it likewise authorizes "quorum-forcing" by the remaining members.") (emphasis added).

In addition to the section 10 provisions that authorize each chamber to compel attendance, section 11 grants each chamber the power to "punish members for disorderly conduct, and,

with the consent of two-thirds, expel a member." *See* Tex. Const. Art. III, § 11. No other branch has the disciplinary authority over legislators for parliamentary tactics.

The Texas Constitution's assignment of disciplinary action is exclusive to the Legislature. Any statutory scheme purporting to authorize the executive branch to seek a judicial remedy to remove a sitting legislator for quorum-breaking—a right enshrined in section 10—is prohibited by the Constitution. In determining whether the Court is authorized to act in this matter, its sole role is to determine whether "that law is in conflict with the Constitution, which is superior to any enactment that the Legislature may make…" *Brown v. Galveston*, 75 S.W. 488, 492 (Tex. 1903). Here, any statutory scheme that intends to punish members of the Legislature for quorum-breaking conflicts with the Texas Constitution.

In addition, this Court has plainly stated, relying on a textualist analysis, that "the decision whether to employ arrest—or any other potential method of compelling attendance—is textually committed to the discretion of each legislative chamber, *not to the courts*." *In re Abbott*, 628 S.W.3d at 294 (emphasis added).

Finally, the relief sought raises a political question beyond review by this Court: it seeks to ask the judiciary, through an action brought upon by the executive, to act to remove a sitting member of the legislative branch—removal that is squarely within the sole province of each House of the legislature. This Court has "abstain[ed] from matters committed by [the] constitution and the law to the Executive and Legislative Branches." *Am. K-9 Detection Servs. LLC v. Freedman*, 556 S.W.3d 246, 249 (Tex. 2018). It should continue to do so here.

II. This Court Lacks Jurisdiction Under the Cited Statutes.

Even if the Attorney General's requested relief were permissible under the Texas Constitution, the petition is improperly filed in this Court. Chapter 66 of the Texas Civil Practice and Remedies Code requires quo warranto actions to be brought as original proceedings in a district court. *See* Tex. Civ. Prac. & Rem. Code § 66.002(a) ("If grounds for the remedy exist, the attorney general or the county or district attorney of the property county may petition the district court of the proper county… for leave to file an information in the nature of quo warranto.").

In his petition, the Attorney General cites *In re Dallas County*, 697 S.W.3d 142, 152 (Tex. 2024) (orig. proceeding), for the proposition that a quo warranto proceeding "can only be brought by the attorney general, a county attorney, or a district attorney." But that case addressed a quo warranto action under Chapter 66—not the Court's original jurisdiction under Chapter 22, yet relying substantively on Chapter 66. Seeing that this petition seeks relief under this Court's original jurisdiction, that relief must be under Chapter 22. *See* Tex. Gov't Code § 22.002(a) ("The supreme court… may issue… all writs of quo warranto and mandamus agreeable to the principles of law regulating those writs, against… any officer of state government except the governor…"). This Court's jurisdiction under Chapter 22, however, does not extend to state legislators. *See In re Nolo Press/Folk Law, Inc.*, 991 S.W.2d 768, 776 (Tex. 1999) (regarding 'officer of the court' under Chapter 22, this Court has "construed this phrase to refer, not to every State official at every level, but only to chief administrative officers – the heads of State departments and agencies who are charged with the general administration of State affairs.").

Accordingly, this Court should decline to sanction a procedure that conflates these two statutory schemes and circumvents the forum expressly prescribed by the Legislature.

III. Quorum-Breaking Is a Long-Recognized Constitutional Legislative Strategy.

Even if the Court is able to reach the merits in this case, quorum-breaking is not a forfeiture of office. It is a lawful, historically recognized constitutional tool to protect minority rights from the tyranny of the majority. Texas legislative history confirms that members of the Texas Legislature have used quorum-breaking as a legitimate tool to protect minority interests since as early as 1870. *See* S.J. of Tex., 12th Leg., 1st C.S. 17 (1870). Since then, there have been at least three other significant instances of quorum breaks in Texas: 1979, 2003, and 2021.

IV. The Dangers of Granting This Petition.

If the Court grants the relief sought by the Attorney General, it will open the door for removal petitions against all constitutional officers—not just legislators—whenever political disputes arise. Such a precedent would invite misuse of judicial power for partisan ends, destabilizing the separation of powers the Texas Constitution was designed to protect.

The Texas Constitution vests the authority to regulate member attendance and discipline exclusively in each legislative chamber. Quorum-breaking is a lawful and historically recognized constitutional legislative strategy. As a result, the relief sought by the Attorney General is not authorized by the Texas Constitution, and any statute to the contrary is superseded by the Constitution.

This Court should deny the petition and reaffirm the Legislature's autonomy over its internal affairs.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Jaime Villarreal, Jr., electronically filed this Amicus Brief in Support of Respondents with the Clerk of the Court on August 12, 2025, using the eFile.TXCourts.gov electronic filing system, which will send notification of the filing to all parties of record.

/s/Jaime Villarreal, Jr.
JAIME VILLARREAL, JR.

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