

NO. 25-0674

---

**In the Supreme Court of Texas**

---

**IN RE GREG ABBOTT,**  
*Relator,*

---

On Emergency Petition for Writ of Quo Warranto

---

**BRIEF OF HARRIS COUNTY ATTORNEY CHRISTIAN D. MENELEE AS  
*AMICUS CURIAE* SUPPORTING RESPONDENT**

---

Christian D. Menefee  
Harris County Attorney  
State Bar No. 24088049  
Christian.Menefee@harriscountytexas.gov

Jonathan G. C. Fombonne  
Deputy County Attorney  
State Bar No. 24102702  
Jonathan.Fombonne@harriscountytexas.gov

Tiffany S. Bingham  
Managing Counsel  
State Bar No. 24012287  
Tiffany.Bingham@harriscountytexas.gov

Christopher R. Garza  
Deputy Division Director  
State Bar No. 24078543  
Christopher.Garza@harriscountytexas.gov

Jesse M. Blakley  
Senior Assistant County Attorney  
State Bar No. 24060952  
Jesse.Blakley@harriscountytexas.gov

Harris County Attorney's Office  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002  
Telephone: (713) 274-5101  
Facsimile: (713) 755-8924

Eleanor G. Matheson  
Assistant County Attorney  
State Bar No. 24131490  
Eleanor.Matheson@harriscountytexas.gov

## Identity of Amicus Curiae and Counsel

<i>Amicus Curiae</i>	<b>Counsel</b>
Harris County Attorney Christian D. Menefee	Jonathan G. C. Fombonne Deputy County Attorney & First Assistant  Tiffany S. Bingham Managing Counsel  Christopher R. Garza Deputy Division Director  Jesse M. Blakley Senior Assistant County Attorney  Eleanor G. Matheson Assistant County Attorney  Office of the Harris County Attorney 1019 Congress Ave., 15th Floor Houston, Texas 77002

## TABLE OF CONTENTS

<b>INTEREST OF AMICUS CURIAE.....</b>	<b>1</b>
<b>INTRODUCTION AND SUMMARY OF THE ARGUMENT .....</b>	<b>2</b>
<b>ARGUMENT.....</b>	<b>4</b>
I. The Governor Lacks Authority to Initiate a <i>Quo Warranto</i> Proceeding .....	4
II. The Court Should Decline to Exercise Jurisdiction Over the Non-Justiciable Political Question Raised in the Petition.....	9
III. Breaking Quorum Is Not Abandonment .....	11
IV. Accepting Donations to Facilitate a Voluntary Decision After it is Made Does Not Violate Article XVI § 41 or the § 36.02 of the Penal Code .....	14
V. A Temporary Absence for the Duration of the Special Session Does Not Mean a Legislator Has “Remove[d] His Residence” From His District.....	17
<b>CONCLUSION .....</b>	<b>19</b>
<b>CERTIFICATE OF SERVICE .....</b>	<b>21</b>
<b>CERTIFICATE OF COMPLIANCE .....</b>	<b>22</b>

## TABLE OF AUTHORITIES

	Page(s)
<b>Cases</b>	
<i>Angelini v. Hardberger</i> , 932 S.W.2d 489 (Tex. 1996) .....	8, 12, 13
<i>Bennett v. Clarendon Indep. Sch. Dist.</i> , 298 S.W.2d 111 (Tex. 1957) .....	4, 6
<i>Cox v. Perry</i> , 138 S.W.3d 515 (Tex. App.—Fort Worth 2004, no pet.) .....	4
<i>Dallas Cnty.</i> , 697 S.W.3d (Tex. 2024) .....	4, 7
<i>Fuller Springs v. State ex rel. City of Lufkin</i> , 513 S.W.2d 17 (Tex. 1974) .....	4
<i>Gandara v. State</i> , 527 S.W.3d 261 (Tex. App.—El Paso 2016, pet. ref’d) .....	16
<i>Garcia v. Laughlin</i> , 285 S.W.2d 191 (Tex. 1955) .....	7
<i>Hamman v. Hayes</i> , 391 S.W.2d 73 (Tex. Civ. App.—Beaumont 1965, writ ref’d) .....	4
<i>In re Abbott</i> , 628 S.W.3d 288 (Tex. 2021) .....	9, 10, 11, 14
<i>Lewis v. Drake</i> , 641 S.W.2d 392 (Tex. App.—Dallas 1982, no pet.) .....	6
<i>Mattox</i> , 683 S.W.2d 93 (Tex. App.—Austin 1984, pet. ref’d) .....	16
<i>McCall v. Manry</i> , 118 Tex. 449 (1929) .....	8
<i>Mills v. Bartlett</i> , 377 S.W.2d 636, 637 (Tex. 1964). .....	17
<i>Paxton v. Anunciation House, Inc.</i> , No. 24-0573, 2025 WL 1536224 (May 30, 2025) .....	6, 7
<i>Snyder v. Pitts</i> , 150 Tex. 407, 413, 241 S.W.2d 136, 139 (1951) .....	18
<i>Steingruber v. City of San Antonio</i> , 220 S.W. 77 (Tex. Comm’n App. 1920) ..	8, 12, 13
<i>Todd v. Martineau</i> , 141 Tex. 363 (1943) .....	8

<i>Van Dorn Preston v. M1 Support Servs., L.P.</i> , 642 S.W.3d 452 (Tex. 2022).....	9, 11
<i>Wright v. Allen</i> , 2 Tex. 158 (1847) .....	6

## **Statutes or Constitutional Provisions**

Tex. Civ. Prac. & Rem. Code § 66.002 .....	4
Tex. Civ. Prac. & Rem. Code § 66.002(a).....	7
Tex. Civ. Prac. & Rem. Code §§ 66.001, .002 .....	5
Tex. Const. art. II, § 1 .....	9
Tex. Const. art. III § 23 .....	17
Tex. Const. art. III, § 10.....	11
Tex. Const. art. XVI § 41 .....	14
Tex. Gov’t Code § 22.002(a) .....	7
Tex. Pen. Code § 36.02 .....	16
Tex. Pen. Code § 36.02(a)-(a)(1) .....	16

## **Other Authorities**

Rule 5, § 3, H. Res. 4, 89th Leg., Reg., Sess. (Tex. 2025) .....	11
Tex. Att’y Gen. Op. KP-0382 (2021) .....	12

## INTEREST OF AMICUS CURIAE<sup>1</sup>

Harris County Attorney Christian D. Menefee files this brief in support of Representative Gene Wu. As detailed in the brief, county attorneys are one of the few officials authorized to bring *quo warranto* proceedings under Texas law. As such, Harris County Attorney Christian D. Menefee is well-versed in the law governing *quo warranto*, including the procedural and jurisdictional issues around it.

Harris County Attorney Christian D. Menefee therefore files this brief to highlight why Governor Abbott has usurped the authority of other elected officials to bring *quo warranto* proceedings, and that his reliance on common law authority to do so is belied by case law and statute. This brief also explains that even if abandonment of office could be grounds for *quo warranto* removal, Governor Abbott's petition does not identify that Representative Wu has abandoned his office in any legally relevant way. There are several other grounds on which to deny petition—including the Court's lack of original jurisdiction—but the County Attorney focuses on those most closely associated with the authority of his office.

---

<sup>1</sup> No counsel for a party authored this brief in whole or in part, and no entity, other than Amicus, its officers, employees, or counsel, has made a monetary contribution to the preparation or submission of this brief.

## INTRODUCTION AND SUMMARY OF THE ARGUMENT

In a world where political stunts and lawfare have become a predictable drain of judicial resources, this “lawsuit” still defies expectations. Governor Abbott simply has no authority to bring this action, and there is no legal basis to find that Representative Gene Wu abandoned his office. Any suggestion that Rep. Wu could be removed from office for breaking quorum endangers our constitutional order and will further erode trust in our system of government. The Governor’s Emergency Petition for Writ of Quo Warranto raises grave concerns regarding the authority of everyday citizens to try and remove duly elected officials, and whether courts should entertain such obviously political concerns in the first place.

The petition should be dismissed for the simple reason that longstanding Texas law does not permit the Governor to file *quo warranto* actions. Only the attorney general or a county or district attorney may do so. The Governor lacks authority to file this petition, and it should be dismissed immediately.

But even if a legal officer with authority had brought this petition, it (1) raises only political questions that violate established separation of powers principles and (2) is fraught with legally deficient claims. This Court has already held, in clear and unequivocal language, that the manner in which the Legislature compels its members’ attendance (and penalizes non-attendance) is textually committed to the

Legislature, not the courts. The Court should decline jurisdiction in this case in deference to fundamental separation of powers principles.

At the root of the many flaws in the Governor's petition is whether the State of Texas honors fundamental principles of legal authority, separation of powers, and ultimately, the will of its voters. The Harris County Attorney files this brief in support of those fundamental principles.



## ARGUMENT

### I. The Governor Lacks Authority to Initiate a *Quo Warranto* Proceeding

The petition severely misstates longstanding common-law and statutory limitations on one's authority to initiate *quo warranto* proceedings. Texas law has consistently provided that a writ of *quo warranto* “is exclusive and can only be brought by the attorney general, a county attorney, or a district attorney.” *In re Dallas Cnty.*, 697 S.W.3d 142, 152 (Tex. 2024) (citing *Hamman v. Hayes*, 391 S.W.2d 73, 74-75 (Tex. Civ. App.—Beaumont 1965, writ ref'd)). Because the Governor lacks authority to bring this action, the petition must be dismissed.

A *quo warranto* proceeding is one “through which the State acts to protect itself and the good of the public generally.” *Fuller Springs v. State ex rel. City of Lufkin*, 513 S.W.2d 17, 19 (Tex. 1974). Only a proper legal officer of the State may initiate such a proceeding. *State ex rel. Bennett v. Clarendon Indep. Sch. Dist.*, 298 S.W.2d 111, 117 (Tex. 1957) (a state attorney's decision whether to file an action in *quo warranto* “is a matter of discretion on his part which cannot be controlled by private parties or courts”). Though derived from the common law, this concept has been codified and consistently applied by the courts. *See* Tex. Civ. Prac. & Rem. Code § 66.002; *see also Cox v. Perry*, 138 S.W.3d 515, 517 (Tex. App.—Fort Worth 2004, no pet.) (“*Quo warranto* proceedings are brought by the State of Texas to challenge a person's right to hold a public office . . . . It is the exclusive remedy

afforded to the public to protect itself against the usurpation or unlawful occupancy of a public office . . .”).

The Governor asks the Court to disregard this existing statutory framework governing *quo warranto* proceedings in favor of some imagined authority at common law. Civil Practice and Remedies Code chapter 66 sets out the grounds and procedures for initiating *quo warranto* proceedings, including express authority for the attorney general or a county or district attorney to file the action.<sup>2</sup> Tex. Civ. Prac. & Rem. Code §§ 66.001, .002. The Civil Practice and Remedies Code is also clear that in Texas, statutes trump any inconsistent common law principles. *Id.* § 5.001(a) (“The rule of decision in this state consists of those portions of the common law of England that are not inconsistent with the constitution or the laws of this state, the constitution of this state, and the laws of this state.”).

But even if the common law could be considered, the Governor would fare no better. The Governor claims that he, along with any “private person,” can initiate *quo warranto* proceedings in this Court any time they wish to “challeng[e] a ‘public injury.’” Pet. at 13. This Court has stated that a determination by the attorney general, a county attorney, or a district attorney to file a *quo warranto* action “is a matter of discretion on his part which cannot be controlled by private parties or

---

<sup>2</sup> Chapter 66 also establishes the role the public, and the Governor, may play in instituting a *quo warranto* proceeding, authorizing them to “request” the attorney general or county or district attorney file a *quo warranto* petition. Tex. Civ. Prac. & Rem. Code § 66.002(c).

courts.” *State ex rel. Bennett*, 298 S.W.2d at 117. The “settled policy” of this State is that a public officer should not be called on to defend their authority to hold office “unless a proper legal officer of the State has determined that the question raised is serious and deserves judicial consideration.” *Lewis v. Drake*, 641 S.W.2d 392, 395 (Tex. App.—Dallas 1982, no pet.). Because a proper legal officer of the State did not file this petition, it must be dismissed.

This Court has consistently required that *quo warranto* actions be brought by a legal officer with authority to represent the State. In 1847, this Court acknowledged that, at that time, no law existed “extending the right to the citizen” to bring a *quo warranto* proceeding. *Wright v. Allen*, 2 Tex. 158, 160 (1847). The Court reasoned that an action related to the right to hold office “cannot be maintained but at the instance of the government” and “consequently it should be in the name of the state, by the prosecuting officer.” *Id.* In other words, absent a statute authorizing a private person to initiate a *quo warranto* action (none of which exists), such a proceeding may only be brought by the proper legal officer.

Citing this Court’s recent decision in *Paxton v. Anunciation House, Inc.*, No. 24-0573, 2025 WL 1536224 (May 30, 2025), the Governor claims Chapter 66 does not limit who may bring a *quo warranto* action. Pet. at 14. This Court in *Anunciation House* noted that Chapter 66 does not exclusively enumerate all **grounds** available in a *quo warranto* action. *Id.* The opinion says nothing about Chapter 66 not limiting

*who* may bring such an action. Notably, the opinion states the attorney general (like a county or district attorney) “has substantial discretion to file *quo warranto* actions . . .” *Id.* at 14.

The Governor also claims incorrectly that an original *quo warranto* proceeding filed in this Court is exempted from “strictures found elsewhere” that preclude a member of the public, or the Governor, from bringing such an action. Pet. at 14. Government Code subsection 22.002(a) provides this Court may issue writs of *quo warranto* “**agreeable to the principles of the law regulating those writs.**” Tex. Gov’t Code § 22.002(a). The law regulating writs of *quo warranto* provides that only authorized legal officers who represent the State may initiate them. Tex. Civ. Prac. & Rem. Code § 66.002(a); *see also In re Dallas Cnty.*, 697 S.W.3d at 152. Thus, regardless of whether the action is brought in this Court or district court, the “principles of the law regulating” writs of *quo warranto* do not grant the Governor or members of the public authority to initiate the proceeding.

The Governor also contends that this Court has “discretion to entertain this original petition.” Pet. at 15. It does not. If a petition is filed in any court by a person without authority, such as the Governor, the Court lacks jurisdiction. *See Garcia v. Laughlin*, 285 S.W.2d 191, 194-95 (Tex. 1955) (indicating lack of authority to bring a suit to remove an official deprives a court of jurisdiction). If a petition for writ of *quo warranto* is filed in this Court by a person with authority, such as the attorney

general or a county or district attorney, this Court may decline to exercise jurisdiction. *See State ex rel. Todd v. Martineau*, 141 Tex. 363 (1943); *State ex rel. McCall v. Manry*, 118 Tex. 449 (1929).

In this case, even if this Court had “discretion to entertain” the petition, the allegations weigh in favor of dismissing the petition so that the matter can be pursued in district court. The Governor claims “time is of the essence.” Pet. at 15. But the only deadlines referenced in the petition were imposed by the same person who filed it. In addition, the petition does not allege any actions that may later be determined to be void, such as a judge presiding over matters while potentially unlawfully holding office. *See State ex rel. Angelini v. Hardberger*, 932 S.W.2d 489, 490 (Tex. 1996). Also, contrary to the Governor’s assertion that “there are no disputed issues of fact,” the alleged facts supporting the petition are very much in dispute. For example, whether Rep. Wu “abandoned” his office entails an inquiry into his intent. *See Steingruber v. City of San Antonio*, 220 S.W. 77, 78 (Tex. Comm’n App. 1920) (holding that abandonment of public office is a “question of fact”). This fact question, and others, has not been resolved and must be fleshed out through discovery, as in any other civil case. If this petition had been filed by an appropriate officer, it would be proper for a district court to preside over such a case (if there was jurisdiction).

## II. The Court Should Decline to Exercise Jurisdiction Over the Non-Justiciable Political Question Raised in the Petition

The Texas Constitution “expressly enshrines the separation of powers as a fundamental principle of limited government.” *Van Dorn Preston v. M1 Support Servs., L.P.*, 642 S.W.3d 452, 458 (Tex. 2022) (citing Tex. Const. art. II, § 1). When the Constitution provides a textually demonstrable commitment to the executive and legislative branches, Texas courts should decline to exercise jurisdiction over such political questions. *Id.* Such is the case with article III, section 10.

This Court has already determined that article III, section 10 delegates to each legislative chamber decisions related to quorums and the compulsion of member attendance. *In re Abbott*, 628 S.W.3d 288, 294 (Tex. 2021). In light of the serious separation-of-powers concerns raised by the Governor, or any party seeking to penalize a member’s non-attendance through judicial removal of a duly elected legislator, the judicial branch should abstain from such matters.

Article III, section 10 provides that “[t]wo-thirds of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such a manner and under such penalties as each House may provide.” Thus, “in addition to setting the now-well-known quorum requirement at two-thirds, the constitution in its next breath ***gives the present members of each chamber a remedy*** against the absent members when a quorum is lacking.” *In re Abbott*, 628 S.W.3d at 292 (“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 *In re Abbott*, 628 S.W.3d at 291, this Court decided whether article III, section 10 provides the House of Representatives authority to physically compel the attendance of absent members. In analyzing article III, section 10’s “uncomplicated text,” this Court concluded the provision “leaves it to each chamber to decide for itself the ‘manner’ by which it will compel attendance and the ‘penalties’ it will impose in doing so.” *Id.* at 294. Given article III, section 10’s plain direction, the Court concluded the manner in which a legislative chamber compels a quorum is “textually committed to the discretion of each legislative chamber, ***not to the courts.***” *Id.* (emphasis added).

The petition asks this Court to read into article III, section 10 the Governor’s proposed “manner” of attendance compulsion accomplished through a judicial “penalty” of removal from office. This Court has explicitly warned the judicial branch should abstain from deciding the means by which the Legislature may compel member attendance, as it raises “grave separation-of-powers concerns.” *Id.* at 294 n.8.

The question of whether and how the Legislature compels the attendance of its members, or penalizes them for non-attendance, has been held to be squarely

committed to the legislative branch. Accordingly, this Court should decline to exercise jurisdiction over such questions. *See MI Support Servs.*, 642 S.W.3d at 458.

### **III. Breaking Quorum Is Not Abandonment**

The Governor claims Rep. Wu forfeited, or abandoned, his office by leaving the State to break quorum. *See e.g.* Pet. at 18-19 (arguing a representative has a duty to “appear for a quorum”). However, the Texas Constitution, a House Rule cited by the Governor, and applicable case law contradict the Governor’s claim.

First, the plain text of article III, section 10 clearly envisions that legislators may break quorum without abandoning their offices. The whole point of that section is that “absent members” are still “members” of the Legislature; otherwise, no need would exist to “compel the[ir] attendance” to establish a quorum. *See Id.* art. III, § 10; *see also In re Abbott*, 628 S.W.3d at 297 (holding this section “enable[s] quorum breaking by a minority faction”).

Second, the Governor cites a House rule that states “members may be fined ‘\$500 for each calendar day of absence’ from the chamber.” Pet. at 5 (citing Rule 5, § 3, H. Res. 4, 89th Leg., Reg., Sess. (Tex. 2025)). Like the constitutional section above, this also acknowledges a member may be absent. Moreover, “*for each calendar day*” demonstrates the absence could be for one day, multiple days, or maybe even until a special session is over. *Id.* (emphasis added). Otherwise,



wouldn't the House have included specific language that an absence could result in a fine ... and, depending on the number of days, *removal from office*?

Finally, the Governor claims “[i]t is no answer for [Rep.] Wu to say that he plans to continue serving as a representative.” Pet. at 19. Except, it is.

Under applicable case law, an official's intent is determinative of whether an elected official forfeited or abandoned their office. And intent “is a question of fact.” *Steingruber*, 220 S.W. at 78; *see also* Tex. Att’y Gen. Op. KP-0382 (2021) at 3 (noting the analysis of whether an elected official vacated their office is “a fact question”); *cf. Angelini*, 932 S.W.2d at 490 (this Court “exercis[ed its] discretion to decide” whether a justice had vacated his office in a *quo warranto* action because, among other things, “there [were] no disputed issues of fact”).<sup>3</sup>

For example, in *Steingruber v. City of San Antonio*, a mayor removed a city park commissioner from office and appointed a replacement prior to the end of the commissioner's two-year term. *Steingraber*, 220 S.W. at 77. The replaced commissioner did not protest, turned over all his city property, stopped performing his duties, and did not take any formal or legal action to be reinstated. *Id.* Nevertheless, a year later, he sought to recover his park commissioner salary for the

---

<sup>3</sup> Without a clear demonstration that the facts are undisputed here, this Court should not entertain this action.

period from when he was removed up to his term's expiration. *Id.* at 77-78. The city refused, arguing he had abandoned his office. *Id.* at 78.

The court disagreed. While acknowledging “[a] public office may be abandoned,” it determined sufficient evidence showed the replaced commissioner still “desir[ed] and intend[ed] to hold the office.” *Id.* at 78. Accordingly, the court determined he had not abandoned his office. *Id.*

Similarly, in *State ex rel. Angelini v. Hardberger*, this Court acknowledged that when determining whether an elected official forfeited their office, intent is key. *Angelini*, 932 S.W.2d at 489. There, a court of appeals justice submitted a resignation letter notifying the governor he intended to resign at the end of his term, which was in six months. *Id.* at 490. When the governor attempted to remove the justice and appoint a replacement prior to the end of that term, the State sought a writ of *quo warranto* “to have the [justice’s] office declared vacant.” *Id.* This Court denied that writ, holding the justice’s intent prevented the governor from removing him “before the date on which he intends to vacate his office.” *Id.* at 495.<sup>4</sup>

The history of quorum breaking is well understood, well documented, and has never been interpreted as showing intent to abandon a legislative office. *See In re*

---

<sup>4</sup> To hold otherwise, that intent does not determine abandonment, would mean Justice Boyd forfeited his office months ago. *See* Supreme Court of Texas website, “Justice Jeff Boyd to retire from the Supreme Court of Texas” (April 9, 2025), <https://txcourts.gov/supreme/news/justice-jeff-boyd-to-retire-from-supreme-court-of-texas/>

*Abbott*, 628 S.W.3d at 292-97 (acknowledging Texas legislators have been breaking quorum for almost 200 years and that legislators in 2021 “assumed, as did previous generations of quorum-breaking legislators, that a successful break of quorum required their absence from the state”). Creating a precedent that an elected official abandons their office if they leave Texas to break quorum would flout both precedent and a great Texas political tradition.

Accordingly, the Texas Constitution, the House Rule cited by the Governor, and case law contradict the Governor’s claim that Rep. Wu abandoned his office.

#### **IV. Accepting Donations to Facilitate a Voluntary Decision After it is Made Does Not Violate Article XVI § 41 or the § 36.02 of the Penal Code**

In his meritless argument that Rep. Wu’s actions violate Texas anti-bribery law, the Governor omits statements expressing Rep. Wu’s internal motivations, willfully misinterprets Rep. Wu’s actions, and fails to connect the facts to the definition of bribery in the Texas Constitution and Penal Code.

Article XVI, section 41 of the Texas Constitution states that any legislative, executive, or judicial officer that is found guilty of bribery within the meaning of the Constitution shall be removed from office. In brief, bribery under the Texas Constitution means accepting, receiving, or consenting to receive any money or thing of value *for* his vote or official influence, or for withholding the same. Tex. Const. art. XVI § 41. The Constitution requires that accepting the thing of value is *for* a vote, official influence, or withholding the same. It would be absurd to read

this provision as labeling accepting things of value to *facilitate* a decision that is *already made* as bribery.

In his petition, the governor makes it clear that Rep. Wu’s decision to break quorum was made “[a]lmost immediately after Governor Abbott issued his proclamation calling a special session” on July 9, 2025.<sup>5</sup> Pet. at 5. When questioned about the financial burden breaking quorum imposes, Rep. Wu stated “frankly, I don’t care” because “what we’re fighting for is not about us. It’s not about our pain or our suffering. We are elected officials. ***We have volunteered for this.*** We have committed to sacrificing our lives to protect the people of the state of Texas and that is exactly what we do.”<sup>6</sup> The decision to break quorum was completely voluntary and was made prior to and irrespective of any financial circumstance in which it would place Rep. Wu.

After making the decision to break quorum, Rep. Wu and other legislators accepted donations to alleviate the cost of leaving the state and paying for food and lodging. The Governor acknowledges that the things of value accepted by Rep. Wu were to “*facilitate* the ‘withholding of’ his vote from the Texas House by *effectuating* his out-of-state absence” Pet. at 22 (emphasis added). The social media

---

<sup>5</sup> Governor Abbott Announced Special Session Agenda, Press Release, Office of the Texas Governor (July 9, 2025) <https://gov.texas.gov/news/post/governor-abbott-announces-special-session-agenda->.

<sup>6</sup> CNN, Hear Top Texas Democrat’s Response to Gov. Abbott’s Threat, YOUTUBE, at 02:44-03:11 (Aug. 4, 2025), [https://www.youtube.com/watch?v=xNqVy9\\_J4GU](https://www.youtube.com/watch?v=xNqVy9_J4GU) (emphasis added).

posts the Governor offers as “evidence” of Rep. Wu violating Article XVI section 41 were created on August 3, 2025, after Rep. Wu began effectuating his decision to break quorum. This does not constitute bribery under the Texas Constitution.

The Governor also argues that Rep. Wu’s decision to break quorum and acceptance of aid to facilitate that decision is a violation of Texas Penal Code § 36.02. That section states that “[a] person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another: any benefit as consideration for the recipient’s decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter” Tex. Pen. Code § 36.02(a)-(a)(1). As the Governor admits, this Court cannot determine whether Rep. Wu’s actions violate § 36.02 of the Penal Code because its prosecution is the sole responsibility of district attorneys. Pet. at 21.

In any event, Rep. Wu has not violated § 36.02 because he has not withheld his vote in consideration for any benefit. *Gandara v. State*, 527 S.W.3d 61 (Tex. App.—El Paso 2016, pet. ref’d). The mental state of the actor is the main focus of the bribery offense. *Ex parte Mattox*, 683 S.W.2d 93, 97 (Tex. App.—Austin 1984, pet. ref’d). Here, Rep. Wu’s mental state clearly shows that he made this decision

voluntarily and independently, accepting and soliciting donations to facilitate his decision only after it was made.<sup>7</sup>

**V. A Temporary Absence for the Duration of the Special Session Does Not Mean a Legislator Has “Remove[d] His Residence” From His District**

The Governor’s argument that Rep. Wu has removed his residence from his district is devoid of facts, utterly nonsensical, and self-serving. Under Texas law, a temporary absence from one’s domicile does not amount to “remov[ing] his residence” under Article III § 23 of the Texas Constitution—suggesting otherwise is absurd.

Under Article III § 23 of the Texas Constitution, “[i]f any Senator or Representative remove his residence from the district or county for which he was elected, his office shall thereby become vacant, and the vacancy shall be filled as provided in section 13 of this article.” Tex. Const. Art. III § 23. Removing one’s residence requires the present intent to leave one’s domicile permanently and establish a new one elsewhere. *Mills v. Bartlett*, 377 S.W.2d 636, 637 (Tex. 1964). The Constitution uses residence to mean “home” or “domicile” which means a “true fixed and permanent home and principal establishment, and to which, whenever he is absent, he has the intention of returning.” *Snyder v. Pitts*, 150 Tex. 407, 413

---

<sup>7</sup> The Governor’s argument that Rep. Wu’s acceptance of donations to support the quorum break is entirely inconsistent with his argument that Rep. Wu abandoned his office. Either Rep. Wu is still very much an active member of the Legislature, capable of engaging in official acts and thus engaging in bribery, or he has abandoned his seat. Which is it?

(1951). A temporary absence does not change one's domicile. *Id.* Rep. Wu resides in District 137 in Harris County, Texas and has not shown any present intent to permanently move his residence to Illinois or anywhere else.

As the Governor states, Rep. Wu has “no intention to return in any timeframe during which actual legislative action can be taken on the Special Session.” Pet. at 24. Rep. Wu intends to remain outside of Texas “for as long as legislation he dislikes is subject to a vote.” Pet. at 24. The legislation Rep. Wu opposes is subject to a vote until August 20, 2025. However, as the Governor seems to admit in his petition, Rep. Wu's absence is *not* indefinite because it will last for the remainder of the 30-day Special Session which ends on August 20, 2025.

Rep. Wu has made it clear in his own words that this absence is not indefinite by stating that, “our commitment to this is one day at a time, and we're going to deal with this special session and what happens in the next special session if the governor calls it.”<sup>8</sup> This statement evidences Rep. Wu's present intent to remain outside of Texas only for as long as it takes for the Special Session to end. After the Special Session is over, Rep. Wu will determine when he is able to return to his home in District 137.<sup>9</sup>

---

<sup>8</sup> CNN, Hear Top Texas Democrat's Response to Gov. Abbott's Threat, YOUTUBE, at 05:06-5:16 (Aug. 4, 2025), [https://www.youtube.com/watch?v=xNqVy9\\_J4GU](https://www.youtube.com/watch?v=xNqVy9_J4GU).

<sup>9</sup> In support of his argument that Rep. Wu intends to remain away from his residence permanently, rather than using Rep. Wu's own words, the governor points to an August 3, 2025 New York Times article in which the author opines that Rep. Wu “suggested that the walkout could last

Rep. Wu has not “remove[d] his residence” under Article III § 23 of the Texas Constitution—any argument to the contrary is completely meritless. Indeed, if a brief absence with a clear end date causes a legislator to abandon their office under the Texas Constitution, legislators could never leave their districts for any reason, including traveling to Austin for any special or regular session.

### **CONCLUSION**

Amicus Curiae respectfully request that the Court dismiss the Governor’s petition.

---

through the rest of the 30-day special session, which was scheduled to end in late August, and possibly beyond.” Pet. at 9-10 (citing J. David Goodman & Julie Bosman, Texas Democrats Leave State to Block G.O.P. from Redrawing Political Map, N.Y. TIMES (Aug. 3, 2024), <https://www.nytimes.com/2025/08/03/us/texas-democrats-walkout-redistricting-map-gop.html>).



Respectfully submitted,

**CHRISTIAN D. MENEFEE**

HARRIS COUNTY ATTORNEY

/s/ Christopher Garza

Jonathan G. C. Fombonne

Deputy County Attorney & First Assistant

State Bar No. 24102702

Jonathan.Fombonne@harriscountytexas.gov

Tiffany S. Bingham

Managing Counsel

State Bar No. 24012287

Tiffany.Bingham@harriscountytexas.gov

Christopher R. Garza

Deputy Division Director

State Bar No. 24078543

Christopher.Garza@harriscountytexas.gov

Jesse M. Blakley

Senior Assistant County Attorney

State Bar No. 24060952

Jesse.Blakley@harriscountytexas.gov

Eleanor Matheson

Assistant County Attorney

State Bar No. 24131490

Eleanor.Matheson@harriscountytexas.gov

Harris County Attorney's Office

1019 Congress, 15<sup>th</sup> Floor

Houston, Texas 77002

Telephone: (713) 274-5101

Facsimile: (713) 755-8924

**ATTORNEYS FOR *AMICUS***

***CURIAE***

## **CERTIFICATE OF SERVICE**

I certify that on August 8, 2025, I filed a true and correct copy of the foregoing brief and it has been sent electronically to all counsel of record.

/s/ Christopher R. Garza  
CHRISTOPHER R. GARZA

## **CERTIFICATE OF COMPLIANCE**

Based on a word count run in Microsoft Word, this Amicus Brief contains 4,475 words, excluding the portions of the brief exempt from the word count under Texas Rule of Appellate Procedure 9.4(i)(1).

/s/ Christopher R. Garza  
CHRISTOPHER R. GARZA