IN THE SUPREME COURT OF VIRGINIA

STEVEN KOSKI, in his official capacity as Commisioner of the Virginia Department of Elections, *et al.* Appellants, v. REPUBLICAN NATIONAL COMMITTEE, *et al.* Appellees.	)	Record No.: _____

Motion for Emergency Stay[1]

Appellants Steven Koski, John O'Bannon, Rosalyn R. Dance, Georgia Alvis-Long, Christopher P. Stolle, and Sally Hudson, in their official capacities, as well as the Virginia Department of Elections and Virginia State Board of Elections (State Election Officials), by counsel, move this Honorable Court to immediately stay the Tazewell Circuit Court's April 22, 2026 order in *Republican National Committee v. Koski*, CL26-266, pending outcome of this appeal. The State Election Officials have informed counsel for all parties of their intent to file this motion.

[1] This motion is substantively identical to the Amended Motion to Stay filed yesterday in the Court of Appeals of Virginia.

Rule 5:4(a)(1). The RNC opposes a motion to stay and intends to file a response. The Local Election Officials agree to the motion to the extent that it "permits [them] (only) to continue their work as part of the routine post-election process." Given the time sensitive nature of this case, the State Elections Officials request that the Court waive the 10-day response period in Rule 5:4(a)(2).

Introduction

This emergency motion arises from a final judgment that nullifies a statewide constitutional referendum—entered the day after more than three million Virginians cast their ballots—based on theories of Article XII that find no footing in the constitutional text.

When the circuit court first enjoined the referendum in February, this Court stayed that order and allowed the electorate to exercise the role Article XII assigns to it. Virginia voters did exactly that on April 21, and they approved the proposed amendment. Less than 24 hours later, the circuit court swept the entire referendum aside, declaring the amendment "void ab initio," deeming every ballot "ineffective," barring certification of the results, and prohibiting the Commonwealth from taking any step to give the vote legal effect. A vote that cannot be

counted, certified, or implemented is no vote at all. The judgment displaces the electorate at the decisive moment Article XII reserves for it, while the legal questions remain fully subject to appellate review.

Those rulings cannot bear the weight the circuit court placed on each of them. The judgment rests on a definition that treats the statutory start of early voting as a constitutional event, a 90-day timing rule untethered from Article XII's text, an expansive Submission Clause theory that would cast courts as editors of legislative ballot drafting, and the elevation of internal legislative housekeeping and a ministerial publication statute into judicially enforceable constitutional pre-requisites. Each reading adds to Article XII a requirement the Constitution does not contain. The judgment further invalidates HB 1384 on Article IV grounds—a Form of Laws ruling that misreads the Clause as policing legislative craftsmanship, and a special legislation ruling that mistakes a form restriction for a subject-matter withdrawal. At minimum, each of these rulings presents a substantial and debatable legal question, and debatable legal questions do not justify the extraordinary step of voiding a referendum before appellate review has occurred.

The injunction compounds the error. It is not narrow, not remedial, and not tailored to any injury Plaintiffs have alleged. It nullifies votes already cast, bars certification of the results, and reaches forward into the administration of Virginia's upcoming congressional elections—prohibiting the State Election Officials from updating voter registration records, adjusting districts and precincts, generating poll books and ballots, or conducting any primary or general election duties. That kind of sweeping, forward-looking command bears no meaningful relationship to the procedural defects Plaintiffs claim and is independently improper under Virginia law.

The equities sharpen the case for a stay. Both state and federal law require absentee ballots for the August 4 primary to be mailed by June 18, and the State Election Officials have a compressed implementation window that grows narrower with every passing day. Absent a stay, the Commonwealth will face mounting administrative disruption, the risk of voter confusion in the upcoming primary, and the nullification of a statewide vote—all before the appellate courts have had the opportunity to review the merits. Plaintiffs, by contrast, face no comparable harm. Their legal claims remain fully available on appeal, and the Court has

already signaled that any final order in this case would likely return on an expedited basis.

A stay therefore preserves both sides' arguments while preventing irreparable consequences that cannot be undone after the fact.

Background

Pursuant to Article XII of the Constitution of Virginia, the General Assembly approved a proposed constitutional amendment during one session and, following the next general election of members of the House of Delegates, approved the amendment again in a subsequent session. *See* H.J. Res. 6007 (2024 Spec. Sess. I); 2024 Acts ch. 5 (Spec. Sess. I); H.J. Res. 4 (2026 Sess.). The General Assembly then scheduled the amendment for submission to the voters at a special election held on April 21, 2026. 2026 Acts ch. 6.

On February 18—two weeks before early voting was scheduled to begin—Plaintiffs filed this lawsuit in the Circuit Court of Tazewell County. Their complaint advanced three theories: that the amendment process failed Article XII's intervening-election requirement, that statutory timing provisions required a 90-day interval before early voting

could begin, and that the ballot language prescribed by HB 1384 violated Article XII's Submission Clause.

The circuit court acted quickly, and the very next day entered a temporary injunction barring the State Election Officials from "administering, preparing for, taking any action to further the procedure of the referendum, or otherwise moving forward with causing an election to be held on the proposed constitutional amendment." *Republican Nat'l Comm. v. Koski*, 116 Va. Cir. 351, 353–54 (Tazewell Cir. Ct. Feb. 19, 2026).

This Court ultimately intervened. On March 4, following an emergency petition by the State Election Officials and a further motion for administrative stay, it stayed the circuit court's order and allowed the referendum to proceed as scheduled. *Koski v. Republican Nat'l Comm.*, 926 S.E.2d 289 (Va. 2026). The Court emphasized that, as a prudential matter, Virginia courts should not prematurely enjoin elections, while expressly declining to resolve the merits of Plaintiffs' claims. *Id.* at 291–92. It also directed the circuit court to "promptly bring the case to closure and enter final judgment." *Id.* at 293.

Plaintiffs then sought to compel immediate entry of final judgment in their favor. On March 5, they moved in the circuit court for final judgment and permanent injunctive relief. When the circuit court stayed the case and scheduled a hearing for April 22—the day after the referendum was scheduled to take place—Plaintiffs filed an emergency motion asking the Court to "clarify" that its March 4 order required the circuit court to enter final judgment immediately or, in the alternative, to consolidate this case with *Scott v. McDougle*, No. 260127. The State Election Officials responded that immediate final judgment for Plaintiffs would be procedurally improper because the case had not progressed beyond the preliminary injunction stage, the pleadings had not closed, no answer had been filed, and the merits had not been adjudicated.

The Court denied Plaintiffs' requests but clarified that its prior order did not require immediate disposition of the case prior to the filing of responsive pleadings or the consideration of evidence. *Koski v. Republican Nat'l Comm.*, 926 S.E.2d 801, 802 (Va. 2026). "Promptly," the Court explained, meant "as soon as reasonably possible in light of the procedural posture of the case and the proper sequencing of injunctive remedies consistent with *Scott v. James*, 114 Va. 297 (1912)." *Id.* at 803–

04. The Court made clear that no final injunction could be entered prior to the referendum and indicated that any final judgment entered after the referendum would "no doubt return the case to our Court in due time for a final decision" on an "expedited basis" for appellate review. *Id.* at 804.

The referendum was held as scheduled on April 21. More than three million Virginians cast ballots, and voters approved the proposed constitutional amendment. *See* Koski Decl. ¶ 6.

The circuit court entered final judgment the very next day—less than 24 hours after the polls closed—and granted Plaintiffs' motion in full. It declared the amendment "void ab initio," deemed every vote cast in the referendum "ineffective," and permanently enjoined the State Election Officials from certifying the results. Order 2. The court went further still by permanently enjoining the Commonwealth from taking any step to "give effect" to the amendment, including updating or altering voter registration records, election districts, precincts, or polling places; generating poll books and ballots; and "proceeding with new maps or districts in any congressional primary or general election under the

proposed constitutional amendment." Order 3. The court then denied the State Election Officials' motion to stay pending appeal.

The circuit court's order did not merely resolve a dispute over legal process. It nullified the result of a statewide referendum, barred certification of the vote, prohibited the Commonwealth from taking the administrative steps necessary to implement the amendment, and refused a stay notwithstanding the Court's prior statement that any final order would likely return for expedited appellate review. The State Election Officials now seek a stay of that judgment pending appeal.

Legal Standard

A stay pending appeal is an exercise of the Court's equitable discretion. *See Primov v. Serco, Inc.*, 296 Va. 59, 67 (2018). In determining whether to grant a stay, Virginia courts consider the totality of the circumstances, including: (1) the movant's likelihood of success on the merits; (2) whether the movant will suffer irreparable harm absent a stay; (3) whether issuance of the stay will substantially injure other parties; and (4) where the public interest lies. *Jeffrey v. Commonwealth*, 77 Va. App. 1, 11–16 (2023) (citing *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)).

The purpose of a stay is to preserve the status quo and protect the effectiveness of appellate review. A stay is particularly appropriate where denial would render the appeal ineffectual or permit consequences that cannot later be undone. *See Primov*, 296 Va. at 67; *Jeffrey*, 77 Va. App. at 12–14.

Argument

I. The State Election Officials are likely to succeed on appeal because the circuit court erred on both the merits and the scope of the injunction.

A. The amendment process fully complied with Article XII.

1. The circuit court erred in treating internal legislative resolutions as constitutional limits.

Notably, the first three grounds the circuit court relied on will be resolved in *Scott v. McDougle*, No. 260127. So that is an additional ground for a stay—the Court already is resolving these issues in the case the circuit court relied on for its ruling: it declared the General Assembly's first approval of the proposed amendment "void ab initio," reasoning that by taking up the amendment, the legislature violated its own resolutions defining the scope of the 2024 Special Session.

That conclusion misunderstands what those resolutions are. HJR 428 and HJR 6001 are not constitutional provisions. They are procedural resolutions, internal housekeeping through which each house organizes its own business. Courts do not enforce such resolutions as constitutional commands, and Article XII supplies no authority to do so here.

The Constitution itself commits these matters to the legislature. Article IV, § 7 commits to each house the authority to "settle its rules of procedure." That authority is plenary. Each house adopts its rules, interprets them, amends them, and suspends or waives them when its members see fit. A supermajority or unanimous-consent threshold that exists because the legislature itself wrote it down is not a constitutional fixture; it is an expression of legislative will, revisable by that same will at any time. When the General Assembly adopted HJR 6006 to broaden the scope of business the session would consider, and then approved HJR 6007, it was exercising the very authority Article IV, § 7 secures.

Virginia law has long drawn the line the circuit court crossed. Courts cannot "invade a co-ordinate and independent department" by scrutinizing the procedure by which a legislative body conducted its own business. *Wise v. Bigger*, 79 Va. 269, 281 (1884). Nor may courts

"overthrow" a legislature's determinations concerning its own procedure. *Albemarle Oil & Gas Co. v. Morris*, 138 Va. 1, 11 (1924). The U.S. Supreme Court has applied the same rule to the same effect: once a legislative enactment is duly authenticated, courts do not look behind it to audit the legislature's internal operations. *See Marshall Field & Co. v. Clark*, 143 U.S. 649, 672–73 (1892). These authorities reflect a constitutional allocation of power, not a prudential preference, and that allocation does not yield merely because a plaintiff casts a procedural grievance in the language of constitutional injury.

The circuit court's rule also evinces no limiting principle. If an internal resolution governing the scope of legislative business can be elevated into a constitutional constraint, every dispute over parliamentary procedure becomes a constitutional question, and every enactment becomes vulnerable to judicial invalidation whenever a court, reviewing the record years later, concludes that the legislature might have managed its affairs differently. The Constitution does not make the validity of statutes—or of constitutional amendments—contingent on compliance with rules the legislature adopts for its own convenience and remains free to change.

The result the circuit court reached follows only if HJR 428 and HJR 6001 are themselves constitutional provisions, but they are not. Because the General Assembly acted within its own Article IV, § 7 authority when it considered HJR 6007, and because no provision of the Constitution was violated in that consideration, the State Election Officials are likely to succeed on the merits of this issue.

2. The intervening-election requirement was satisfied as a matter of constitutional text.

The circuit court next concluded that no valid intervening general election occurred between the General Assembly's two approvals because early voting for the November 2025 election had begun before the first vote. That ruling collapses the distinction the Constitution itself draws between an election—a fixed constitutional event—and the statutory mechanisms through which ballots may be cast.

Article XII ties the intervening-election requirement to "the next general election of members of the House of Delegates." Va. Const. art. XII, § 1. The Constitution fixes when that election occurs. Members of the House of Delegates are elected "on the Tuesday succeeding the first Monday in November." Va. Const. art. IV, § 3. The November 2025

election took place on that date—*after* the General Assembly's initial approval of HJR 6007 in October 2025 and *before* its second approval of HJR 4 in January 2026. The constitutionally required sequence was followed.

The circuit court's contrary conclusion treats the commencement of early voting as the operative constitutional event. But early voting is a creature of statute. *See* Code § 24.2-701.1. It is a legislative accommodation within Virginia's absentee-voting framework that permits ballots to be cast before Election Day. It is not a separate election, and not a re-configuration of when the general election constitutionally occurs. Treating a statutory voting mechanism as re-defining a constitutional event inverts the constitutional hierarchy. It would also make Article XII's timing turn on whatever adjustments the General Assembly might later make to the early-voting window—shortening the window to expand the amendment timeline, lengthening it to contract the same. A constitutional requirement that varies with ordinary legislation is not a constitutional requirement at all.

Where the constitutional text is clear, Virginia courts apply it according to its terms and do not add requirements by implication. *See*

May v. R.A. Yancey Lumber Corp., 297 Va. 1, 6–8 (2019). Article XII specifies the sequence; Article IV fixes the date; and the November 2025 election intervened between the two legislative approvals. That is all Article XII requires, and that is what occurred.

3. The circuit court erred in treating Code § 30-13 as a constitutional prerequisite.

The circuit court also invalidated the General Assembly's 2026 votes based on alleged non-compliance with Code § 30-13, a statute whose constitutional predecessor was deliberately discarded more than 50 years ago. That ruling elevates a publication directive aimed at legislative clerks into a condition on the General Assembly's Article XII authority. Nothing in the Constitution supports that conclusion, and its text and history foreclose it.

Article XII supplies the rule of decision. Its requirements are four: (1) approval by a majority of each house; (2) an intervening general election of members of the House of Delegates; (3) second approval by the newly constituted General Assembly; and (4) submission to the voters not sooner than 90 days after final passage. Va. Const. art. XII, § 1. Those "specified prerequisites" are the only conditions on constitutional

validity, *Coleman v. Pross*, 219 Va. 143, 154 (1978), and clerical publication under Code § 30-13 is not among them.

The history of Article XII makes the omission deliberate and unassailable. The 1902 Constitution required proposed amendments to be published for three months before submission to the voters. The 1971 Constitution removed that requirement and replaced it with a different safeguard: approval by two successive General Assemblies, an intervening election, and a 90-day waiting period before a proposed amendment reaches the ballot. Professor Howard, the chief architect of the 1971 revision, described the consequence in terms the circuit court could not evade: because Article XII no longer contains a publication requirement, "an amendment cannot be challenged on the ground that publication was insufficient." A. E. Dick Howard, 2 Commentaries on the Constitution of Virginia 1175 (1974). A statute enacted to implement a constitutional command that no longer exists cannot be used to re-impose that edict through the back door of judicial enforcement.

The text of Code § 30-13 confirms that it does not purport to govern constitutional validity. It directs the Clerk of the House of Delegates to publish proposed amendments and directs circuit court clerks to post

copies and certify the posting. These are ministerial obligations imposed on public officials, not conditions precedent to the legislature's Article XII authority. The statute does not declare amendments void for non-compliance, does not bar submission to the voters, and supplies no consequence whatsoever for non-performance. This Court has treated documents produced by legislative clerks under § 30-13 accordingly, recognizing that they "are not themselves legislative enactments" and that "any error in the tables does not alter the legislative provision." *Woodard v. Commonwealth*, 214 Va. 495, 498 (1974). That distinction forecloses the circuit court's ruling because a statute governing clerical duties cannot nullify two legislative approvals and a referendum.

4. The referendum was validly submitted to the voters under Article XII.

The circuit court further concluded that the ballot language prescribed by HB 1384 violates the Submission Clause because, in its view, the question presented to voters was "flagrantly misleading" and did not "accurately describe the proposed amendment as it was passed by the General Assembly." Order at 1–2. That ruling would cast courts as editors of legislative ballot drafting, reviewing phrasing for accuracy,

neutrality, and rhetorical balance. Article XII does not authorize that role, and the presumption of constitutionality forecloses it.

The Constitution's direction on submission is spare. It provides that the General Assembly shall "submit" an approved amendment to "the voters qualified to vote in elections by the people, in such manner as it shall prescribe." Va. Const. art. XII, § 1. Article XII does not prescribe ballot language, does not require the ballot to re-produce the amendment verbatim, and does not task courts with policing legislative drafting choices. It commits the manner of submission—including the wording of the ballot question—to the political branches, as a deliberate allocation of authority.

When the General Assembly acts within that commitment, its enactment is entitled to a strong presumption of constitutional validity, with reasonable doubts resolved in favor of the law. *Finn v. Va. Ret. Sys.*, 259 Va. 144, 152 (2000). That presumption carries particular weight here, where setting aside the enactment would also set aside the result of a statewide referendum. The Submission Clause is not a roving license to second guess legislative phrasing; it polices substitution, asking one question while enacting another. Absent ballot language that

fundamentally misrepresents the choice presented to voters in a way that might confuse them as to the meaning of a "yes" vote or a "no" vote, Article XII does not authorize judicial invalidation of the electorate's vote.

The ballot question here does not come close to that standard. It asks voters whether to amend the Constitution to allow the General Assembly to "temporarily adopt new congressional districts," while "ensuring Virginia's standard redistricting process resumes for all future redistricting after the 2030 census." HB 1384, § 14. That question reasonably describes what HJR 4 does: it authorizes temporary mid-decade congressional redistricting, bounded by the 2030 census, in response to comparable actions by other States. Reasonable observers may disagree about whether the accompanying reference to "fairness" reflects persuasive framing, but disagreement over rhetorical choices is not a constitutional violation.

5. Article XII imposes no 90-day rule tied to the commencement of early voting.

The circuit court also concluded that HB 1384 violates the Timing Clause because early voting for the April 21, 2026 special election began on March 6, less than 90 days after the General Assembly's final passage

of HJR 4. That ruling rests on the same error as the first by treating statutory early voting as the operative constitutional event, this time by reading Article XII's 90-day requirement as though it governed the start of early voting rather than the election itself.

Article XII says something different. It requires that a proposed amendment be submitted to the voters at an election held "not sooner than 90 days after final passage by the General Assembly." Va. Const. art. XII, § 1. The constitutional reference is the election—the legally operative event at which the amendment is submitted—not the opening of the early-voting window. The General Assembly approved HJR 4 on January 16, 2026. The special election was held on April 21, which was 95 days later. The constitutional interval was satisfied.

Under the circuit court's reading, Article XII's 90-day clock would rise and fall with the General Assembly's choices about absentee voting. Early voting currently begins 45 days before Election Day because the General Assembly, by ordinary legislation, said so. *See* Va. Code § 24.2-701.1. If the constitutional clock now runs from the start of early voting, then every statutory adjustment to that window would dictate how long the General Assembly must wait before submitting proposed

amendments to the voters. Article XII does not yield to statutory variables in that way. Its requirements are "deliberately lengthy, precise, and balanced," *Coleman*, 219 Va. at 154, and strict compliance means following what the Constitution says—no more, no less. Every voter had more than 90 days to get informed and consider his or her decision before voting. That is what the Constitution requires.

B. The circuit court's Article IV rulings are both independently erroneous.

1. The circuit court erred in holding that HB 1384 violates Article IV, § 12.

The circuit court declared HB 1384 unconstitutional under the Form of Laws Clause on two grounds: that the bill "embraces more than one object" and that its "title does not accurately describe its subject matter." Order at 2. Both conclusions misread the bill and the constitutional standard.

Article IV, § 12 was not drafted to police legislative craftsmanship. It was drafted, as this Court has explained for well over a century, "to prevent the members of the legislature and the people from being misled by the title of a law," a safeguard against log-rolling and deceptive titling. *Commonwealth v. Brown*, 91 Va. 762, 771–72 (1895). The Clause "was never intended to hamper honest legislation, nor to require that the title

should be an index or digest of the various provisions of the act." *Town of Narrows v. Board of Supervisors*, 128 Va. 572, 582 (1920). A title satisfies § 12 when the subjects embraced in the act are "congruous, and have a natural connection with, or be germane to, the subject stated in the title." *Marshall v. N. Va. Transp. Auth.*, 275 Va. 419, 430 (2008). Reasonable doubts are resolved in favor of validity, and courts will not declare an act unconstitutional "unless it is plainly so." *Id.* at 428 (quoting *Narrows*, 128 Va. at 583).

HB 1384 satisfies that standard with room to spare. The bill is three and a half pages long. Its title identifies three subjects: appropriations related to the April 21, 2026 special election; submission of the proposed constitutional amendment to the voters; and repeal of Code § 30-13. 2026 Acts ch. 6, at 1. Each of those subjects is germane to a single unifying object—the submission of the proposed amendment to the electorate. The appropriations fund the special election at which the amendment is submitted. *Id.* at 1–2 (Item 5 ¶ F, Item 6 ¶ H, and Item 78.10). The submission provisions schedule the election and govern its conduct. *Id.* at 2–3. And the § 30-13 repeal removes a statutory publication requirement that the General Assembly concluded was no

longer necessary to the amendment process. *Id.* at 3. Those subjects are not "dissimilar or discordant." *Brown*, 91 Va. at 772. They are "all the means to an end" and "instrumentalities for the accomplishment of the general object of the act." *Id.*

The title is not misleading, and the circuit court did not identify how it was. A reader of HB 1384's title would not be surprised by its contents. No legislator voting on a three-and-a-half-page bill with an itemized title was misled about what it did. And the historical abuses § 12 was meant to prevent, such as log-rolling, hidden provisions, and titles used as cover for vicious legislation, are not remotely present here. *See State Bd. of Health v. Chippenham Hospital, Inc.*, 219 Va. 65, 74 (1978). The circuit court's contrary conclusion, offered without analysis or citation in a ruling Plaintiffs themselves barely developed in their final judgment briefing, cannot support the invalidation of a statute that otherwise carries a "strong presumption of validity." *Heublein, Inc. v. Dep't of Alcoholic Beverage Control*, 237 Va. 192, 195 (1989).

Plaintiffs' more specific theory, that HB 1384 contains a fourth unexpressed object in the form of a venue-transfer provision, fares no better. That provision centralizes litigation concerning the amendment,

the election, and the amendment process in the City of Richmond. 2026 Acts ch. 6, at 4. It is directly tied to the bill's organizing object: ensuring orderly resolution of disputes about the very referendum the rest of the bill submits to the voters. Under *Marshall*, that kind of "legitimate and natural association" with the bill's subject is exactly what Article IV, § 12 permits. 275 Va. at 429–30. The venue provision is not, moreover, even at issue in this case. Plaintiffs filed in Tazewell, and no one has been harmed by it.

Even if one provision were problematic, severance is the remedy. Virginia law is explicit on this point. Under Code § 1-243, "any unconstitutional provisions of an enactment will be severed from its remaining valid provisions, unless the enactment specifically states" otherwise. *Marshall*, 275 Va. at 428; *see also* 2025 Acts ch. 725, § 4-12.00, at 769–70 (severability clause of relevant appropriations bill). This Court has applied that rule to Article IV, § 12 challenges directly, severing a single offending provision and leaving the rest of the statute intact. *See Chippenham Hospital*, 219 Va. at 75 (severing staff privileges provision from Medical Care Facilities Certificate of Public Need Law). HB 1384 contains no anti-severability clause, and no principle of Virginia law

supports the circuit court's decision to invalidate the entire enactment—and with it, the submission of a constitutional amendment the people of Virginia have already approved—based on speculation about a venue provision that no litigant has invoked.

The circuit court's § 12 ruling cannot be sustained. HB 1384's title fairly describes its contents, its provisions are germane to a single unifying object, and any narrower defect, if one existed, would be cured by severance, not by voiding the statute.

2. The circuit court erred in holding that HB 1384 violates Article IV, § 14.

Lastly, the circuit court declared HB 1384's satellite-office requirement unconstitutional because the designation of places of voting is, in the court's view, "withdrawn from the powers of the General Assembly." Order at 2. Article IV, § 14 says nothing of the sort. It prohibits the General Assembly from enacting "any local, special, or private law" on enumerated subjects, including the "designating [of] the places of voting." Va. Const. art. IV, § 14. A general law on that subject is not what § 14 forbids, and HB 1384 is a general law.

This Court has explained that "[c]onstitutional prohibitions against special legislation do not prohibit classification," and that a law is special

"when by force of an inherent limitation it arbitrarily separates some persons, places or things from those upon which, but for such separation, it would operate." *Quesinberry v. Hull*, 159 Va. 270, 277 (1932). HB 1384's satellite-office requirement draws no such line. It applies statewide, selects no favored or disfavored locality, and creates no arbitrary classification. A uniform rule applicable to every locality in the Commonwealth is the paradigm of a general law, not a special one.

The circuit court did not apply § 14's governing standard. It identified no classification, explained no way in which the statute is "special" rather than general, and engaged with no § 14 case law. What remains is not a legal theory but an administrability complaint. The local defendants—not the Plaintiffs—raised the issue in a motion to modify the TRO, arguing that localities lacked time to comply and had received conflicting guidance from the Department of Elections. Those are operational concerns, not constitutional ones, and § 14 does not transform them into a special legislation violation.

Two additional features of the ruling confirm its untenability. *First*, the circuit court expressly told the parties at a March 4 hearing that "the satellite issue isn't going to be an issue," then invalidated the

statute on that exact issue six weeks later. *Second*, Plaintiffs' verified complaint raises § 14 only as to the unrelated venue-transfer provision, and their final judgment motion does not mention § 14 at all, the theory the circuit court adopted was not their theory.

A duly enacted statute carries a "strong presumption of validity," and the challenger bears the burden of proof. *Marshall*, 275 Va. at 428. That burden cannot be carried through a theory the Plaintiffs never pressed, a doctrine the court never analyzed, on an issue the court said it would not decide, against a provision that has not yet taken legal effect.

To be clear so this point is not lost: *The circuit court claims the election is invalid because the General Assembly insisted that localities make it easier for people to vote.* This made it easier to vote in less populous counties—larger counties already had satellite offices. The General Assembly made it easier to vote in counties that went against the referendum—counties like Tazewell. But according to the circuit court, it was so unconstitutional to the point of invalidating the vote, that the General Assembly made it easier for the people it presides over to vote "no." This entire ruling is inappropriate usurpation of power and violates basic concepts of divided government. The Court did not consider

lesser appropriate remedies and on this issue, it did not justify its conclusion with a reasoned explanation of how this generally applicable law is a "special" law.

II. Virginia voters and the Commonwealth's election processes will suffer irreparable harm absent a stay.

The circuit court's injunction is not a prospective order awaiting some future event. It is disrupting the Commonwealth's election operations right now, and every day it remains in force forecloses options the State Election Officials cannot recover later. The harms are not speculative. They are immediate, concrete, and—if the statutory calendar is allowed to run past them—irreparable.

The injunction blocks the Commonwealth from completing the certification process for the referendum itself. Virginia law requires ELECT and local election officials to complete a detailed post-election sequence on a fixed statutory timeline: duplicate-vote checks, reconciliation of provisional ballots, local certification, and certification by the State Board of Elections. *See* Koski Decl. ¶ 7. Local officials must certify no later than April 27, and the State Board must certify no later than May 4 and has scheduled a meeting for May 1 to do so. *Id.* ¶ 7. The injunction prevents ELECT from taking the final step those deadlines

require, because only ELECT operates the statewide voter registration system. *Id.* ¶12.

The injunction places the August 4 primary at risk. Once certification is complete, ELECT must implement the new congressional districts in VERIS, coordinate with local registrars, and support the cascade of downstream tasks that precede any statewide election—ballot proofing, printing, vendor coordination, absentee and UOCAVA mailings, logic-and-accuracy testing, and programming for voters with disabilities. *Id.* ¶¶ 10–51. That work is tightly sequenced. Federal law requires absentee ballots to go out to military and overseas voters no later than 45 days before Election Day. 52 U.S.C. § 20302(a)(8). Virginia law imposes the same 45-day deadline for domestic absentee ballots and early in-person voting. Code §§ 24.2-612, 24.2-701.1(A). For the August 4 primary, those statutory mailings must begin June 18. Koski Decl. ¶ 27. Working backward from that date, ELECT has planned to complete VERIS implementation by May 28 and to devote every remaining day, including weekends, to the 21-day window between ballot-order certification and the opening of absentee voting. *Id.* ¶¶ 20, 37, 52. That is already compressed; in the comparable 2025 primary cycle, election

officials had 24 days. *Id.* ¶ 38. The injunction consumes that margin day by day.

Delay beyond a certain point becomes uncorrectable. Commissioner Koski's declaration identifies May 12 as the point of no return. Once ELECT begins implementing district lines, a court order after that date directing a map will require reversing work already performed, including re-assigning voters, re-issuing notices of district assignment, re-programming systems, and re-issuing ballots. *Id.* ¶¶ 55–59. That is not an administrative inconvenience. It is the kind of mid-cycle disruption that produces the very errors election administration is designed to prevent: voters receiving the wrong ballot, precincts mis-assigned, registrations out of date. *Id.* ¶¶ 29, 59–60. A later judgment vindicating the Commonwealth's position cannot restore a primary already disrupted, or reassure voters already confused by conflicting notices. The harm will have occurred.

It might be tempting to assume that the August 4 primary could simply proceed under the existing districts if implementation of the new map is delayed. But that is neither legally permissible nor practically feasible. Once voters approved the constitutional amendment, the new

districts became the governing law of the Commonwealth unless and until a court enters a final judgment to the contrary; the State Election Officials therefore lack authority to conduct the primary under superseded districts. And in any event, the injunction does not merely halt implementation of the new districts—it prevents ELECT from performing the core administrative tasks required for *any* statewide election. With statutory deadlines rapidly approaching, each day the injunction remains in place eliminates steps that cannot be recovered later. The resulting harm to the August 4 primary is therefore imminent and irreparable.

The injunction also nullifies the legal effect of a statewide vote. By declaring every vote "ineffective" and prohibiting certification, the order ensures that the electorate's decision will have no legal consequence. That is not an abstract harm. More than three million Virginians participated in the referendum. Koski Decl. ¶6. Their participation is meaningful only if the votes are counted and given effect. An order that renders a referendum vote legally inert inflicts a concrete and irreparable injury on those voters and an injury that appellate review, however favorable, cannot undo after the relevant deadlines have passed. When

balancing harms, it is hard to imagine a larger harm than the disenfranchisement of the people who went to the polls and voted.

Plaintiffs face no comparable harm from a stay. Their asserted injuries are legal rather than operational. Those claims can be fully addressed on appeal, and if Plaintiffs ultimately prevail, courts retain authority to grant appropriate relief at that time. A stay preserves Plaintiffs' ability to challenge the amendment on the merits, while preserving the Commonwealth's ability to administer the elections the Constitution and federal law already require it to hold. Denying a stay, by contrast, is asymmetric because it inflicts concrete disruption on the Commonwealth and on Virginia voters in exchange for preserving only Plaintiffs' preferred timing. The balance tips decisively toward a stay.

III. The public interest strongly favors giving effect to the referendum and preserving orderly election administration.

The public interest does not lie in abstract legal debate while election deadlines come and go. It lies in completing the referendum Virginians have already voted on, administering the primary federal law requires the Commonwealth to hold, and allowing the orderly processes

of appellate review to operate without pre-emptive disruption of the electoral system. Each of those considerations favors a stay.

The first concern is the integrity and finality of elections. More than three million Virginians cast ballots in the April 21 referendum. Koski Decl. ¶ 6. An order that declares those votes "ineffective" and prohibits certification ensures that their participation will have no legal consequence. Elections function only if the votes cast in them are counted and given effect. When a court nullifies a statewide vote on the basis of a disputed legal theory, the consequence is not neutrality. It is erosion of the most basic premise of self-government.

Beyond that, the public interest favors stable and predictable election administration. Voting in the August 4 primary begins in 56 days away. *See* Koski Decl. ¶¶ 27, 30. Ballots must be printed, proofed, approved, and mailed to military and overseas voters by June 18. *Id*. ¶ 27. Every day the injunction remains in place compresses an already tight implementation window, introducing the exact conditions—hurried coordination, late ballot preparation, mid-cycle adjustments—that produce administrative errors. *Id.* ¶¶ 29, 53–57. Those errors do not fall on the State Election Officials. They fall on voters who receive

the wrong ballots, on candidates whose races are disrupted, and on a public that depends on elections running smoothly, even when legal disputes about those elections are unresolved.

Still more fundamentally, the public interest favors orderly appellate review rather than pre-emptive disruption. If the circuit court's rulings are correct, they can be affirmed on appeal. If they are erroneous, the damage done to a referendum and to the administration of upcoming elections cannot be undone. A stay preserves both possibilities, and it allows the legal issues to be resolved in the ordinary course while the operations of government continue. The Court has already signaled that any final order in this case would likely return there on an expedited basis for appellate review. *Koski*, 926 S.E.2d at 804. A stay gives effect to that framework. Denying one locks in the injunction's consequences before appellate review has occurred.

And finally, Virginia law reflects a deep reluctance to permit judicial interference with elections. More than a century ago, this Court held that courts of equity will not "enjoin the holding of an election," and cautioned more broadly against interference with the legislative and electoral processes while they are underway. *Scott*, 114 Va. at 304–05.

The circuit court's order does precisely what *Scott* cautions against. It halts the effect of a referendum and imposes forward-looking constraints on the administration of upcoming elections. The public interest weighs heavily against leaving that interference in place.

In short, the public interest is not served by allowing a circuit court order—entered the day after a statewide vote and before any appellate review—to nullify the participation of three million Virginians and disrupt the administration of a primary federal law requires to proceed. It is served by permitting the referendum process to complete, preserving orderly election administration, and allowing the appellate courts to resolve the legal questions presented without the extraordinary disruption the circuit court's order imposes.

Conclusion

For the foregoing reasons, the State Election Officials respectfully request that this Court stay the circuit court's April 22, 2026 final judgment, including the declaratory and injunctive relief contained therein, pending resolution of this appeal, and grant such further relief as the Court deems appropriate.

Respectfully submitted,

STEVEN KOSKI, in his official capacity as the Commissioner of the Virginia Department of Elections, et al.

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CERTIFICATE OF SERVICE

On April 24, 2026, this document was electronically filed with the Court via VACES and transmitted by email to:

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ATTACHMENT 1

VIRGINIA:

IN THE CIRCUIT COURT OF TAZEWELL COUNTY

REPUBLICAN NATIONAL COMMITTEE, *et al.*,	)	
Plaintiffs,	)	
v.	)	Civil Action No.: CL26-266
STEVEN KOSKI, in his official capacity as Commissioner of the Virginia Department of Elections, *et al.*,	)	
Defendants.	)	

FINAL JUDGMENT

Having considered Plaintiffs' Motion for Final Judgment and the record in this case, the Court:

- **GRANTS** final judgment in Plaintiffs' favor on all counts of their Verified Complaint;
- **DECLARES** that HJR 6007 is void ab initio because it violated House Joint Resolution 428 and House Joint Resolution 6001, and any action taken thereon is an invalid expansion of the General Assembly's call to the Governor for the 2024 Special Session;
- **DECLARES** that HJR 6007 is void ab initio because it violated Va. Const. art. XII, §1, as there has not been an ensuing general election of the House of Delegates, and such ensuing general election cannot occur until 2027;
- **DECLARES** that because Va. Code §30-13 has not been complied with, the votes on the proposed Constitutional Amendment taken during the 2026 Regular Session of the General Assembly are ineffective as being a second vote of the General Assembly under Va. Const. art. XII, §1;
- **DECLARES** that HB 1384 violates the Submission Clause of Va. Const. art. XII, §1 because the ballot language proposed in HB 1384 submits to the voters a flagrantly

misleading question to the voters, and because the ballot language did not accurately describe the proposed amendment as it was passed by the General Assembly;

- **DECLARES** that HB 1384 violates the Timing Clause of Va. Const. art. XII, §1 because it submitted the proposed amendment to the voters for early voting on March 6, 2026, which is sooner than the required ninety days after passage of HJ4 by the General Assembly;
- **DECLARES** that HB 1384 violates the Form of Laws Clause of Va. Const. art. IV, §12 both because it embraces more than one object and because its title does not accurately describe its subject matter;
- **DECLARES** that HB 1384 violates Va. Const. art. IV, §14 because it requires mandatory satellite offices in a precise way and that requirement is withdrawn from the powers of the General Assembly in that the legislative body is prohibited to enact local, special, or private laws for the designation of places of voting.
- **DECLARES** that any and all votes for or against the proposed constitutional amendment in the April 21, 2026 special election are ineffective;
- **FINDS** that all Plaintiffs have standing to obtain the declaratory and permanent injunctive relief sought in the Verified Complaint;
- **FINDS** that the equities weigh in favor of permanent injunctive relief, that Plaintiffs have no adequate remedy at all, and that Plaintiffs will be irreparably harmed absent permanent injunctive relief because of the numerous violations of the constitutional amendment process and because Congressmen Cline and Griffith would be irreparably harmed by their districts changing at this juncture;

- Having found that Plaintiffs are entitled to permanent injunctive relief, the Court permanently **ENJOINS** Defendants and their successors from certifying the results of the April 21, 2026 special election;
- The Court also permanently **ENJOINS** Defendants and their successors from taking any actions to give effect to the proposed constitutional amendment that is the subject of the April 21, 2026 special election, including, but not limited to:
    - updating or altering voter registration records in accordance with new congressional districts under the proposed constitutional amendment;
    - updating or altering election districts, precincts, or polling places in accordance with new congressional districts under the proposed constitutional amendment;
    - updating or generating pollbooks and ballots in accordance with new congressional districts under the proposed constitutional amendment; and
    - proceeding with new maps or districts in any congressional primary or general election under the proposed constitutional amendment;
- **DENIES** the Commonwealth Defendants' Motion to Dismiss Plaintiffs' Verified Complaint;
- **OVERRULES** the Commonwealth Defendants' Plea of Immunity and Demurrer to Plaintiffs' Verified Complaint;
- **FINDS** that Plaintiffs have complied with the County Defendants' Motion Craving Oyer, and thus **DISMISSES** the Motion Craving Oyer and **ORDERS** that the documents provided in response to the motion are made a part of the Plaintiffs' Verified Complaint;
- **DENIES** the County Defendants' requests for relief against the Commonwealth without prejudice;

- **DENIES** any other outstanding motions;
- **OVERRULES** any other outstanding pleas;
- **SUSPENDS** any bond requirement for any party petitioning or appealing from this final judgment; and
- **DENIES** the Commonwealth Defendants' motion to stay pending appeal.

ENTERED this 22nd day of April, 2026

Hon. Jack Hurley
Judge, Tazewell County Circuit Court

AGREED FOR THE REASONS AS SET FORTH ON THE RECORD:

Thomas R. McCarthy
Counsel for Plaintiffs

SEEN and OBJECTED TO by the Commonwealth Defendants for the following reasons:

1. The arguments *ore tenus* during the February 19, 2026 and the objections to the Order associated therewith;
2. The arguments set forth in Commonwealth Defendants' response to Local Defendants' First and Second Motions and arguments *ore tenus* on March 4, 2026;
3. The Commonwealth Defendants' Motion to Dismiss, Demurrer, and Plea of Sovereign Immunity;
4. The arguments set forth in Commonwealth Defendants' response to Plaintiffs' Motion for Final Judgment and Plaintiffs Supplemental Brief; and
5. The Arguments *ore tenus* during the April 22, 2026 hearing resulting in this Final Order.
6. The Commonwealth Defendants object to any relief granted by this Order that is outside the scope of the Plaintiffs' Complaint.

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AGREED IN PART AND OBJECTED IN PART FOR THE REASONS AS SET FORTH ON THE RECORD:

Aaron M. Gillespie, Esq.
Tazewell County Attorney
Counsel for Local Defendants

ATTACHMENT 2

IN THE COURT OF APPEALS OF VIRGINIA

STEVEN KOSKI, in his official capacity as Commissioner of the Virginia Department of Elections, et al. Appellants, v. REPUBLICAN NATIONAL COMMITTEE, et al. Appellees	)	Record No.: _____

DECLARATION OF COMMISSIONER STEVEN KOSKI

1. My name is Steven Koski and I am over eighteen years old and have personal knowledge of the matters addressed below.

2. I currently serve as the Commissioner of Elections for the Commonwealth of Virginia. I have served in this role since January 17, 2026.

3. In my capacity as Commissioner, I head the Department of Elections ("ELECT") and act as its principal administrative officer.

4. I previously served as the Election Services Manager at ELECT from July 30, 2025, until my appointment as Commissioner. I joined ELECT on June 10, 2022, as a Policy Analyst and also served as the Legal and Compliance Advisor.

5. In my current role, I oversee all aspects of ELECT's work, including its efforts to implement redistricting plans and conduct primary and general elections. As a result, I am familiar with ELECT's policies, practices, and systems related to redistricting and conducting elections.

April 21 Referendum on Redistricting

6. Between March 6, 2026 and April 21, 2026, voters across Virginia cast ballots in a referendum on a proposed constitutional amendment permitting the General Assembly to redraw the Commonwealth's congressional district map for elections prior to the next regular decennial redistricting. While mail ballots are still being received and the vote counts are not final, by April 22, over three million voters had participated in the election.

7. Consistent with 2026 Acts of Assembly Chapter 6, local election officials must certify the results within their locality no later than six days after the election, April 27. The State Board of Elections (the "State Board") must then certify the overall statewide result no later than 14 days after the election, May 5. The State Board had scheduled a meeting at 1:00 p.m. on May 1, to certify the results of the referendum.

8. The injunction issued on April 22, prevents ELECT and the State Board from certifying the election.

Implementing Redistricting Plans

9. In February, the Virginia General Assembly and the Governor of the Commonwealth approved a congressional district map in House Bill 29 (2026) which directed ELECT to implement the map if the public approves the proposed redistricting amendment to the constitution.

10. While initial results suggest Virginia voters approved the proposed amendment, ELECT cannot begin the work of implementing the new congressional districts enacted by the legislature until the State Board certifies the results. ELECT and the State Board planned to certify results by May 1, but the injunction, if not lifted, could cause a delay in these plans.

11. To implement the map, ELECT must update the Virginia Election and Registration Information System ("VERIS") to ensure that voters are correctly assigned to the appropriate district.

12. VERIS is the Commonwealth's statewide system that includes the voter registration information for every voter in the state, including their congressional district based on their residential address.

13. VERIS also serves as the system in which elections are managed, including the creation and management of candidate, election, and office entries. This information is used by localities to generate ballots and properly prepare for the election.

14. State and local election officials utilize VERIS to, among other things, ensure that voters receive the appropriate ballot based on their residence address. Consequently, errors in VERIS could cause voters to receive the wrong ballot—ballots that do not include the appropriate races based on their residence.

15. Updating VERIS during redistricting requires ensuring that district lines are accurately reflected in the system. This is a heavily manual process and involves significant time and resources.

16. VERIS is not a GIS-based system but rather utilizes tabular street files, therefore all changes to district lines require careful validation and translation to ensure accurate implementation.

17. In the current system, staff at ELECT and at local registrar's offices must manually review, adjust, and validate the assignment of voters within new district lines to ensure they are appropriately assigned.

18. When proposed district lines split localities or precincts, it adds complexity to this process and increases the administrative burden of implementation (including coordination with local election officials).

19. Changes during this process are made directly into VERIS while the system is active. This allows Virginia officials to continue registering new voters as they receive applications, consistent with Virginia law, while the work of implementing the new district lines is ongoing.

20. To ensure that ELECT can begin adequately preparing for the statewide primary scheduled for August 4, ELECT's leadership and IT staff have developed a plan to implement a new congressional map by May 28.

21. ELECT leadership and staff anticipate that the work required to implement redistricting will be substantial, and so ELECT plans to utilize every available day during the constrained four-week timeframe to complete the work. ELECT anticipates that key staff members will be working each day to implement the new district lines, and staff not working directly on this effort will need to cover tasks in the normal course of business for redistricting staff, in addition to communicating to localities on redistricting progress updates.

22. During previous redistricting cycles, the entire implementation process took several months to complete. ELECT has undertaken significant effort to refine its plan for implementing this redistricting, including exploring opportunities for process improvements and efficiencies. Indeed, ELECT has made progress with automation of low-complexity adjustments. However, even with those improvements, ELECT anticipates it will need to process large amounts of underlying data, manually complete more complex adjustments, review for accuracy, and ensure validation in coordination with localities. In order to complete these tasks within a tight four-week timeframe, there is little margin for delays.

Preparing for the August Primary

23. Conducting statewide elections is challenging and involves many steps. State and local election officials and third-party vendors have a variety of tasks they must complete prior to opening the polls. These include requesting and approving temporary/emergency polling place changes, finalizing and proofing ballot designs (including audio recordings for voters with disabilities), printing, shipping, assembling, and sending absentee ballots, planning for and setting up early voting polling locations, testing voting systems (including electronic pollbooks) for early voting polling locations, and setting up online methods for military and overseas voters and those with disabilities to receive and mark ballots (these ballots must be printed and mailed back). Many of these steps involve third parties who ELECT does not directly control, such as general registrar offices, and private vendors.

24. In addition, election officials operating a primary election that includes races for federal offices are subject to an array of deadlines set by federal and state law.

25. For instance, the Uniformed and Overseas Citizen Absentee Voting Act ("UOCAVA") requires election officials offer absentee voting to eligible military and overseas voters "no later than 45 days" prior to Election Day. 52 U.S.C. § 20302(a)(8).

26. Similarly, Virginia law requires registrars to both begin sending absentee ballots and begin offering early in-person voting 45 days prior to Election Day. Va. Code Ann. § 24.2-612; 24.2-701.1(A).

27. For the August 4, 2026 primary, initial absentee ballots must be sent prior to June 20. Since June 20 is a Saturday and June 19 is a holiday, in-person voting must be available beginning on June 18 (unless an office is open on June 19 or 20).

28. In order to complete the steps necessary to meet these deadlines, ELECT developed meticulous processes that both ensure each task is completed but also provide the necessary quality control to proactively identify and address errors.

29. Errors in election administration are detrimental to the integrity of an election. Failing to send ballots or open polling locations, misprinting ballots, and assigning voters to incorrect districts are difficult to correct retroactively. These errors carry the risk of disenfranchising voters and undermining public confidence in the election.

30. ELECT cannot begin the bulk of the work involved in preparing for the August primary until after it has completed its updates in VERIS ensuring that voters are correctly assigned to the appropriate district. ELECT has planned to complete that work by May 28.

31. The steps involved in preparing for the primary begin with the finalization of candidates and ballot order for the election. The deadline for candidates running for U.S. House of Representatives to file their petitions and paperwork to participate in their party's primary was moved in House Bill 29 to May 25. Va. Gen. Assem. House B. 29, Item 4-14#1s at enactment 2, § 7 (this deadline is shifted to May 26 since May 25 is a holiday).

32. The deadline for party chairs to verify those petitions and provide ELECT with the names of candidates who will participate in their primary is May 27. *Id*. at enactment 2, § 8.

33. As a result, the earliest date for the State Board of Elections to finalize the ballot order for the primary—that is the order candidates in each race will appear on the ballot—is May 28. Va Code Ann. § 24.2-529.

34. In general, ballot order for primaries is determined by the order in which candidates file. Va Code Ann. § 24.2-529. For candidates who file at the same time ("simultaneous filers), the State Board of Elections conducts a drawing to determine ballot order. *Id.*

35. The State Board has a meeting scheduled for 1:00 p.m. on May 28 to complete this task.

36. Only after ELECT accurately inputs all the candidate information into VERIS, and finalizes the ballot order for each race, can ELECT and general registrars begin the next key steps of preparing for the upcoming primary election. ELECT plans to conduct this work and perform the necessary checks for accuracy from May 29 through May 31, so localities can begin their preparations on Monday, June 1.

37. Under ELECT's plan, ELECT and general registrars will have only 21 days, between May 28, and the first day of absentee voting, June 18, to complete their preparations for the August 4 primary.

38. This is already a shorter amount of time than ELECT and general registrars typically have to complete their pre-election preparations. For instance, the ballot order for the primary held on June 21, 2025, was finalized on April 8, 2025, and the first day of absentee voting for that election was Friday, May 2, 2025. In total, election officials had 24 days, without any federal holidays, during that election to complete their preparations.

39. Once the ballot order is set, general registrars can begin the ballot proofing process by generating the ballot styles for their locality. A ballot style refers to the unique set of races and ballot questions a particular voter is eligible to participate in, as determined by their residence and, in the case of primaries, expressed party preference. Each locality can have multiple ballot styles for a given election, depending on which races are being contested in that election. For federal elections, localities must have a federal-only style for certain qualified voters.

40. General registrars obtain ballot style reports from VERIS which detail the different ballot styles they will need for the election, and which precincts get which style.

41. Most registrars then work with private vendors they have identified to design and proof ballots. This involves creating samples of each ballot that will be used in the election (ballot proofs"), reviewing those proofs to ensure that candidate names and ballot information are correct, and reviewing precinct assignments to ensure those are also correct.

42. Registrars, usually in coordination with vendors, must also must prepare audio recordings of the ballots to be used for voters with disabilities.

43. Once registrars complete these tasks, they must submit the ballot proofs and audio recordings to ELECT for review and approval.

44. Timing for this step largely depends on how quickly registrars submit their ballot proofs to ELECT, how many ballot styles each locality submits for review, and if ELECT identifies any errors.

45. For the June 2025 primary, it took about two weeks from the date the State Board of Elections finalized the ballot order for the primary to complete the ballot proofing process. ELECT began receiving ballot proofs from registrars on Tuesday, April 15, 2025, and continued receiving submissions through April 23, 2025. ELECT approved most ballot proofs by April 24, 2025.

46. Once ELECT approves the ballot proofs, general registrars work with private vendors to mass print ballots. The amount of time involved in printing varies by locality, depending on the number of ballots needed. ELECT has recommended that registrars budget at least a week to send the ballot styles to their vendors and receive the printed ballots back.

47. Once they receive the printed ballots, registrars must then prepare to mail ballots to those who have submitted requests, including military and overseas voters and voters on the permanent

absentee list. While some registrars work with a vendor to pack envelopes, many do this work themselves.

48. Registrars must also conduct "Logic and Accuracy" testing prior to beginning early voting. This step involves testing the different ballot styles that will be used for an election on any voting systems used during early voting to identify any errors before voting begins. Timing for this step depends on vendors making voting systems available for testing and assisting in conducting the testing.

49. In addition to these steps, ELECT must also set up the system for allowing electronic receipt and marking of ballots by qualifying voters with disabilities and military and overseas voters. Va. Code Ann. § 24.2-103.2. Once candidate and precinct information is updated in Enhanced Ballot, the platform ELECT uses for this purpose, general registrars must review that information to ensure it is correct and upload a list of all qualified voters who rely on electronic ballots.

50. ELECT then reviews the information independently to ensure it is correct. Once ELECT approves, voters can be emailed a link to an online portal to complete their ballot (which is then printed). For some localities, this emailing must be done manually, rather than through an automatic bulk email due to local IT security constraints.

51. Given the limited amount of time between the date ELECT and the State Board have planned to finalize the ballot order—May 28—and the first day of absentee voting—June 18—ELECT has planned to streamline its processes as much as it can. However, there are limits to what it can do, both because much of the work preparing for the primary depends on the actions of third parties outside of ELECT's control, and because many of these steps are necessary to identify and address errors that could undermine the integrity of the election.

52. ELECT anticipated needing all its Election Services division staff (even those not normally involved in this process) devoted to preparing for the August 4 primary during this timeframe and working every day including weekends to complete essential processes and meet important deadlines.

Concerns About Delays

53. In light of the timing constraints described above, delays resulting from injunctions, such as the one currently applied to ELECT and the State Board, raise the risks of disrupting ELECT's operations and causing errors in election administration.

54. Under ELECT's plan for implementing the proposed congressional districts and administering the August 2026 primary, there is little margin for delay.

55. Every day of delay increases the risk that ELECT will be unable to complete its implementation work by May 28, the date it planned to begin preparations for the August 4 primary.

56. Further, after it has begun implementing a map on May 1, any court-ordered changes requiring ELECT to implement a different map would also increase the risk of potential errors being injected into the implementation process.

57. Before beginning preparations for the primary, ELECT will need to ensure that voters are correctly assigned to the appropriate congressional district in VERIS, and that all new voter registrations received while implementing congressional lines have been reviewed and properly incorporated into VERIS.

58. As a result, once ELECT begins implementing new district lines, any court-order directing it to change course made after May 12 will significantly increase the risk of ELECT

being unable to meet the May 28 target date for beginning preparations for the August 4 primary since all work done to that point will need to be reversed.

59. Further, voters who received legally required notices of assignment to a new congressional district would need to receive an additional notice informing them of the change, leading to a significant risk of voter confusion.

60. And as noted above, delays in preparations for the August 4 primary have the potential to seriously harm the integrity of the election, both actual and perceived.

I declare under penalty of perjury under the law of the Commonwealth of Virginia that, based on my reasonable investigation and knowledge, the foregoing is true and correct.

Executed on April 23rd, 2026

Steven L. Koski
Commissioner
Virginia Department of Elections