SC100045

IN THE SUPREME COURT OF MISSOURI

JOHNATHAN BYRD, *et al.*,

Appellants,

v.

STATE OF MISSOURI, *et al.*,

Respondents.

Appeal from the Circuit Court of Cole County
The Honorable S. Cotton Walker

BRIEF OF APPELLANTS JOHNATHAN BYRD, JESSICA HONEYCUTT, AND ALLISON MILES

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JURISDICTIONAL STATEMENT

This action raises the question whether, by including section 67.2300, which concerns homelessness, House Bill (HB) 1606 violates three requirements in the Missouri Constitution: the requirement that bills have only a single subject, Mo. Const. Art. III, § 23; the requirement that a bill's subject be clearly expressed in its title, *id*.; and the requirement that bills adhere to their original purpose, *id*. § 21. In their petition, Plaintiffs-Appellants Johnathan Byrd, Jessica Honeycutt, and Allison Miles alleged that, by including section 67.2300, HB 1606 violates these three constitutional requirements and, accordingly, requested that section 67.2300 be declared invalid and that Defendants-Respondents be enjoined from implementing or enforcing it. The Circuit Court of Cole County held that HB 1606 does not violate the three constitutional requirements, and Plaintiffs-Appellants appealed. Because this case concerns the validity of section 67.2300, and because this Court has "exclusive appellate jurisdiction in all cases involving the validity of … a statute … of this state," Mo. Const. Art. V, § 3, this Court has exclusive appellate jurisdiction over this appeal.

INTRODUCTION

Article III, Section 23, of the Missouri Constitution prohibits any bill from containing "more than one subject" and requires that the subject "be clearly expressed in its title." Article III, Section 21, prohibits any bill from being "so amended in its passage through either house as to change its original purpose." Among other things, these procedural limitations improve the legislative process and ensure that neither legislators nor the public are blindsided by the contents of bills enacted into law.

In June 2022, the Governor approved HB 1606, which had passed the General Assembly in the final days of the legislative session in May. As originally introduced in the House of Representatives, HB 1606 was titled "AN ACT To repeal [four sections of the Revised Statutes of Missouri] and to enact in lieu thereof two new sections relating to county financial statements," and it contained provisions concerning county financial statements. As enacted, HB 1606 is titled "AN ACT To repeal [forty-two sections of the Revised Statutes of Missouri] and to enact in lieu thereof fifty new sections relating to political subdivisions, with a delayed effective date for a certain section and with penalty provisions," and it primarily contains provisions concerning political subdivisions.

Among the provisions added to HB 1606 during the legislative process, however, is section 67.2300, the subject of which is homelessness, not county financial statements or political subdivisions. Among other things, section 67.2300 grants certain immunity to private campground owners, officers, and employees who operate private campgrounds with state funds for the homeless; dictates how not-for-profit organizations may use state funds that would otherwise be used for the construction of permanent housing for the

homeless; and criminalizes individuals sleeping, camping, or building long-term structures on state-owned land without authority.

Johnathan Byrd, Jessica Honeycutt, and Allison Miles, residents and taxpayers of Missouri, filed this case alleging that, by including section 67.2300, HB 1606 violates the single-subject, clear-title, and original-purpose requirements in the Missouri Constitution. The Circuit Court of Cole County granted judgment on the pleadings for the defendants, holding that HB 1606 does not violate the three constitutional requirements.

The Circuit Court erred in holding that HB 1606 does not violate the Constitution. Because section 67.2300 is not fairly related to HB 1606's general subject of "political subdivisions," HB 1606 violates the single-subject requirement. Because the title of HB 1606 states that the bill's contents "relat[e] to political subdivisions," but section 67.2300 relates instead to homelessness, the bill violates the clear-title requirement. And because the contents of section 67.2300 are not germane to HB 1606's original purpose of regulating county financial statements and reducing county costs, the bill violates the original-purpose requirement. Accordingly, this Court should reverse the judgment below and enter judgment for Plaintiffs-Appellants.

STATEMENT OF FACTS

A. History of HB 1606

On January 5, 2022, Representative Peggy McGaugh introduced HB 1606 in the Missouri House of Representatives. D18, p. 1 ¶ 1; App. 15. As introduced, HB 1606 was titled "AN ACT To repeal [four sections of the Revised Statutes of Missouri] and to enact in lieu thereof two new sections relating to county financial statements." D19, p. 2; App.

23. The bill reduced the amount of information that certain counties were required to publish in their county financial statements by allowing counties of the second, third, and fourth classification to publish summaries of certain financial data—as counties of the first classification were already allowed to do—rather than more detailed information. *Id*. at 2–8; App. 23–29.

The House of Representatives passed HB 1606 on March 24, 2022, with only a minor change to the original version, concerning the annual deadline for counties to publish their financial statements. D18, p. 2 ¶¶ 4–5; App. 6. The bill then went to the Missouri Senate, which sent the bill to the Local Government and Elections Committee. *Id*. ¶ 7. The committee recommended that the Senate pass a substitute bill that included additional provisions and changed the bill's name to "AN ACT To repeal [eleven sections of the Revised Statutes of Missouri] and to enact in lieu thereof nine new sections relating to county officials, with penalty provisions." *Id*. at 3 ¶¶ 8–9; App. 17.

On April 27, 2022, less than three weeks before the scheduled end of the legislative session, the full Senate adopted a Senate substitute to the committee's substitute bill, with 19 further amendments, including amendments that replaced "county officials" in the title of the committee's substitute bill with "political subdivisions." *Id*. ¶ 10. Among the new amendments was Amendment No. 19, which added section 67.2300 to the Revised Statutes of Missouri. *Id*. ¶ 11. That section contains nine subsections relating to homelessness. These nine provisions had been included, with minor variations, in the House committee substitute and Senate committee substitute to other bills, HB 2614 and Senate Bill (SB) 1106, *id*. ¶ 12, the titles of which indicated that section 67.2300 "relat[ed] to funding for

housing programs," D20, p. 2; App. 31; D21, p. 2; App. 36. Neither HB 2614 nor SB 1106 had been voted on for final passage by the House or Senate. D18, p. 4 ¶ 15; App. 18.

On May 4, 2022, the Senate read for the third time and passed the Senate substitute to HB 1606, which included section 67.2300. *Id*. ¶ 16. The House refused to pass the Senate substitute and requested that the Senate recede or grant a conference. *Id*. ¶ 17. The bill went to a conference committee, which proposed a substitute bill. *Id*. ¶¶ 18–19. The Senate and House passed the conference committee substitute bill on May 11 and 12, 2022. *Id*. ¶ 20. On May 18, 2022, the bill was delivered to the Governor, who approved it on June 29, 2022. *Id*. at 5 ¶ 22; App. 19.

B. HB 1606, as Enacted

As enacted, HB 1606 is entitled "AN ACT To repeal [forty-two sections of the Revised Statutes of Missouri] and to enact in lieu thereof fifty new sections relating to political subdivisions, with a delayed effective date for a certain section and with penalty provisions." D22, p. 2; App. 42. Most of the bill's provisions relate to the regulation of political subdivisions. In addition to provisions relating to the publication of county financial statements (§§ 50.815 & 50.820), HB 1606 contains, for example, provisions relating to county officials' salaries (§§ 50.327, 57.317, 58.095, 58.200 & 473.742); county auditors' duties (§ 55.160); political subdivisions' establishment of neighborhood improvement districts (§§ 67.457 & 67.461); the inclusion of certain employees in the Missouri local government employees' retirement system (§ 70.631); political subdivisions' annual financial reports to the state auditor (§ 105.145); county collectors' sales of land with delinquent taxes (§§ 140.170 & 140.190); the creation of transportation

development districts (§§ 238.212 & 238.222); and prohibitions on the use of certain refrigerants in political subdivisions' building codes (§ 260.295). *Id*. at 2–65; App. 42–105.

In addition, HB 1606, as enacted, contains the section added by Amendment No. 19 to the Senate substitute—section 67.2300—which relates to homelessness. *Id*. at 21–24; App. 61–64. Section 67.2300 contains nine subsections:

Subsection 1: The first subsection contains definitions of "state funds" and "department." *Id*. at 21; App. 61. It defines "state funds" as funds "raised by the state and federal funds received by the state for housing or homelessness," excluding "any federal funds not able to be used for housing programs pursuant to this section due to federal statutory or regulatory restrictions." *Id*. It defines "department" as "any department authorized to allocate funds raised by the state or federal funds received by the state for housing or homelessness." *Id*.

Subsection 2: The second subsection specifies how state funds for the homeless may be spent. *Id*. at 21–22; App. 61–62. In particular, it provides that state funds may be used for 1) parking areas that provide access to potable water, electric outlets, and sufficient bathrooms; 2) camping facilities, provided that individuals experiencing homelessness may only camp and store personal property at camping facilities in the areas designated to them by the agency providing the facilities and the facilities provide a mental health and substance use evaluation as designated by a state or local agency; 3) individual shelters that are suitable to house between one and three people, provide basic sleeping accommodations, electricity, showers, and bathrooms, and are limited to occupation by each person for two years or less; and 4) congregate shelters if the shelters monitor and

provide programs to improve employment, income, and prevention of return to homelessness for those who leave the shelters. *Id*. Subsection 2 requires the department (as defined in the first subsection) to provide performance payments of up to ten percent to programs of these types that meet guidelines established by the department. *Id*. at 22; App. 62. The subsection does not permit state funds for the homeless to be spent on the construction of permanent housing.

Subsection 2 requires "[i]ndividuals utilizing" facilities funded under the subsection to "be entered into a homelessness management information system maintained by the local continuum of care." *Id*. "Local continuums of care … are community-based homeless assistance program planning networks" that can apply for grants under the federal Continuum of Care program run by the U.S. Department of Housing and Urban Development (HUD). HUD, Interim Rule, *Homeless Emergency Assistance & Rapid Transition to Housing: Continuum of Care Program*, 77 Fed. Reg. 45422, 45422 (July 31, 2012). Local continuums of care are established by "relevant organizations within a geographic area" including "nonprofit homeless assistance providers, victim service providers, faith-based organizations, governments, businesses, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, and organizations that serve veterans and homeless and formerly homeless individuals." 24 C.F.R. § 578.5(a). Local continuums of care must designate a single homeless management information system for the geographic area, *id*. § 578.7(b)(1), "to comply with the HUD's data collection, management, and reporting standards and … to collect client-level data and data on the

provision of housing and services to homeless individuals and families and persons at-risk of homelessness." *Id*. § 576.2. The continuum of care must also designate an entity—which can be a private nonprofit organization or state or local governmental entity—to manage the homeless management information system. *Id*. §§ 578.3, 578.7(b)(2). Thus, subsection 2 of Section 67.2300 requires data about individuals using facilities funded by state funds for the homeless to be entered into a data collection system established by a network of organizations concerned about homelessness, including nonprofit organizations, businesses, universities, hospitals, and governmental agencies, and managed by an entity that may be a private organization or part of a state or local government.

Subsection 3: The third subsection makes the owners, officers, and employees of private campgrounds operating under section 67.2300 subject to section 537.328, RSMo, which provides immunity from liability for injury, death, or property damage resulting from an inherent risk of camping. D22, p. 22; App. 62.

Subsection 4: The fourth subsection addresses state funds that would otherwise have been used for the construction of permanent housing for homeless people. *Id*. It provides that such funds instead shall be used to assist homeless people "with substance use, mental health treatment, and other services, including short-term housing." *Id*. It requires the department to provide up to 25 percent of the allocation of such funds as performance payments to political subdivisions or not-for-profit organizations providing those services as rewards for meeting preset goals on reducing days unhoused, days incarcerated, and days hospitalized. *Id*. The subsection also allows those entities to use a

portion of state grants that otherwise would have been used for permanent housing to conduct certain surveys related to homeless people. *Id*.

Subsection 5: The fifth subsection prohibits people from using "state-owned lands for unauthorized sleeping, camping, or the construction of long-term shelters." *Id*. It provides that any violation of the prohibition "shall be a class C misdemeanor," although "for the first offense such individual shall be given a warning, and no citation shall be issued unless that individual refuses to move to any offered services or shelter." *Id*.

Subsection 6: The sixth subsection prohibits political subdivisions from adopting or enforcing policies "prohibit[ing] or discourag[ing] the enforcement of any order or ordinance prohibiting public camping, sleeping, or obstructions of sidewalks." *Id*. at 23; App. 63. It further provides that "[i]n compliance with subsection 5," a political subdivision shall not prohibit or discourage a peace officer or prosecuting attorney under its direction or control from enforcing any such order or ordinance. *Id*. It specifies, however, that the subsection's provisions do not prohibit adopting policies that encourage diversion programs or offering services in lieu of a citation or arrest. *Id*. The subsection permits the attorney general to sue any political subdivision that violates the subsection and to recover reasonable expenses incurred in such an action. *Id*.

Subsection 7: The seventh subsection provides that, within a year of HB 1606's enactment, any political subdivision with a higher per-capita rate of homelessness than the state average will stop receiving state funding from the department (as defined in subsection 1) until the department determines either that the political subdivision has a per-

capita rate of unsheltered homeless people that is at or below the state average or that the political subdivision is in compliance with the sixth subsection. *Id*.

Subsection 8: The eighth subsection permits the department authorized to allocate funds under the section to promulgate regulations to implement the provisions of the section. *Id*.

Subsection 9: The ninth subsection provides that the provisions of section 67.2300 do not apply to shelters for victims of domestic violence. *Id*. at 24; App. 64.

Section 67.2300 became effective on January 1, 2023. *Id*. at 65; App. 105.

C. Proceedings in the Circuit Court

Johnathan Byrd, Jessica Honeycutt, and Allison Miles are housing justice advocates who are residents and taxpayers of Missouri. D18, p. 5 ¶ 24; App. 19. As taxpayers, Mr. Byrd, Ms. Honeycutt, and Ms. Miles "have a legally protectable interest in the proper use and expenditure of tax dollars." *Lebeau v. Comm'rs of Franklin Cnty., Mo.*, 422 S.W.3d 284, 288 (Mo. banc 2014). Accordingly, they have an interest in section 67.2300, which dictates how state funds are spent, and the implementation of which will require the expenditure of funds generated through taxation. *See* D22, pp. 21–23; App. 61–63.

On September 6, 2022, Mr. Byrd, Ms. Honeycutt, and Ms. Miles filed a petition for declaratory and injunctive relief in the Circuit Court of Cole County challenging the constitutionality of HB 1606 on the grounds that, by including section 67.2300, it violates the single-subject, clear-title, and original-purpose requirements in the Missouri Constitution. *See* D15. The case was assigned case number 22AC-CC05079.

On September 27, 2022, the parties in case number 22AC-CC05079 and the parties in case number 22AC-CC04252 jointly moved to consolidate the cases. *See* D14, pp. 7 & 15. Case number 22AC-CC04252 was brought by The Gathering Place d/b/a Eden Village, a Missouri not-for-profit corporation that has sought, and may seek in the future, state and federal funds to provide housing assistance to the homeless. *See* D18, p. 5 ¶¶ 25–27; App. 19. That case also challenged the constitutionality of HB 1606 on the grounds that it violates the Missouri Constitution's single-subject and original-purpose requirements. *See* D31. The Circuit Court consolidated the two cases on October 11, 2022. *See* D23, p. 3; App. 3.

The parties subsequently filed a Joint Stipulation of Facts and Exhibits and filed cross-motions for judgment on the pleadings and stipulated facts. *See* D14, pp. 8–9. The Circuit Court held a hearing on November 28, 2022, and the parties filed proposed judgments on December 19, 2022. *See id*. at 10. On March 24, 2023, the Circuit Court signed the proposed judgment submitted by the defendants and entered judgment in their favor, holding that HB 1606 does not violate the single-subject, clear-title, or original-purpose requirements in the Missouri Constitution. *See* D23; App. 1–13. The judgment was added to Case.net on April 6, 2023, and Mr. Byrd, Ms. Honeycutt, and Ms. Miles filed their notice of appeal on April 11, 2023. *See* D24.

POINTS RELIED ON

Point I: The trial court erred in holding that HB 1606 does not violate the Missouri Constitution's single-subject requirement, because HB 1606 contains more than one subject, in that the general subject of HB 1606 is "political subdivisions," but section 67.2300 does not fairly relate to political subdivisions.

Mo. Const. Art. III, § 23

City of De Soto v. Parson, 625 S.W.3d 412 (Mo. banc 2021)

Rizzo v. State, 189 S.W.3d 576 (Mo. banc 2006)

Hammerschmidt v. Boone County, 877 S.W.2d 98 (Mo. banc 1994)

Point II: The trial court erred in holding that HB 1606 does not violate the Missouri Constitution's clear-title requirement, because HB 1606's title is underinclusive, in that the title indicates that the bill's contents relate to "political subdivisions," but many of section 67.2300's provisions do not relate to political subdivisions and the section as a whole addresses a different topic.

Mo. Const. Art. III, § 23

National Solid Waste Management Ass'n v. Director of Department of Natural Resources, 964 S.W.2d 818 (Mo. banc 1998)

Point III: The trial court erred in holding that HB 1606 does not violate the Missouri Constitution's original-purpose requirement, because HB 1606 contains material that is not germane to its original purpose, in that the original purpose of HB 1606 related to regulating county financial statements and reducing county publication costs, and section 67.2300 is not germane to those purposes.

Mo. Const. Art. III, § 21

Legends Bank v. State, 361 S.W.3d 383 (Mo. banc 2012)

Missouri Ass'n of Club Executives v. State, 208 S.W.3d 885 (Mo. banc 2006)

PRESERVATION STATEMENT AND STANDARD OF REVIEW FOR ALL POINTS RELIED ON

All points relied on have been preserved for appellate review. Mr. Byrd, Ms. Honeycut, and Ms. Miles alleged that HB 1606 violates the single-subject, clear-title, and original-purpose requirements in their petition for declaratory and injunctive relief. *See* D15, p. 8–9 ¶¶ 20–31. They also argued that HB 1606 violates these three requirements in their motion for judgment on the pleadings and stipulated facts and in their opposition to Defendants' motion for judgment on the pleadings.

"This Court reviews a circuit court's ruling on a motion for judgment on the pleadings *de novo*." *Woods v. Mo. Dep't of Corrs.*, 595 S.W.3d 504, 505 (Mo. 2020).

ARGUMENT

The Missouri Constitution places restrictions on the legislative process, requiring bills to address only a single subject that is clearly expressed in the bill's title and forbidding the legislature to amend bills so as to change their original purpose. By including section 67.2300's provisions on homelessness in a bill whose main subject is political subdivisions, whose title indicates that the contents of the bill relate to political subdivisions, and whose original purpose related to county financial statements and reducing county publication costs, HB 1606 violates the Missouri Constitution.

I. The trial court erred in holding that HB 1606 does not violate the Missouri Constitution's single-subject requirement, because HB 1606 contains more than one subject, in that the general subject of HB 1606 is "political subdivisions," but section 67.2300 does not fairly relate to political subdivisions.

A. HB 1606 violates the single-subject requirement because section 67.2300's subject is homelessness, not political subdivisions.

Article III, Section 23, of the Missouri Constitution provides that "[n]o bill shall contain more than one subject." "[T]his provision plays an important role in focusing legislative debate, providing adequate notice and preventing surprise to legislators or the public, and deterring the use of 'logrolling,' i.e., the practice of combining in a single bill multiple unrelated provisions that could not muster a majority individually but which can do so collectively." *City of De Soto v. Parson*, 625 S.W.3d 412, 416 (Mo. banc 2021). The provision also "maintains appropriate checks by the governor over legislative action" by "prevent[ing] the legislature from forcing the governor into a take-it-or-leave-it choice when a bill addresses one subject in an odious manner and another subject in a way the governor finds meritorious." *Hammerschmidt v. Boone Cnty.*, 877 S.W.2d 98, 102 (Mo. banc 1994).

Compliance with the single-subject requirement "is mandatory, not directory." *Id*. In determining whether a bill complies with the requirement, "the words 'one subject' must be broadly read, but not so broadly that the phrase becomes meaningless." *Id*. The Court will uphold the constitutionality of a statute unless it "clearly and undoubtedly" violates the constitutional limitation. *Id*.

"The test for whether a bill violates the single subject rule is whether the bill's provisions fairly relate to, have a natural connection with, or are a means to accomplish the subject of the bill as expressed in the title." *Giudicy v. Mercy Hosps. E. Cmtys.*, 645 S.W.3d 492, 499 (Mo. banc 2022) (citation omitted). This test does not look at "how the provisions relate to each other, but [at] whether the provisions are germane to the general subject of the bill." *Id*. (citation omitted).

Here, the general subject of HB 1606 is "political subdivisions." As enacted, HB 1606's title is "AN ACT To repeal [forty-two sections of the Revised Statutes of Missouri] and to enact in lieu thereof fifty new sections relating to political subdivisions, with a delayed effective date for a certain section and with penalty provisions." D22, p. 2; App. 42. Consistent with that title, most of the provisions in HB 1606 concern the regulation of political subdivisions, covering topics such as the publication of county financial statements, the creation of transportation development districts, and political subdivisions' abilities to cover certain employees as public safety personnel members of the Missouri local government employees' retirement system. Defendants-Respondents agreed in the Circuit Court that the subject of HB 1606 is "relating to political subdivisions," and the Circuit Court likewise stated that HB 1606's subject was "the operation and regulation of political subdivisions." D23, p. 10; App. 10.

"Even taking the most generous view," however, the subject of section 67.2300 is homelessness, not political subdivisions. *City of De Soto*, 625 S.W.3d at 418 (holding that inclusion of amendments related to annexation of land in fire-protection districts in law about elections violated the single-subject requirement, even though the amendments

mentioned elections, because "the subject of those amendments is annexations, not 'elections'"). Homelessness is the topic that ties section 67.2300 together; it is the section's "*raison d'etre*." *Hammerschmidt*, 877 S.W.2d at 103. Many of the section's subsections do not concern political subdivisions, but they all concern homelessness. And although some of the subsections mention or regulate political subdivisions, they do so only in service of furthering the section's purposes concerning homelessness. *See id.* Indeed, underscoring that section 67.2300's subject is homelessness, not political subdivisions, the original bills containing versions of section 67.2300, HB 2614 and SB 1106, described the section as "relating to funding for housing programs." D20, p. 2; App. 31; D21, p. 2; App. 36.

In holding that HB 1606's inclusion of section 67.2300 does not violate the single-subject requirement, the Circuit Court stated that "[o]ne of the key thrusts of § 67.2300 is to dictate how political subdivisions utilize and monitor state funding to address homelessness within their jurisdictions." D23, p. 10; App. 10. The focus of section 67.2300's funding provisions, however, is not on how *political subdivisions* use state funding for the homeless, but on how state funding for the homeless is used in general. And the restrictions in those provisions apply to *all* entities receiving state funds for the homelessness, not just to political subdivisions.

In *Rizzo v. State*, 189 S.W.3d 576 (Mo. banc 2006), this Court made clear that a provision does not sufficiently relate to "political subdivisions" to be included in a bill "relating to political subdivisions" if that provision applies to both political subdivisions and other entities. There, this Court held that a bill whose title, like HB 1606's, indicated that its subject was "relating to political subdivisions" violated the single-subject

requirement because it included a provision forbidding federal criminals from running for any elective office in Missouri. The Court explained that, although the section applied "to persons, such as Rizzo, running for elective office *in a political subdivision*, it [was] not so limited." *Id*. at 579. "Rather, it applie[d] equally to candidates in statewide elections." *Id*. Because the section "exceed[ed] the scope of [the bill's] declared subject—legislation relating to political subdivisions"—it was "constitutionally invalid." *Id*. at 581.

Likewise, here, although political subdivisions are among the entities that might receive state funds for the homeless and thus be subject to section 67.2300's restrictions on the use of those funds, section 67.2300 "is not so limited." *Id*. at 579. Section 67.2300's funding restrictions "appl[y] equally" to nonprofit organizations, private developers, and others receiving state funds for the homeless, and it "stretches logic to suggest that laws 'relating to political subdivisions' would have any impact" on such private organizations. *Id*. Moreover, section 67.2300 includes provisions that do not apply to political subdivisions at all—most notably subsection 3, the provision providing certain immunity to private campground owners, officers, and employees, and subsection 5, the provision criminalizing sleeping, camping, and building long-term structures on state land without authorization. By regulating private entities' use of state funds for the homeless, providing immunity to private campgrounds, and criminalizing individual activity, section 67.2300 "does more than stretch the umbrella [subject of the bill]—it breaks it." *Id*. at 580. Because section 67.2300's "scope is far more expansive" than regulating political subdivisions, its inclusion in HB 1606 violates the single-subject requirement. *Id*.

The Circuit Court also relied on the sentence in subsection 2 requiring individuals who use facilities supported by state funds for the homeless to be entered into the local continuum of care's homeless management information system. *See* D22, p. 22; App. 62; *see also supra* pp. 12–13. The court stated that "requiring [political subdivisions] to oversee the expenditure of state grants within their jurisdiction is … self-evidently related to the operation and regulation of political subdivisions." D23, p. 10; App. 10. The court misunderstood, however, both the requirement imposed by the sentence in subsection 2 and the role of political subdivisions with respect to local continuums of care. To begin with, the sentence in subsection 2 does not impose any oversight responsibilities on political subdivisions or other members of the continuum of care. It requires only that information about people using facilities funded with state funds for the homeless be entered into an information system. Although the inclusion of that data might allow for better oversight of the expenditure of state grants, the sentence does not require the continuum of care to perform such oversight.

Moreover, continuums of care include a broad array of members, including nonprofit homeless assistance providers, faith-based organizations, businesses, hospitals, universities, and affordable housing developers. *See* 24 C.F.R. § 578.5(a). The sentence does not place any responsibilities on political subdivisions in particular or impose any requirements on political subdivisions that it does not impose on other members of the continuum of care or on other entities operating facilities with state funds for the homeless.

Furthermore, even if (counter-factually) the homeless management information system were considered a local government information system, the sentence requiring

information to be entered into the system would not transform the topic of section 67.2300 into "political subdivisions," when the section's scope is "far more expansive." *Rizzo*, 189 S.W.3d at 580. Indeed, if subsection 2's reference to the homeless management information system were sufficient to make political subdivisions the topic of section 67.2300, then *any* regulation of *any* activity by *any* private entity could be included in a bill on political subdivisions so long as the private entity were required to report information on that activity to the local government. Such a construction would "read the prohibition against multiple subjects in article III, section 23 so broadly that the constitutional phrase becomes meaningless." *City of De Soto*, 625 S.W.3d at 418 (cleaned up).

In short, the subject of section 67.2300 is not political subdivisions, or how political subdivisions use and monitor state funding to address homelessness, but homelessness more generally. Section 67.2300's restrictions on the use of state funds for the homeless apply to *all* entities receiving such funds; its prohibition on unauthorized sleeping and camping on state land applies to homeless individuals themselves. Because section 67.2300 "exceeds the scope of H.B. [1606's] declared subject—legislation relating to political subdivisions"—its inclusion in HB 1606 violates the Missouri Constitution's single-subject requirement. *Rizzo*, 189 S.W.3d at 581.

B. HB 1606 violates the single-subject requirement because many of section 67.2300's provisions do not fairly relate to political subdivisions.

For a bill to comply with the single-subject requirement, each of its "provisions" must relate to the bill's subject. *Giudicy*, 645 S.W.3d at 499 (citation omitted). Here, in addition to the fact that the subject of section 67.2300 as a whole is homelessness, inclusion

of the section in HB 1606 violates the single-subject requirement because many of the section's substantive provisions—most notably, subsections 2, 3, 4, and 5—do not fairly relate to the regulation of political subdivisions.

Subsection 2: Subsection 2 specifies how state funds for the homeless may be spent, allowing the funds to be used for parking areas, camping facilities, individual shelters, and congregate shelters, if certain conditions are met. D22, pp. 21–22; App. 61–62. This provision governs the use of state funds for the homeless by *any* person or entity that receives them.

Although subsection 2 is about the use of state funds for the homeless generally, the Circuit Court stated that it was relevant to the regulation of political subdivisions because "political subdivisions are subject to the restrictions in subsection 2." D23, p. 7; App. 7. As *Rizzo* demonstrates, however, that political subdivisions are among the entities who might receive state funding for the homeless—and thus among the entities that are required to abide by the subsection 2's funding restrictions—is not sufficient to enable the provision to be included in a bill "relating to political subdivisions" when the provision is "not so limited." 189 S.W.3d at 579. Subsection 2's restrictions "appl[y] equally" to nonprofit organizations, private developers, and other entities receiving state funds for the homeless, and it "stretches logic to suggest that laws 'relating to political subdivisions' would have any impact" on these private organizations. *Id*.

The Circuit Court also stated, incorrectly, that "subsection 2 requires political subdivisions to participate in local continuums of care to monitor how effectively these 'state funds' are spent." D23, p. 7; App. 7. Subsection 2 does *not* require political

subdivisions to participate in local continuums of care; federal regulations govern the establishment of such continuums. *See* 24 C.F.R. § 578.5(a). Moreover, federal regulations require the local continuum of care to designate a homeless management information system. *See id*. § 578.7(b)(1). The sentence in subsection 2 about the local continuum of care merely requires entities that receive state funds for the homeless to enter data about individuals using their facilities in a preexisting homeless management information system. It does not impose any monitoring obligations on political subdivisions or otherwise impose any requirements on political subdivisions that are not imposed on other entities that receive state funds for the homeless.

Because subsection 2's effects are "far more expansive" than regulating political subdivisions, *Rizzo*, 189 S.W.3d at 580, its inclusion within HB 1606 violates the single-subject requirement.

Subsection 3: Subsection 3 clarifies that private campground owners, officers, and employees operating a private campground with state funds for the homeless are subject to section 537.328, RSMo, which provides immunity from liability for injury, death, or property damage resulting from an inherent risk of camping. D22, p. 22; App. 62. This subsection plainly does not relate to political subdivisions.

The Circuit Court nonetheless stated that subsection 3 is relevant to the regulation and operation of political subdivisions because it applies to private campgrounds operating with state funds for the homeless, and subsection 2 requires individuals using such facilities to be entered into the local continuum of care's homeless management information system. According to the court, subsection 3 is therefore "only applicable to campgrounds

corroborating [sic] with political subdivisions." D23, p. 7; App. 7. This chain of reasoning does not support the court's conclusion. That a private campground enters data about individuals using its facilities in the local continuum of care's homeless management information system does not mean that the private campground is collaborating with political subdivisions.

Moreover, subsection 3 would not relate to political subdivisions even if a private campground were collaborating with a political subdivision. In *Missouri Health Care Ass'n v. Attorney General of the State of Missouri*, 953 S.W.2d 617 (Mo. banc. 1997), this Court considered the inclusion, in a bill whose subject was the department of social services, of provisions making it an unlawful trade practice for certain long-term care facilities to make representations about their quality of care but to refuse to provide documents related to those representations. The Court held that the inclusion of the provisions in the bill violated the single-subject requirement, even though the department of social services regulated long-term care facilities and set the copying fee for the relevant documents. The Court explained that the "fact that the businesses regulated by [the amendments] are regulated in other respects by the department [of social services] pursuant to other statutes is irrelevant." *Id*. at 623. "The single subject limitation requires that the contents of the bill, not the entities affected by the bill, fairly relate to the subject" of the bill, and the amendments regarding the unlawful trade practice had "at best, only a de minimis connection with the department of social services." *Id*. Likewise, here, regardless of whether a private campground is working with a political subdivision, the contents of subsection 3 relate solely to immunity for owners, officers, and employees of the private campground, not to political

subdivisions, and subsection 3 cannot "be grouped under the already broad subject" of political subdivisions. *Id*.

Subsection 4: Subsection 4 dictates how state funds that would otherwise be used for the construction of permanent housing for the homeless are to be used, requires the department allocating such funds to provide up to a specified percentage of such funds as performance payments to not-for-profit organizations or political subdivisions, and allows not-for-profit organizations and political subdivisions to use such funds to conduct certain surveys. D22, p. 22; App. 62. Although this section mentions political subdivisions, it—like section 2—is "not so limited," affecting not-for-profit organizations and other entities. *Rizzo*, 189 S.W.3d at 579. Moreover, again, that people using facilities funded through state funds for the homeless must be entered into the local continuum of care's homeless management information system does not cause every provision governing the use of state funds for the homeless to relate to the regulation of political subdivisions. That requirement does not, as the Circuit Court stated, require political subdivisions to "oversee the use of state grants," D23, p. 8; App. 8, and, even if it did, subsection 4 would still be "constitutionally invalid in that it exceeds the scope of [HB 1606's] declared subject—legislation relating to political subdivisions," *Rizzo*, 189 S.W.3d at 581.

Subsection 5: Subsection 5 makes it a misdemeanor for any person "to use state-owned lands for unauthorized sleeping, camping, or the construction of long-term shelters," and provides that "for the first offense such individual shall be given a warning, and no citation shall be issued unless that individual refuses to move to any offered services or shelter." D22, p. 22; App. 62. The subsection has no connection to political subdivisions.

The Circuit Court stated that Subsection 5 is relevant to political subdivisions because "subsections 6(1) and 6(2) prohibit political subdivisions prohibiting or discouraging the enforcement of subsection 5 or any local 'order or ordinance prohibiting public, camping, sleeping, or obstruction of sidewalks.'" D23, p. 8; App. 8. "Missouri law long has recognized," however, "that the test for whether a bill addresses a single subject is *not* how the provisions relate to each other, but whether the provisions are germane to the general subject of the bill." *Giudicy*, 645 S.W.3d at 499 (citation omitted). The relevant question is thus whether subsection 5's criminalization of sleeping, camping, or building long-term structures on state land without authority itself relates to political subdivisions. It does not.

Moreover, the Circuit Court erred in stating that "subsection 6 identifies how political subdivisions shall comply with subsection 5." D23, p. 8; App. 8. At most, subsection 6 regulates how political subdivisions *enforce* subsection 5.[1] A substantive prohibition does not fall within the subject of political subdivisions simply because political subdivisions might be required to enforce it. If it did, any criminal provision on any topic could be included within a bill on political subdivisions, so long as the bill included provisions on how the political subdivision would enforce that criminal law. Such

[1] It is far from clear that subsection 6 even affects enforcement of subsection 5. Although subsection 6(2) begins with the clause "In compliance with subsection 5 of this section," it goes on to say that political subdivisions shall not prohibit or discourage peace officers or prosecuting attorneys under their direction or control "from enforcing any order or ordinance prohibiting public camping, sleeping, or obstruction of sidewalks." D22, p. 23; App. 63. It would be unusual to refer to subsection 5—part of a state statute—as an "order or ordinance."

a construction "would define single subject so broadly as to render it meaningless." *Missouri Health Care Ass'n*, 953 S.W.2d at 623.

* * *

In sum, subsections 2, 3, 4, and 5 do not fairly relate to, have a natural connection with, or serve as a means to accomplish the subject of "political subdivisions," and the inclusion of any of these provisions, on its own, would cause HB 1606 to violate the single-subject requirement.

In holding that HB 1606 does not violate the single-subject requirement, the Circuit Court stated that it would review section 67.2300 "in its entirety" rather than analyzing each subsection "in isolation." D23, pp. 9–10; App. 9–10. That is, the Circuit Court did not consider it problematic for HB 1606 to contain provisions that were unrelated to political subdivisions, so long as they were subsumed in a section that, overall, related to political subdivisions. For a bill to comply with the single-subject requirement, however, all of its "provisions" must relate to the bill's subject, *Giudicy*, 645 S.W.3d at 499, and section 67.2300 itself makes clear that the section is composed of multiple provisions, *see* D22, p. 23; App. 63 (authorizing the promulgation of rules to implement "the provisions of this section"); *id*. at 24; App. 64 (stating that the "provisions of this section" do not apply to shelters for victims of domestic violence). Moreover, declining to consider each substantive provision individually undermines the purposes of the single-subject requirement. If the Circuit Court were correct, legislators would be able to include in bills provisions that were not on the subject addressed by the bill so long as the provisions were embedded in sections that included other provisions related to the subject of the bill. The

inclusion of these unrelated provisions could cause "surprise within the legislative process," allow bills to include provisions that "alone could [not] command a majority," and "forc[e] the governor into a take-it-or-leave-it choice when a bill addresses one subject in an odious manner and another subject in a way the governor finds meritorious." *Hammerschmidt*, 877 S.W.2d at 102.

Both because section 67.2300 as a whole does not fairly relate to political subdivisions, and because many of its substantive provisions do not fairly relate to that subject, HB 1606's inclusion of section 67.2300 violates the single-subject requirement of the Missouri Constitution.

II. The trial court erred in holding that HB 1606 does not violate the Missouri Constitution's clear-title requirement, because HB 1606's title is underinclusive, in that the title indicates that the bill's contents relate to "political subdivisions," but many of section 67.2300's provisions do not relate to political subdivisions and the section as a whole addresses a different topic.

In addition to requiring that bills address only a single subject, Article III, Section 23, of the Missouri Constitution requires that a bill's subject "be clearly expressed in its title." "The purpose of the clear title requirement is to keep legislators and the public fairly apprised of the subject matter of pending laws. This requirement is violated when the title is underinclusive or too broad and amorphous to be meaningful." *Trenton Farms RE, LLC v. Hickory Neighbors United, Inc.*, 603 S.W.3d 286, 295 (Mo. banc 2020) (citation omitted).

In *National Solid Waste Management Ass'n v. Director of Department of Natural Resources*, 964 S.W.2d 818 (Mo. banc 1998), this Court held that an act whose title stated that it was repealing eighteen sections "relating to solid waste management" and enacting

twenty new sections "relating to the same subject" violated the clear-title requirement by including a section "that imposed new requirements for the issuance of permits, licenses, and grants of authority for both solid waste and hazardous waste facilities." *Id*. at 819, 820. "A title stating that the bill relates to solid waste management is unclear if the bill relates also to hazardous waste management," the Court explained. *Id*. at 821. The "lack of conformity" between the title of the bill, which referred only to "solid waste management," and the contents of the bill, which "include[d] the particular subject of hazardous waste management," made the title "underinclusive" and "affirmatively misleading." *Id*.

The title of HB 1606 is similarly underinclusive. Although HB 1606's title indicates that its contents relate to "political subdivisions," D22, p. 2; App. 42, many of section 67.2300's provisions do not relate to political subdivisions, and the section as a whole addresses a different topic. No one reading the title of the bill would suspect, for example, that it criminalizes sleeping on state land without authority; provides certain immunity from liability to owners, officers, and employees of private campgrounds; and governs how not-for-profit organizations that receive state funds for the homeless may use those funds. *See id*. at 22; App. 62.

As the Circuit Court noted, *see* D23, p. 13; App. 13, a bill can avoid being underinclusive by stating, as its title, a "broad umbrella category that includes all the topics within its cover," and "political subdivisions" is an acceptable umbrella category. *Jackson Cnty. Sports Complex Auth. v. State*, 226 S.W.3d 156, 161 (Mo. banc 2007) (citation omitted). To avoid underinclusiveness, however, the umbrella category must include *all* of the topics within the bill. The title of HB 1606 does not. Just as the title "relating to solid

waste management" in *National Solid Waste Management Ass'n* did not encompass provisions that also applied to hazardous waste facilities, the title "relating to political subdivisions" does not encompass section 67.2300's provisions on homelessness. Because section 67.2300 does "not conform to the title" of HB 1606, the title is "affirmatively misleading," and HB 1606 violates the Missouri Constitution's clear-title requirement. *Nat'l Solid Waste Mgmt.*, 964 S.W.2d at 821.

III. The trial court erred in holding that HB 1606 does not violate the Missouri Constitution's original-purpose requirement, because HB 1606 contains material that is not germane to its original purpose, in that the original purpose of HB 1606 related to regulating county financial statements and reducing county publication costs, and section 67.2300 is not germane to those purposes.

Article III, Section 21, of the Missouri Constitution provides that "no bill shall be so amended in its passage through either house as to change its original purpose." Although this restriction does not forbid legislators from adding to, extending, or limiting legislation, it prohibits "the introduction of a matter that is not germane to the object of the legislation or that is unrelated to its original subject." *Legends Bank v. State*, 361 S.W.3d 383, 386 (Mo. banc 2012). The "original purpose" of the bill refers to its "general purpose," and "is established by the bill's 'earliest title and contents' at the time the bill is introduced." *Id.* (quoting *Mo. Ass'n of Club Executives v. State*, 208 S.W.3d 885, 888 (Mo. banc 2006)). To determine whether a bill violates the original-purpose requirement, courts "compare the purpose of the original bill as introduced with the bill as passed." *Trenton Farms*, 603 S.W.3d at 294.

For example, in *Legends Bank*, 361 S.W.3d 383, this Court held that a bill containing provisions related to ethics, campaign finance restrictions, and legislators' access to keys

to the capitol dome violated the original-purpose requirement. As originally introduced, the bill had been titled "An Act to amend chapter 37, RSMo, by adding one new section relating to contracts for purchasing, printing, and services for statewide elected officials," and had contained a single section, which pertained to statewide elected officials' determination of the lowest bidder during procurement. *Id*. at 385. Based on the original title and contents, the Court determined "that the original purpose pertained to procurement of necessary goods and services for elected officials." *Id*. at 386. Because "[e]thics, campaign finance restrictions and keys to the capitol dome [we]re not germane to the original purpose of [the bill], which was to change the method by which statewide elected officials bid for printing services, paper and similar items," the Court held that the bill violated the original-purpose requirement. *Id*.

Here, when originally introduced, HB 1606 was titled "AN ACT To repeal [four sections of the Revised Statutes of Missouri] and to enact in lieu thereof two new sections relating to county financial statements." D19, p. 2; App. 23. The bill shortened the county financial statements that counties of the second, third, and fourth classification are required to publish in the newspaper each year, thereby saving those counties costs associated with publication. *Id*. at 2–8; App. 23–29. Representative McGaugh, who introduced the bill, stated before the House Local Government Committee that the bill was "just simply to save the counties money."[2] Statements on the floor of the House before the House voted on the

[2] The Missouri House of Representative makes videos of legislative proceedings available at https://house.mo.gov/MediaCenter.aspx?selected=VideoFeeds. D18, p. 2 ¶ 6; App. 16. Representative McGaugh's statement can be viewed by going to that website, clicking "Archive Video," searching videos for February 10, 2022, and clicking the link

legislation underscored that purpose of the bill. One Representative stated: "This is a good bill. It really modernizes and it really cuts the cost factor, which is tremendous in small communities, and even large communities, publishing things that aren't necessary." "This was a[n] unnecessary cost that we endured every budget year," another Representative agreed.[3]

As enacted, however, HB 1606 contains section 67.2300, which is not "logically connected or germane" to the original purpose of HB 1606. *Legends Bank*, 361 S.W.3d at 387. Section 67.2300 does not relate to county financial statements or reducing county publication costs. Indeed, section 67.2300 does not relate at all to the reduction of county costs or administrative burdens. Instead, it relates to homelessness, seeking to control the allocation of state funds for the homeless and to keep homeless people from sleeping on, camping on, or blocking public lands. These purposes "were not remotely within the original purpose of the bill." *Club Executives*, 208 S.W.3d at 888.

In holding that HB 1606 does not violate the original-purpose requirement, the Circuit Court stated that HB 1606's original purpose "was the operation and regulation of political subdivisions." D23, p. 3; App. 3. But although counties are political subdivisions,

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for "Local Government [HR7]." Representative McGaugh begins speaking at 9:12 and makes the quoted statement at 9:16.

[3] Videos of the Representatives' statements can be viewed at https://house.mo.gov/MediaCenter.aspx?selected=VideoFeeds, *see* D18, p. 2 ¶ 6; App. 16, by clicking "Archive Video," searching videos for March 24, 2022, and clicking the link for "2022 Legislative Session – Day 40 – Thursday, March 24 [Chamber]." The quoted statements begin at 10:48 and 10:49.

there is no reason to think that HB 1606's original purpose was the regulation of political subdivisions generally. The title of the original bill was far more limited; the bill only contained provisions related to the publication of county financial statements; and the representative who introduced the bill explained that it was simply intended to reduce county costs. Although "original purpose" refers to "the general purpose of the bill, not the mere details through which and by which that purpose is manifested and effectuated," *Calzone v. Interim Comm'r of Dep't of Elementary & Secondary Educ.*, 584 S.W.3d 310, 317 (Mo. 2019) (citation omitted), the original purpose should not be interpreted at the broadest conceivable level when it is clear that the purpose of the bill as introduced was more specific. Indeed, were courts required to interpret the purpose of original bills so broadly, this Court would have interpreted the original purpose of the bill in *Legends Bank*, 361 S.W.3d at 386, to be "elected officials," rather than "procurement of necessary goods and services for elected officials," rendering provisions such as the one giving legislators access to keys to the capitol dome within the original purpose. *See also Coop. Home Care, Inc. v. City of St. Louis*, 514 S.W.3d 571, 580 (2017) (holding that a bill provision prohibiting local municipalities from setting a minimum wage higher than that set by the state was not germane to the bill's original purpose, which related to the establishment, proper governance, and operation of community improvement districts, even though municipalities are political subdivisions and community improvement districts are established by political subdivisions).

In any event, even if the original purpose of HB 1606 had been to regulate political subdivisions, section 67.2300 would not be germane to that purpose, because many of its

provisions bear no relationship to political subdivisions, and the section overall concerns homelessness, not the regulation of political subdivisions. Because it includes matters not germane to its original purpose, HB 1606 violates the original-purpose requirement.

CONCLUSION

This Court should reverse the Circuit Court's judgment and enter judgment in favor of Plaintiffs-Appellants declaring that HB 1606 is unconstitutional, declaring that section 67.2300 is invalid, and enjoining Defendants-Respondents from enforcing or implementing section 67.2300.

Respectfully Submitted,

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CERTIFICATE OF SERVICE AND COMPLIANCE

I hereby certify that on June 20, 2023, I electronically filed the foregoing brief with the Clerk of the Court using the Court's electronic filing system, which will serve the brief on all counsel of record.

I further certify that this brief complies with the limitations contained in Rule 84.06(b). According to my word-processing program, Microsoft Word, the brief contains 9,177 words.

Additionally, I certify that I have signed the original version of the brief.

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