COLORADO SUPREME COURT 2 East 14th Avenue Denver, CO 80203	DATE FILED August 19, 2024 5:09 PM
Certiorari to Colorado Court of Appeals, No. 2024CA774	
Appeal from the Weld County District Court, Honorable Judge Todd L. Taylor Case No. 2023CV30834	
Petitioners: LEAGUE OF WOMEN VOTERS OF GREELEY, WELD COUNTY, INC., et al., **v.** **Respondent:** BOARD OF COUNTY COMMISSIONERS OF WELD COUNTY.	▲ **COURT USE ONLY** ▲
PHILIP J. WEISER, Attorney General NATALIE HANLON LEH, Reg. No. 18824 Chief Deputy Attorney General JENNIFER L. SULLIVAN, Reg. No. 32092* KURTIS T. MORRISON, Reg. No. 45760* Deputy Attorneys General ALEX J. ACERRA, Reg. No. 47631* JOSHUA J. LUNA, Reg. No. 51217* CATA A. CUNEO, Reg. No. 59510* Assistant Attorneys General Ralph L. Carr Colorado Judicial Center 1300 Broadway, 6th Floor Denver, CO 80203 Telephone: (720) 508-6000 E-Mail: jen.sullivan@coag.gov *Counsel of Record *Attorneys for Colorado Attorney General Philip J. Weiser*	Case No. 2024SC394

BRIEF OF *AMICUS CURIAE* COLORADO ATTORNEY GENERAL IN SUPPORT OF PETITIONERS

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 29 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The amicus brief complies with the word limits set forth in C.A.R. 29(d). It contains 4,652 words (does not exceed 4,750 words).

The amicus brief complies with the content and form requirements set forth in C.A.R. 29(c).

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 29 and C.A.R. 32.

/s/ Jennifer L. Sullivan
Jennifer L. Sullivan, #32092
Deputy Attorney General

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IDENTITY OF AMICUS CURIAE

The Colorado Attorney General is the chief legal representative for the State of Colorado, represents and defends the legal interests of the State and People of Colorado, and enforces the laws of the State. Colo. Const. art. IV, § 1; § 24-31-101(1)(a), (i), C.R.S. (2024). The Attorney General has significant interests in ensuring that Colorado laws are carried out and protect fair treatment of Colorado voters.

INTEREST OF AMICUS CURIAE

This case concerns whether a home rule county may disregard statutorily-mandated redistricting requirements for drawing county commissioner districts. Specifically, the case asks whether House Bill 21-1047 ("H.B. 21-1047"), signed into law by the Governor, applies to Weld County and its 2023 county commissioner redistricting process. Coloradans voted to draw electoral districts according to fair and transparent processes that diminish partisan gerrymandering, promote public participation, and ensure transparency. Colo. Const. art. V, §§ 44–48.4 ("Amendments Y and Z"); H.B. 21-1047, 73d Gen. Assemb., 1st Reg. Sess. (Colo. 2021) (codified at §§ 30-10-306–306.7, C.R.S. (2023)).

Those issues are at the heart of this case. The Attorney General has a statutory duty and interest in defending State laws, specifically ensuring compliance with H.B. 21-1047.

BACKGROUND

I. H.B. 21-1047 protects equal voting rights for Colorado citizens and promotes fair, transparent redistricting.

A. Colorado historically struggled with redistricting.

Last century, the General Assembly failed to redistrict, resulting in "grossly disproportionate" districts where "urban areas were systematically underrepresented." *In re Interrogatories on S.B. 21-247 Submitted by Colo. Gen. Assemb.*, 2021 CO 37, ¶ 9. Even after the U.S. Supreme Court ordered Colorado to comply with the "one-person, one vote" principle, *see* *Lucas v. Forty-Fourth Gen. Assemb. of State of Colo.*, 377 U.S. 713, 739 (1964), Colorado's redistricting challenges remained.

Two years after *Lucas*, Colorado voters vested reapportionment of state legislative districts in a commission comprised of members of the Legislative, Executive, and Judicial Departments. *See* Colo. Const. art. V, § 48 (1967). Authority over congressional district boundaries was

vested with the General Assembly, *Interrogatories on S.B. 21-247*, ¶ 9, which struggled to produce acceptable redistricting plans. *See In re Colo. Indep. Cong. Redistricting Comm'n*, 2021 CO 73, ¶ 2 (observing that in three of four recent redistricting cycles, the General Assembly failed to produce a redistricting plan that was constitutional).

B. Amendments Y and Z limit partisan politics and promote public participation and transparency in redistricting.

In November 2018, following unanimous, bipartisan support by the General Assembly, 71 percent of Colorado voters approved Amendments Y and Z to amend the Colorado Constitution to eliminate gerrymandering of Colorado's congressional and state legislative districts. *See* H.B. 21-1047, § 1(1)(e)–(f). These amendments vested redistricting in independent commissions, *Cong. Redistricting Comm'n*, ¶ 3, and codified new redistricting procedures to "limit the role of partisan politics," make the redistricting process "more transparent," "provide greater opportunity for public participation," and "bring structure to the redistricting process by using clear, ordered, and fair criteria in the drawing of districts." *Id.*, ¶ 34.

These amendments established Colorado as a leader in nonpartisan district-drawing. The Supreme Court recognized Colorado as an innovator in "restricting partisan considerations in districting through legislation." *Rucho v. Common Cause*, 588 U.S. 684, 719 (2019). Enabled by Amendments Y and Z and a commitment to reducing barriers to voting, Colorado has the country's second-highest voter participation rate. *Cf. 2020 November General Election Turnout Rates*, U.S. Election Project (Dec. 7, 2020), http://www.electproject.org/2020g.

C. H.B. 21-1047 extends fair congressional and state legislative redistricting criteria to county commissioner redistricting.

Following voters' approval of Amendments Y and Z, in 2021, the General Assembly enacted H.B. 21-1047, to address "[t]he only partisan offices elected by districts in Colorado not included in Amendments Y and Z"—county commissioners. The law extended many of the Amendment Y and Z substantive and procedural protections, including a requirement for "robust public participation," to county commissioner electoral districts with the purpose of "ensur[ing] that counties that elect some or all of their commissioners" and are "held to the same high

standards that Amendments Y and Z require of redistricting for congressional districts, state house of representative districts, and state senate districts." H.B. 21-1047, § 1(2).

H.B. 21-1047 declares that "it is of statewide interest that voters in every Colorado county are empowered to elect commissioners who will reflect the communities within the county and who will be responsive and accountable to them," and that "[i]n order for our democratic republic to truly represent the voices of the people, districts must be drawn such that the people have an opportunity to elect representatives who are reflective of and responsive and accountable to their constituents." *Id.*, § (1)(a), (i). It also explains that "people are best served when districts are not drawn to benefit particular parties or incumbents, but are instead drawn to ensure representation for the various communities of interest and to maximize the number of competitive districts." *Id.*, § (1)(b).

ARGUMENT

I. Failing to follow the redistricting statutes caused specific, concrete injury to Petitioners' right to participate in county redistricting.

A. Denial of a right to participate in public processes is sufficient to confer standing.

Relying primarily on federal law, Respondent argued below that Petitioners lacked standing because they alleged a generalized and purely procedural violation. "In Colorado, parties to lawsuits benefit from a relatively broad definition of standing." *Ainscough v. Owens*, 90 P.3d 851, 855 (Colo. 2004). But even in federal cases, once the public is afforded the right to participate in a governmental process, deprivation of that right constitutes an injury in fact.

Under both state and federal law, the relevant issue is concreteness. Where a procedural violation causes only abstract harm, plaintiffs lack standing. *See, e.g.*, *Weld Cnty. Colo. Bd. of Cnty. Comm'rs v. HRyan*, 2023 CO 54, ¶ 24 (plaintiff lacked standing where it had "not identified how the[] procedural anomalies adversely affected it"); *see also Summers v. Earth Island Inst.*, 555 U.S. 488, 496 (2009). ("[D]eprivation of a procedural right without some concrete interest that

is affected by the deprivation" is "insufficient to create Article III standing.").

But if a statute offers the public a right to participate in the machinery of government, the public acquires a "concrete interest" in such participation. For example, where a statute requires applicants to first obtain a Certificate of Designation from affected counties before receiving state hazardous waste disposal permits, relevant counties have standing to challenge permits obtained prior to county approval. *Bd. of Cnty. Comm'rs of Adams Cnty. v. Colo. Dep't of Pub. Health & Env't*, 218 P.3d 336, 338 (Colo. 2009). Given the "important role" the General Assembly has "carved out" for counties in that process, failure to enable the county's participation constitutes an injury to the affected county. *Id.* at 344.

The same is true under federal law. *Summers* is instructive. There, some of the plaintiffs' alleged injuries were too abstract to confer standing. *Summers*, 555 U.S. at 495-96. But one plaintiff identified with specificity the procedure in which he would have participated if he had been given the opportunity. *Id.* at 494. His claim was moot by the time

the case reached the Supreme Court, but the Court was clear that frustration of that plaintiff's right to participate in the government's review of a specific proposal otherwise satisfied Article III standing. *Id.* at 497; *see also* *Paulsen v. Daniels*, 413 F.3d 999, 1005 (9th Cir. 2005) (finding standing where "procedural violations of the APA threatened petitioners' concrete interest to have the public participate in the rulemaking").

Where a statute provides persons with the opportunity to participate in government processes, denial of that opportunity harms concrete interests. And such interests are at their zenith in the redistricting context. Building off the success of Amendments Y and Z, House Bill 21-1047 was designed, in part, to enable "robust public participation" in redistricting. H.B. 21-1047 § 1(2); *see also* Colo. Const. art. V § 44(1)(f) ("Citizens want and deserve an inclusive and meaningful congressional redistricting process[.]").

"[R]obust public participation" is not only a means to more representative maps. An open, inclusive process that enables meaningful participation fosters faith in elected government. In

affording the public a right to meaningfully participate in county redistricting, the General Assembly conferred a concrete interest in such participation. Under any variation of standing, denial of that right is sufficient to confer standing.

B. Holding that Petitioners lack the ability to vindicate their participation rights would frustrate the purpose of the statute.

Respondent also argued below that section 30-10-306 does not include a private right of action. But the absence of such a right defies the purposes of the redistricting statute. *See* *Allstate Ins. Co. v. Parfrey*, 830 P.2d 905, 911 (Colo. 1992) (holding that one consideration in private right of action analysis is "whether an implied civil remedy would be consistent with the purposes of the legislative scheme").

The redistricting statute provides the public a series of procedural rights related to county redistricting, all of which are intended to enable meaningful participation in county redistricting. As the holders of those procedural rights, the public is best positioned to enforce them. *See, e.g.*, *Parfrey*, 830 P.2d at 911 (noting that statutory goals would be "substantially frustrated" absent either an express or implied right of

action). An implied private right of action is not only consistent with the statutory scheme, it is the best way to ensure the rights of those harmed by statutory violations are vindicated.

II. The trial court correctly held that that section 30-10-306, *et seq.*, C.R.S., applies to a home rule county with a conflicting charter.

Respondent contends that Weld County's home rule-county status leaves it free to disregard H.B. 21-1047 and that the Court cannot compel it otherwise. *See* Defendants' Motion to Dismiss Plaintiffs' Complaint ("MTD"), pp. 13-14. This is incorrect.

The Colorado Constitution vests voters with authority to adopt a home rule charter under Article XIV and "statutes enacted pursuant hereto." Colo. Const. art. XIV, § 16(1). In establishing county home rule authority, the Constitution also requires that home rule counties "exercise all mandatory powers *as may be required by statute*." *Id.* at § 16(3) (emphasis added).

Home rule-county status does not provide a blanket exemption for home rule counties to disregard any state law in conflict with their home rule charter. While home rule counties do enjoy expanded

authority over local governance matters—an authority far narrower than that granted to home rule *municipalities*—that expanded authority is limited to matters delineated in the Colorado Constitution and statutes. Colo. Const. art. XIV, § 16; § 30-35-201, C.R.S. Those matters do not include redistricting.

A. Home rule counties cannot set their own redistricting processes that contravene State laws.

Respondent contends that the only path to challenge Weld County's redistricting process is to amend the Weld County Charter via referendum and majority vote. *See* MTD at 12-13. According to Respondent, its "home-rule status exempts it from [compliance with]…the Constitution and…Redistricting Statutes." MTD at 13. Respondent points to Article XIV, § 16(1),[1] stating that this section "exempt[s] Weld County from art. XIV, § 6 requiring election of commissioners." *Id.*

But Article XIV, § 16(5) contains no such exemption. While section 16(5) relaxes certain constitutional requirements on county

[1] This brief assumes Respondent's motion to dismiss intended to cite Colo. Const. art. XIV, § 16(5).

officers found in Article XIV, §§ 6, 8, 9, 10, 12, and 15, none of these sections govern the setting of county commissioner districts. Contrary to Respondent's argument below, section 6 of Article XIV ("County commissioners-election-term") pertains not to redistricting processes, but to elections. Thus, when reading Article XIV, § 16(5) and § 6 in concert, there is no source of authority or independence for home rule counties on commissioner redistricting.

Moreover, section 16(5) allows home rule counties freedom from the listed requirements "only to such extent as may be provided in [a home rule county's] charter." Colo. Const. art. XIV, § 16(5). As described in Section III(c) below, Weld County's charter does not conflict with the statutory county redistricting requirements.

Neither its home rule status nor the provisions of Article XIV, § 16(5) exempt Weld County from compliance with state redistricting laws.

B. State law does not vest home rule counties with authority to set their own redistricting processes for commissioner districts.

Unlike home rule *municipalities* governed by the Home Rule Amendment, which are granted very broad authority by the Constitution over multiple governance fields, *see* Colo. Const. art. XX, § 6, county home-rule is far more limited. Colo. Att'y Gen. Op. No. 03-1 (Jan. 13, 2003) ("The General Assembly exercises substantial control over home rule *counties*" and can "provide by statute limits to the permissive functions, services, facilities, and powers that can be exercised by home rule counties.") (emphasis added). State law provides that:

> The governing body of a home rule county shall…have all the powers and responsibilities *as provided by law for governing bodies of counties not adopting a home rule charter* and shall also have all of the following powers that have been included in the county's home rule charter or in any amendment thereto, pursuant to the provisions of section 30-35-103(1)…
>
> To provide by ordinance for the powers, duties, appointment, term of office, removal, and compensation of all officers and employees of the county *not otherwise provided for by the state constitution or by statute* or by charter and to provide for a retirement plan for such officers and employees;….

§ 30-35-201, (7) (emphases added).

By its plain language, state law requires home rule counties to fulfill statutory obligations. *Id.* Therefore, statutory mandates such as H.B. 21-1047 must be met by all counties, whether having a home rule charter or not.

Moreover, while home rule counties have additional self-governance powers, to exercise those powers they must be: (1) included in a home rule county's charter; and (2) enumerated in one or more of the governance fields listed in section 30-35-201(1)–(46). *See id.* Those county home rule powers listed in section 30-35-201(1)–(46) include broad governance fields such as local taxes, public entertainment, parking, streets, parks, firehouses, and cemeteries. But none of these powers address, expressly or implicitly, redistricting of commissioner district boundaries. One enumerated power is to prescribe requirements and restrictions on county officers, like commissioners. Yet this statute's grant of authority is limited to a county officer's "duties, appointment, term of office, removal, and compensation." § 30-35- 201(7), C.R.S. The statute contains no mention of how district boundaries are drawn for such officers.

But even if it did, section 30-35-201(7) limits that authority to matters "not otherwise provided for" by "statute." *Id.* Indeed there does exist another statute providing for redistricting—H.B. 21-1047. In essence, the law establishing county home rule powers does not vest redistricting authority with home rule counties; rather, it expressly directs that State laws on point—such as the H.B. 21-1047's county redistricting requirements—control.

C. Weld County's Charter requires Respondent to follow the provisions of H.B. 21-1047.

Contrary to Respondent's claims below, the requirements in H.B. 21-1047 complement—not conflict with—obligations set forth in Weld County's Charter.

Section 3-2 of Respondent's charter requires the board to revise the three geographic commissioner districts so that they "are as nearly equal in population as possible." The charter provides no other substantive guidance for drawing those districts.

This starkly contrasts with the charter provisions in *Board of County Commissioners v. Andrews*, 687 P.2d 457 (Colo. App. 1984), a case that Respondent cited below. MTD at 13. In *Andrews*, the court

held that the charter's "fairly elaborate provisions" establishing a personnel system conflicted with state statutes regarding the hiring and firing of sheriff deputies. C*Andrews*, 687 P.2d at 459–60. Here, however, Respondent wants the Court to infer that the silence surrounding the lone substantive redistricting provision preempts *any* state law addressing commissioner districts. *Andrews*' holding is not so broad.

Moreover, the charter requires Respondent to adhere to the redistricting requirements Uin H.B. 21-U1047. Section 3-8(1) provides that the board shall "perform all the duties…required…by State law to be exercised or performed by County Commissioners in either home rule or non-home rule counties." Section 3-8(4)(a) echoes this obligation, mandating that board duties include *performing any duties and responsibilities statutorily required of county commissioners in home rule counties and statutory counties*.

UH.B. 21-1047 places the attendant duties and responsibilities, procedural and substantive, equally on both home rule and statutory counties. By the terms of its own Charter, Weld County must carry out the duties set forth in the state redistricting statutes.

III. Respondent must be directed to engage in a county commissioner redistricting process that complies with the redistricting statutes.

A. Respondent's procedural violations yielded a substantively suspect map with no factual record to support it.

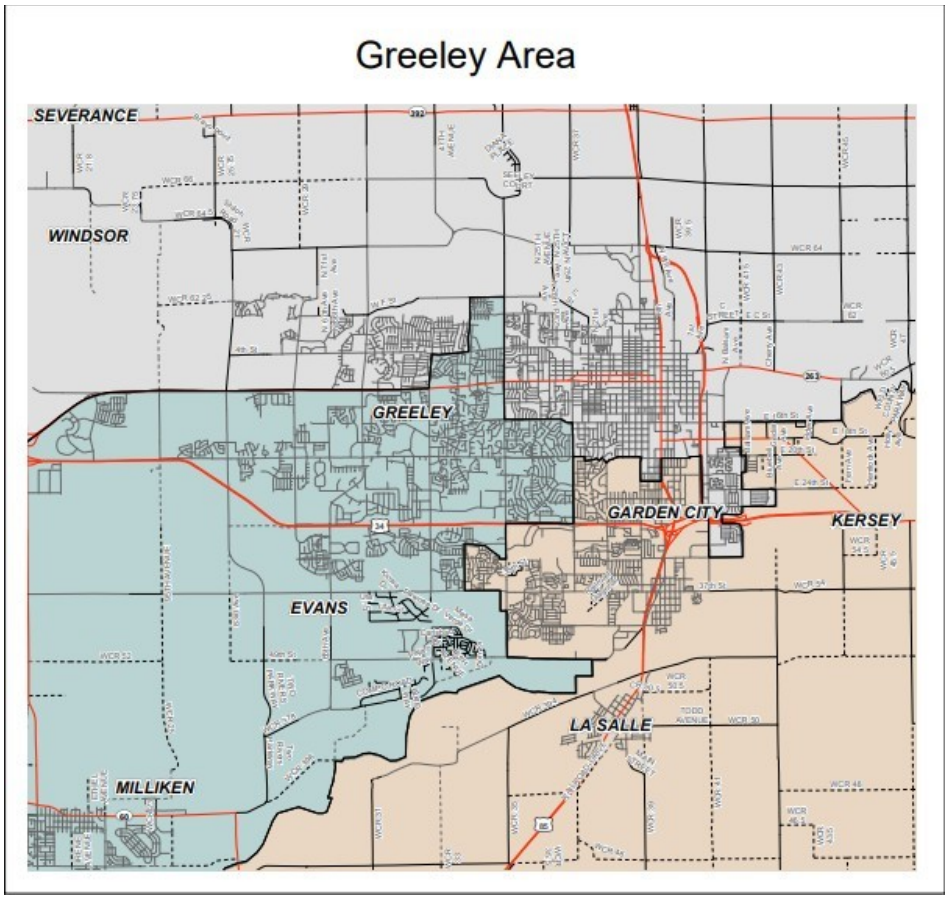
To effectuate H.B. 21-1047's goals of fair, competitive redistricting, the General Assembly codified various procedural requirements. *See* §§ 30-10-306–306.4. These procedural requirements promote transparency and robust public engagement by exposing the public to a variety of different maps, offering meaningful opportunities to provide feedback on those maps, and explaining why a particular map is ultimately adopted. *See id.*

These procedural protections are particularly important when the adopted map divides a community of interest into multiple districts. Section 30-10-306.3(2)(a) provides that "the commission's plan must preserve whole communities of interest and whole political subdivisions, such as cities and towns," and permits such a division only "where, based on a preponderance of the evidence in the record, a community of interest's legislative issues are more essential to the fair and effective

representation of residents of the district." And when "the commission divides a city or town, it shall minimize the number of divisions of that city or town." C*Id.*

Here, the district court correctly found that Respondent "failed to meet nearly every procedural requirement imposed by §§ 30-10-306 to -306.4." Order Granting Plaintiffs' Motion for Summary Judgment ("SJ Order") at 7. Notably, Respondent's map divides Greeley into three commissioner districts.[2]

[2] *Weld County Commissioner Districts*, https://www.weld.gov/Government/Departments/Commissioners/Commissioner-Districts (last visited Aug. 19, 2024).



Facially, dividing Greeley into three separate districts appears to violate the section 30-10-306.3(2)(a) substantive redistricting criteria in three respects. First, it does not keep Greeley—a community of interest and political subdivision—whole.

Second, no "preponderance of the evidence in the record" exists to demonstrate that dividing Greeley was "more essential to the fair and effective representation of residents of the district." C*Id.* Because Respondent ignored the procedural requirements to "explain how the

plans were created, how the plans address the categories of public comments received, and how the plans comply with the criteria prescribed in section 30-10-306.3," § 30-10-306.4(1)(e), no record exists to explain why Greeley was subdivided in this manner. *See* SJ Order at 5 (finding Respondent's map "does not explain how the adopted redistricting plan complies with the criteria prescribed in § 30-10-306.3").

While the Weld County Charter requires districts that "are as nearly equal in population as possible," C*id.*, this concern fails to explain why population alone warrants dividing Greeley.

Greeley represents almost one-third of Weld County's population. *See* U.S. Census Bureau, http://tinyurl.com/mty42xrk (last visited Aug. 19, 2024) [hereinafter *Greeley Census*] (Greeley, CO, 2023 Population Estimates: 112,609); http://tinyurl.com/etmmv226 (last visited Aug. 19, 2024) [hereinafter *Weld County Census*] (Weld County, CO, 2023 Population Estimates: 359,442). A reasonable conclusion could be drawn, from population alone, that Greeley could have been kept whole in a single commissioner district. *See* § 30-10-306.3(2)(b). Yet no record

exists demonstrating the purpose of dividing up Greeley—or whether leaving Greeley whole was even considered.

Third, Respondent divided Greeley into three commissioner districts—the maximum number of divisions possible. *See* § 30-10-306(1). Greeley is both the largest city in Weld County and has a larger concentration of Latinos (39.9%) than Weld County as a whole (31.3%). *See Greeley Census*; *Weld County Census*. By dividing Greeley into the maximum number of districts possible, Respondent's map facially dilutes the voting power of Weld County's urban voters and Latino voters. The absence of a record demonstrating non-partisan reasons for Greeley's subdivision invites the reasonable inference that the map improperly divided Greeley voters into three districts for political purposes.

This Court has historically disapproved of redistricting that divides cities. *See, e.g.*, *In re Reapportionment of Colo. Gen. Assemb.*, 45 P.3d 1237, 1252-53 (Colo. 2002) (disapproving of a state senate map that divided the Cities of Boulder and Pueblo); *cf. In re Colo. Indep. Legislative Redistricting Comm'n*, 2021 CO 76, ¶¶ 29-39 (noting

challenge to splitting the City of Lakewood was "the closest and most difficult" but concluding the record supported decision based on a preponderance of the evidence); *Cong. Redistricting Comm'n*, ¶¶ 70-80 (affirming the splitting of counties for U.S. congressional districts based on the preservation of communities of interest in the redistricting commission's record).

H.B. 21-1047's procedural requirements are supposed to create a record sufficient to explain facial irregularities, such as a map that maximally divides a county's largest city. This Court should hold Respondent to the process required by statute.

B. Weld County should not be permitted to delay (until 2033) drawing new county commissioner maps in accordance with the requirements of H.B. 21-1047.

To remedy its violation, the district court ordered Respondent to "begin a redistricting process in compliance with §§ 30-10-306.1 through 30-10-306.4, if possible, and if not possible, the Board is ordered to use the commissioner district maps in effect before the March 1 Resolution was adopted." SJ Order at 26. Those maps have been in place since

2015, and were drawn based on population figures collected during the 2010 census.

Respondent has wrongly interpreted the district court's order as permitting it to use the 2015 map until 2033. Specifically, Respondent argues, "[t]he status quo precludes the Board from drawing any district lines for county commissioner districts until 2033," (Opp. to Cert. Pet. at 1, citing § 30-10-306.1(3), C.R.S.), and the "Board complied as ordered and used the commissioner district map adopted in 2015." *Id.* at 5.

Respondent broke the same rules it now wields as a shield. Respondent's rigid adherence to redistricting deadlines would bind Weld County voters to a map based on 2010 population distribution for nearly the next decade. And its position flouts the district court's order by using an outdated map, which also wasn't created adhering to 30-10-306.1 through -306.4. The Court should reject Respondent's interpretation.

First, requiring Weld County to use a 2015 map until 2033 is an absurd result that cannot stand. *See* *Conte v. Meyer*, 882 P.2d 962, 965 (Colo. 1994); *Cong. Redistricting Comm'n*, ¶ 35 (permitting a

commission's late submission of its redistricting plan to "avoid[] an absurd result and further[] the voters' intent in passing Amendment Y").

Rigid adherence to the statutory requirement of making revisions or alterations during only a redistricting year is illogical when Respondent violated the statutory requirements in the first place. Having frustrated section 30-10-306.1's core purpose by refusing to follow its statutory procedures, Respondent cannot now hide behind that same section to avoid remediating its statutory violation. Taken to its logical end, Respondent's argument would enable it to never comply with the redistricting statutes so long as it continues to miss the September 30th deadline. This result defies logic and undermines the legislative intent of H.B. 21-1047. *See Matter of Title, Ballot Title & Submission Clause for 2019-2020 #74*, 2020 CO 5, ¶ 23.

Rather than comply with the statute, Respondent proposes to have Weld County voters elect commissioners in 2032 using districts allocated based on two-decades-old population data. A hypothetical is instructive. Imagine Weld County had 150,000 voters following the

2010 census, and the districts were drawn equally. Now, imagine Weld's population swells to 300,000 voters by 2032. Under Respondent's course of action, it would be possible for the 2032 election to unfold across districts with as much as 300% deviation between eligible voting populations. Population deviations may be acceptable and unavoidable over a ten-year horizon, but allowing them to exist over a 20 year period is untenable. *Cf.* *Reynolds v. Sims*, 377 U.S. 533, 583-84 (1964) ("Decennial reapportionment appears to be a rational approach to readjustment of legislative representation in order to take into account population shifts and growth.…[b]ut if reapportionment were accomplished with less frequency, it would assuredly be constitutionally suspect.").

To give effect to the legislature's intent, Respondent should be required to follow the redistricting statute to create a new map for the 2026 election. In *In re Colorado Independent Congressional Redistricting Commission*, this Court held that due to delays in Census data resulting from the pandemic, "rigid adherence to that [September 30th] deadline" would have been inappropriate, as it would have forced

the Commission to "forgo meaningful public input." ¶ 35. Thus, this Court "construe[d] the deadline" to yield to "the overarching goal of permitting the Commission adequate time to meet its substantive obligations." *Id.*

This Court emphasized three "key purposes" of the new redistricting process: (1) "to limit the role of partisan politics," (2) "to make the redistricting process more transparent and provide greater opportunity for public participation," and (3) "to bring structure to the redistricting process by using clear, ordered, and fair criteria in the drawing of districts." *Id.*, ¶ 34 (internal quotation marks omitted). These purposes were served by allowing for an exception to the deadline but would have been frustrated had the court elevated rote formalism above functionally advancing the electorate's intent.

Here, too, the spirit of UH.B. 21-1047 should trump "rigid adherence" to statutory deadlines. The redistricting statues are designed to allow "our democratic republic to truly represent the voices of the people" UH.B. 21-1047(1)(a), with the ultimate goal of ending the "practice of political gerrymandering." CColo. Const. art. V § 44(1)(a),

Amendment Y. Construing the statute harmoniously with legislative intent requires Weld County to redistrict as soon as possible, despite this not being a redistricting year.[3]

Finally, the statute does not preclude Respondent from beginning its redistricting process now. The statute prohibits the "*board of county commissioners*" from "revising or altering" the districts outside of a redistricting year, but it imposes no such restriction on the statutorily required "county commissioner district redistricting commission," which Respondent must designate under the law. *See* § 30-10-306.1(1), (3) (emphasis added).

So, while subsection -306.1(3) prohibits Respondent from revising or altering the districts outside of a redistricting year, it does not prohibit the *redistricting commission* from redistricting, in accordance with the statute's requirements, for the first time. Ordering Weld County to begin a redistricting process now should be considered similar to the Commission's late submission in *In re Colorado*

[3] "The establishment, revision, or alteration of districts required" are due "by September 30 of the second odd-numbered year following [the federal] census." § 30-10-306(4).

Independent Congressional Redistricting Commission, to avoid the absurd result of using a 2015 map until 2033. To honor the intent of UH.B. 21-1047, Respondent should be required to designate a county commissioner district redistricting commission to carry out the redistricting process before the 2026 election.[4]

CONCLUSION

Through the adoption of Amendments Y and Z and UH.B. 21-1047, Colorado has chosen to require robust public participation, procedural transparency, and fair and competitive maps that protect communities of interest when redistricting. Respondent's failure to follow the redistricting statutes caused a specific, concrete injury to Petitioners' right to participate in that process. A home rule county has no constitutional or statutory power to exempt itself from State redistricting laws. Respondent's failure to adhere to the procedural requirements in sections 30-10-306 to -306.4 denies Weld County

[4] As the Attorney General's amicus brief in support of Petitioners' petition for writ of certiorari explained, a decision from this Court by April 2025 would likely be necessary to provide Respondent sufficient time to complete the statutory redistricting process before the 2026 election.

citizens their right to the transparent and open process the law requires and has yielded a facially suspect map without explanation. This Court should order Respondent to create a new commissioner districts map, in accordance with sections 30-10-306 to -306.4, for use in the 2026 election.

Respectfully submitted,

PHILIP J. WEISER
Attorney General

/s/ Jennifer L. Sullivan
NATALIE HANLON LEH, Reg. No. 18824
Chief Deputy Attorney General
JENNIFER L. SULLIVAN, Reg. No. 32092*
KURTIS T. MORRISON, Reg. No. 45760*
Deputy Attorneys General
ALEX J. ACERRA, Reg. No. 47631*
JOSHUA J. LUNA, Reg. No. 51217*
CATA A. CUNEO, Reg. No. 59510*
Assistant Attorneys General
Colorado Department of Law
Ralph L. Carr Colorado Judicial Center
1300 Broadway
Denver, Colorado 80203
Telephone: (720) 508-6000
Email: jen.sullivan@coag.gov
*Counsel of Record

Attorneys for Colorado Attorney General Philip J. Weiser

CERTIFICATE OF SERVICE

This is to certify that I have duly served the foregoing **BRIEF OF AMICUS CURIAE COLORADO ATTORNEY GENERAL IN SUPPORT OF PETITIONERS** upon all parties and their counsel of record by e-filing with the Colorado Courts E-Filing system maintained by the court on August 19, 2024.

/s/ Carmen Van Pelt