IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI
19TH JUDICIAL DISTRICT

JOHNATHAN BYRD, et al.	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. 22AC-CC05079
	)	
STATE OF MISSOURI, et al.	)	
	)	
Defendants.	)	

PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS

This case concerns House Bill (HB) 1606, which was signed into law on June 29, 2022. 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. *See* Petition for Declaratory and Injunctive Relief (Pet.) ¶ 14; Exhibit (Ex.) A.[1] 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. *See* Pet. ¶¶ 16–17; Ex. D.

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. *See* Pet. ¶ 18; Ex. D at 20–23. Among other things, section 67.2300 grants some immunity to private campground owners, officers, and employees who operate campgrounds with

[1] Exhibits A–D are attached to the parties' Joint Stipulation of Facts and Exhibits (Stip.) filed on October 28, 2022.

state funds for the homeless, Ex. D at 21 (subsection 3); dictates how not-for-profit organizations may use state funds that would otherwise be used for the construction of permanent housing, *id*. (subsection 4); and criminalizes sleeping, camping, or building long-term structures on state-owned land without authority, *id*. (subsection 5); *see* Pet. ¶¶ 18–19.

On September 6, 2022, Johnathan Byrd, Allison Miles, and Jessica Honeycutt, residents and taxpayers of Missouri, Pet. ¶¶ 5–7, filed this case alleging that, by including section 67.2300, HB 1606 violates three requirements in the Missouri Constitution: the requirement that bills have only a single subject, *see* Mo. Const. Art. III, § 23; the requirement that a bill's subject be clearly expressed in its title, *see id*.; and the requirement that bills adhere to their original purpose, *see id*. § 21.

Defendants have now moved for judgment on the pleadings, contending that Plaintiffs' factual allegations do not entitle them to relief. *See* Defendants' Motion for Judgment on the Pleadings and Suggestions in Support (Defs. Mot.). For the following reasons, Defendants' motion should be denied.[2]

I. HB 1606 Contains More than a Single Subject.

The Missouri Constitution prohibits any bill from "contain[ing] more than one subject." Mo. Const. Art. III, § 23. "[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). To comply with the Constitution, a bill's

[2] In their introduction, Defendants call Plaintiffs' claims "tardy." Defs. Mot. at 2. However, Defendants' motion does not argue that Plaintiffs' petition was untimely, and it was not. *See* § 516.500, RSMo.

provisions must "fairly relate to, have a natural connection with, or [be] a means to accomplish the subject of the bill as expressed in the title." *Giudicy v. Mercy Hosps. E. Communities*, 645 S.W.3d 492, 499 (Mo. banc 2022).

As Plaintiffs pleaded in count I of their petition, Pet. ¶¶ 20–23, by including section 67.2300, HB 1606 violates the single-subject requirement. HB 1606's subject, as expressed in its title, is "political subdivisions." Pet. ¶ 16; Ex. D at 1. That subject is reflected in its contents, the majority of which relate to political subdivisions. Pet. ¶ 17; Ex. D at 1–64. Defendants agree that the subject of HB 1606 is "relating to political subdivisions." Defs. Mot. at 13.

Many provisions of section 67.2300, however, do not fairly relate to political subdivisions. Subsection 2 of section 67.2300, for example, specifies how state funds for the homeless may be used. Pet. ¶¶ 18, 19; Ex. D at 20–21. Subsection 3 provides certain immunity to owners, employees, and officers of private campgrounds operating with state funds for the homeless. Pet. ¶¶ 18, 19; Ex. D at 21. Subsection 4 dictates how state funds otherwise used for the construction of permanent housing for the homeless are to be spent, including by non-profit organizations. Pet. ¶¶ 18, 19; Ex. D at 21. And Subsection 5 makes it a misdemeanor for people to use state-owned lands for unauthorized sleeping, camping, or the construction of long-term shelters. Pet. ¶¶ 18, 19; Ex. D at 21. Because these provisions within HB 1606 do not fairly relate to political subdivisions, HB 1606 does not have only a single subject.

Moreover, as a whole, the subject of section 67.2300 is homelessness, not political subdivisions. Homelessness is the topic that ties the section together; it is the section's "*raison d'etre*." *Hammerschmidt v. Boone Cnty*., 877 S.W.2d 98, 103 (Mo. banc 1994); *see City of De Soto*, 625 S.W.3d at 417. Although many of the section's subsections do not concern political subdivisions, they all concern homelessness. *See* Pet. ¶ 19; Ex. D at 20–23. And although some of

the subsections mention political subdivisions, they do so only in service of furthering the section's purposes of controlling how state funds for the homeless may be used and preventing homeless people from sleeping on, camping on, or obstructing public land. Indeed, before being added to HB 1606, the subsections of section 67.2300 were included (with minor variations) in the committee substitutes of two other bills—HB 2614 and Senate Bill 1106—the titles of which described the section as "relating to funding for housing programs." Exs. B, C. Because "[e]ven taking the most generous view, the subject of those amendments is [homelessness], not [political subdivisions]," HB 1606's inclusion of section 67.2300 violates the single-subject requirement. *City of De Soto*, 625 S.W.3d at 418 (holding that inclusion in a bill on "elections" of amendments creating an exception to the normal consequences of municipal annexation of land in a fire protection district violated the single-subject requirement, even though the amendments authorized voters to change the consequences of such an annexation if it occurred in a specific area, because, despite the reference to the possibility of an election, "the subject of those amendments [was] annexations, not 'elections'").

In their motion, Defendants emphasize that courts interpret the single-subject requirement liberally. But although "the words 'one subject' must be broadly read," they must not be read "so broadly that the phrase becomes meaningless." *Hammerschmidt*, 877 S.W.2d at 102. To hold that section 67.2300's provisions fairly relate to, have a natural connection with, or are a means of accomplishing the subject of regulating political subdivisions would be "to 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).

Defendants attempt to depict section 67.2300's provisions as "generally relat[ing] to the regulation and operation of political subdivisions." Defs. Mot. at 13. For example, Defendants

assert that subsection 2—which details how state funds for the homeless may be used—relates to political subdivisions because the department that awards state funds for the homeless "might do so to a variety of entities, which include political subdivisions," and thus, "political subdivisions may be subject to the very restrictions in subsection 2." *Id*. at 8. That political subdivisions might be among the numerous entities affected by a statutory provision, however, is not sufficient for the provision to relate to "political subdivisions" for purposes of the single-subject requirement. As the Missouri Supreme Court made clear in *Rizzo v. State*, 189 S.W.3d 576 (Mo. banc 2006), a provision does not sufficiently relate to "political subdivisions" to be included in a bill whose subject is "political subdivisions" if that provision applies to both political subdivisions and other entities. There, the Supreme Court held that a bill whose title, like HB 1606's, indicated that its subject was "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 [the plaintiff], 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, subsection 2's scope "is far more expansive," limiting the use of state funds for the homeless by *all* entities who receive such funds. *Id*. at 580. Because subsection 2 "exceeds the scope" of regulating political subdivisions, its inclusion in HB 1606 violates the single-subject requirement. *Id*. at 581.

Defendants note that, unlike the law at issue in *Rizzo*, section 67.2300 does not apply equally to the state and political subdivisions. Defs. Mot. at 13. The problem with subsection 2, however, is not that it applies to the state along with political subdivisions, but that it applies to *a variety of non-governmental entities* as well as (potentially) political subdivisions. "It stretches logic to suggest that laws 'relating to political subdivisions' would have any impact" on how not-for-profit organizations, campground owners, developers, or other entities that are not political subdivisions use state funds for the homeless. *Rizzo*, 189 S.W.3d at 579. Including a provision imposing requirements on how such entities use state funds for the homeless "does more than stretch the umbrella [subject of the bill]—it breaks it." *Id*. at 580.

Defendants also claim that subsection 2 is sufficiently related to political subdivisions because it requires individuals using facilities funded under the subsection to "be entered into a homelessness management information system maintained by the local continuum of care." Pet. ¶ 19; Ex. D at 21; *see* Defs. Mot. at 8. Contrary to Defendants' assertions, this sentence does *not* "require[] political subdivisions to participate in local continuums of care to monitor how effectively these 'state funds' are spent," or "require[] 'the local continuum of care' to maintain a homelessness management information system tracking overall usage of those facilities." Defs. Mot. at 8. Pre-existing federal regulations already govern the establishment of the local continuum of care and require the continuum of care to designate a homeless management information system. *See* 24 C.F.R. § 578.5(a) (requiring "[r]epresentatives from relevant organizations within a geographic area [to] establish a Continuum of Care for the geographic area" and defining "[r]elevant organizations" to "include 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"); *id*. § 578.7(b)(1) (requiring the continuum of care to "[d]esignate a single Homeless Management Information System (HMIS) for the geographic area"). And although political subdivisions may play a role, along with other organizations, in establishing a continuum of care that subsequently designates a homeless management information system, that attenuated role does not mean that any provision mentioning homeless management information systems may constitutionally be included in a bill whose subject is political subdivisions, when the provision's effects are "far more expansive" than regulating political subdivisions. *Rizzo*,189 S.W.3d at 580; *cf. Mo. Health Care Ass'n v. Att'y Gen. of the State of Mo.*, 953 S.W.2d 617, 623 (Mo. banc. 1997) (holding that amendments making it an unlawful trade practice for certain long-term care facilities to make representations about their quality of care but refuse to provide relevant documents was too insignificantly connected to the department of social services to be included in a bill whose subject was the department of social services, even though the department of social services regulated long-term care facilities and set the copying fee for the relevant documents).

For reasons similar to why subsection 2 does not fairly relate to "political subdivisions," subsection 4 does not fairly relate to that subject. 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 certain amount 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. Pet. ¶ 19; Ex. D at 21. 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.

Accordingly, it "is constitutionally invalid in that it exceeds the scope of [HB 1606's] declared subject—legislation relating to political subdivisions." *Id*. at 581.

Defendants' arguments with respect to subsection 3 are, if anything, even farther afield. Subsection 3 provides that the owners, employees, and officers of private campgrounds operating under section 67.2300 are subject to § 537.328, RSMo, which provides immunity from liability for injury, death, or property damage resulting from an inherent risk of camping. Pet. ¶ 19; Ex. D at 21. Attempting to show a connection to political subdivisions, Defendants note that "Private campgrounds are not restricted from operating in collaboration with political subdivisions." Defs. Mot. at 9. But that argument would make the notion of "relating to political subdivisions" so broad as to be meaningless. That a provision does not mention political subdivisions, and therefore does not prohibit the entities it regulates from engaging with political subdivisions, does not cause the provision to relate to political subdivisions for single-subject purposes.

Defendants also suggest that subsection 3 does not itself need to relate to political subdivisions because it "is naturally connected with the rest of Section 67.2300." *Id*. "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). Subsection 3 is not germane to the general subject of HB 1606. Moreover, the way that subsection 3 is connected to the other provisions of section 67.2300 is that it concerns homelessness and applies to private campground owners, employees, and officers that use state funds for the homeless governed by subsection 2; it is not connected in any way that involves political subdivisions. Rather than causing subsection 3 to relate to political subdivisions, subsection 3's connection to subsection 2 underscores that subsection 2 likewise does not fall within the subject of political subdivisions.

Defendants also cannot show that subsection 5 fairly relates to political subdivisions. That provision 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." Pet. ¶ 19; Ex. D at 21. Although Defendants describe this subsection as "prohibit[ing] anyone from using state-owned land to serve their homeless constituencies," Defs. Mot. at 10, the section is expressly directed at "individual[s]"—people capable of sleeping or camping out, and who are able to move to an offered service or shelter. Pet. ¶ 19; Ex. D at 21.

Defendants devote few words to subsection 5. Instead, they pivot to subsection 6, which forbids political subdivisions to adopt or enforce a policy prohibiting or discouraging the enforcement of any order or ordinance prohibiting public camping, sleeping, or obstruction of sidewalks, and forbids political subdivisions to prohibit peace officers and prosecuting attorneys under their direction and control from enforcing any such order or ordinance. Pet. ¶ 19; Ex. D at 22. Defendants note that subsection 6 refers back to subsection 5. Again, however, the relevant question under the single-subject analysis is not whether the provision at issue relates to other provisions in the bill, but whether it is germane to the general subject of the bill. Subsection 5's criminalization of sleeping, camping, or building long-term structures on state land without authorization is not germane to the general subject of regulating political subdivisions. Moreover, Defendants seem to assume that subsection 5 constitutes an "order or ordinance," but that interpretation is strained at best. And in any event, a substantive prohibition does not fall within the subject of political subdivisions simply because political subdivisions might be required to

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

More broadly, Defendants fail in their argument that section 67.2300, as a whole, "seeks to empower political subdivisions to address homelessness among their constituencies." Defs. Mot. at 7. The section is not focused on enabling political subdivisions to address homelessness, but on homelessness more generally: Section 67.2300's provisions about use of state funds for the homeless applies to *all* entities receiving such funds; its prohibition on unauthorized sleeping and camping on state land applies to homeless individuals themselves. Section 67.2300 does not fall within HB 1606's subject of political subdivisions, and Defendants' motion for judgment on the pleadings should be denied.

II. HB 1606's Title Is Underinclusive.

In addition to limiting bills to a single subject, Article III, Section 23, of the Missouri Constitution requires the subject of the bill to be "clearly expressed in its title." Mo. Const. Art. III, § 23. "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).

As Plaintiffs pleaded in count II of their petition, Pet. ¶¶ 24–27, HB 1606's title is underinclusive. 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." Pet. ¶ 16; Ex. D at 1. As discussed above, however, most of section 67.2300's subsections are outside of or go beyond the subject of regulating political subdivisions, and section 67.2300 as a whole addresses a different topic. This "lack of conformity" between HB 1606's title and section 67.2300's

provisions renders HB 1606's "title affirmatively misleading." *Nat'l Solid Waste Mgmt. Ass'n v. Dir. of Dep't of Nat. Res.*, 964 S.W.2d 818, 821 (Mo. banc 1998). The title "gives the reader the mistaken impression that the bill pertains to [political subdivisions] only," *id*., without any indication that the bill also covers subjects such as the legality of sleeping on state-owned land, the uses to which not-for-profit organizations may put state funds for the homeless, and the immunity of private campground owners operating a campground with state funds for the homeless. *See* Pet. ¶ 19; Ex. D at 20–21.

Defendants note that, in *Jackson County Sports Complex Authority v. State*, 226 S.W.3d 156, 161 (Mo. banc 2007), the Missouri Supreme Court held that the title "relating to political subdivisions" was "not so broad and amorphous as to constitute a violation" of the clear-title requirement. *See* Defs. Mot. at 15. According to Defendants, "[b]ecause the title of HB 1606 has previously passed constitutional scrutiny," the Court should enter judgment on the pleadings in their favor here. *Id*. That the title "relating to political subdivisions" is not too broad and amorphous, however, does not speak to whether it is *underinclusive* here. Because HB 1606's title does not encompass the contents of section 67.2300, it is underinclusive and violates the Missouri Constitution's clear-title requirement.

III. HB 1606 Was Amended During Its Passage so as To Change Its Original Purpose.

The Missouri Constitution prohibits any bill from being "so amended in its passage through either house as to change its original purpose." Mo. Const. Art. III, Section 21. This restriction 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). Courts "compare the purpose of the original bill as introduced with the bill as passed to determine whether it violates article III, section 21." *Trenton*, 603 S.W.3d at 294 (citation omitted).

Section 67.2300 is not germane to the original purpose of HB 1606. 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." Pet. ¶ 14; Ex. A at 1. The bill proposed to reduce the amount of information that certain counties were required to publish in their financial statements, thereby saving counties money by reducing publication costs. Pet. ¶ 14; Ex. A at 1–7. Section 67.2300, however, neither regulates county financial statements, nor reduces counties' publication costs. *See* Pet. ¶ 19; Ex. D at 20–23. Accordingly, it is not germane to the original purpose of HB 1606 and its inclusion in HB 1606 violates the Missouri Constitution's original-purpose requirement. *See* Pet. ¶¶ 28–31.

Defendants contend that the original purpose of HB 1606 was not county financial statements, but instead "the operation and regulation of political subdivisions" more generally, as shown by the fact that, "[i]n addition to provisions requiring counties to prepare financial statements, the original HB 1606 also included provisions limiting how much counties could pay newspapers to publish said financial statements." Defs. Mot. at 6. The additional provisions to which Defendants refer, however, also concern *county financial statements*. They therefore do not demonstrate that the original HB 1606 had any purpose beyond regulating county financial statements. Defendants also state that the "original HB 1606 placed additional responsibilities on counties, and limited how counties could expend their resources." *Id*. But Defendants do not (and cannot) identify any responsibilities and limitations in the original HB 1606 that do not relate to county financial statements. Simply put, although Defendants are correct that generally regulating political subdivisions *can* be the original purpose of a bill, *see id*. (citing *Jackson Cnty. Sports Complex Auth.*, 226 S.W.3d at 161), HB 1606's "earliest title and contents" do not demonstrate that regulating political subdivisions generally was the original purpose of HB 1606. *Legends*

Bank, 361 S.W.3d at 386 (citation omitted); *cf. Cooperative Home Care, Inc. v. City of St. Louis*, 514 S.W.3d 571, 580 (2017) (holding that provision of bill prohibiting local municipalities from setting a minimum wage higher than that set by the state was invalid because it was not germane to the bill's original purpose relating to the establishment, proper governance, and operation of community improvement districts).

In any event, even under Defendants' view of HB 1606's original purpose, HB 1606's inclusion of section 67.2300 would violate the original-purpose requirement because, as discussed above, many of its provisions are not germane to political subdivisions and the section overall concerns homelessness rather than the regulation of political subdivisions. Contrary to Defendants' contentions, the "overarching thrust" of section 67.2300 is not "empower[ing] political subdivisions to address homelessness among their constituencies," Defs. Mot. at 7, but addressing homelessness more broadly, including through dictating how not-for-profit entities, private campground owners, developers, and others use state funds for the homeless; providing immunity to private campground owners operating campgrounds with state funds for the homeless; and criminalizing unauthorized sleeping, camping, and building long-term structures on state land. Moreover, although Defendants resist the idea that section 67.2300's subsections should be considered separately in the original-purpose analysis—insisting, for example, that subsection 3's provision of immunity to private campground owners, officers, and employees "does not extend or limit the scope of the original or final bill" because it is "connected to the rest of § 67.2300," Defs. Mot. at 9—the question for the original-purpose requirement is whether provisions introduced during the legislative process are "germane to the object of the legislation," *Legends Bank* 361 S.W.3d at 386, not whether they are connected in some way to other provisions that may be germane to the legislation's original purpose. Many subsections of section 67.2300 (including

subsection 3) are not germane to political subdivisions. Because HB 1606 was amended through its passage through the General Assembly so as to introduce matter that is not germane to its original purpose, HB 1606 violates the original-purpose requirement.

IV. The Provisions of Section 67.2300 Are Not Severable from Each Other.

Defendants argue that section 67.2300 and any of its individual subsections are severable from the rest of HB 1606. Defs. Mot. at 16. Regardless of whether section 67.2300 is severable from the other sections in HB 1606, however, the subsections of section 67.2300 are not severable from each other. Accordingly, if this Court finds that the inclusion of any of section 67.2300's subsections violates the single-subject, clear-title, or original-purpose requirements, the Court should declare all of section 67.2300 invalid and enjoin its enforcement.

"When evaluating a procedural constitutional violation … the doctrine of judicial severance is applied and severance is only appropriate when th[e] Court is convinced beyond a reasonable doubt that the legislature would have passed the bill without the additional provisions and that the provisions in question are not essential to the efficacy of the bill." *City of De Soto*, 625 S.W.3d at 418 (internal quotation marks and citation omitted). These "inquiries seek to assure the Court that, beyond a reasonable doubt, the bill would have become law—and would remain law—even absent the procedural violation." *Id.* (citation omitted).

Here, there is no basis for concluding beyond a reasonable doubt that the General Assembly would have adopted some provisions in section 67.2300 without the others. The nine subsections of 67.2300 were all added to HB 1606 at the same time. *See* Stip. ¶¶ 10–11. Accordingly, neither the House of Representatives nor the Senate ever voted on a version of HB 1606 that included only portions of section 67.2300. *See City of De Soto*, 625 S.W.3d at 418 (in declining to sever bill, explaining that although it was possible the House and Senate would have approved a bill without

the portions that were not germane to the subject of the bill, "these events [n]ever happened, and there is simply no basis for inferring—with the high degree of certainty required by this Court's prior cases—that this is what *would* have happened"). And the subsections all address the topic of homelessness, representing the legislature's judgment of which bundle of policies would collectively advance its goals regarding the issue. There is no reason to assume that the legislature would have adopted some of these policies without the others.

Moreover, many of section 67.2300's subsections would not be fully effective without the others. *See* Pet. ¶ 19; Ex. D at 20–23. Subsection 1, for example, contains definitions that would not be necessary without the rest of the section. Subsection 3 discusses immunity for campground owners, employees, and officers operating campgrounds "pursuant to this section" and would not make sense without subsection 2's designation of how state funds for the homeless may be spent. Subsection 4's delineation of how state funds "otherwise used for the construction of permanent housing shall be used" likewise would not make sense without subsection 2's delineation of how state funds for the homeless may be used—a delineation that does not allow those funds to be used on the construction of permanent housing. Subsection 6 specifically states that it is forbidding political subdivisions to prohibit or discourage peace officers or prosecuting attorneys under their direction or control from enforcing certain orders or ordinances "in compliance with subsection 5." Subsection 7, in turn, forbids political subdivisions with a higher per capita rate of homelessness than the state average from receiving state funding from the department (as defined in subsection 1) until the department determines that the per-capita rate of unsheltered homeless people is at or below the state average or that the political subdivision "is in compliance with subsection 6." Subsection 8 allows the department authorized to allocate funds under the section to promulgate regulations implementing the section and would be unnecessary without the rest of

the section. Likewise, subsection 9 provides that the section's provisions do not apply to shelters for domestic violence victims and would be unnecessary without the section's other provisions.

As the connections between these provisions demonstrate, section 67.2300's provisions are meant to work together. "There is no reason to believe, let alone any basis for concluding beyond a reasonable doubt, that the General Assembly would have passed" some parts of section 67.2300 without the others. *City of De Soto*, 625 S.W.3d at 418. The provisions of section 67.2300 are not severable from each other, and the entire section should be declared invalid.

CONCLUSION

For the foregoing reasons, the Court should deny Defendants' motion for judgment on the pleadings.

Respectfully Submitted,

/s/ Amanda J. Schneider
Amanda J. Schneider, No. 59263
Daniel J. Buran, No.68548
Lisa J. D'Souza, No. 65515
Joel Ferber, No. 35165
Legal Services of Eastern Missouri
4232 Forest Park Blvd.
St. Louis, Missouri 63108
ajschneider@lsem.org
djburan@lsem.org
ljdsouza@lsem.org
jdferber@lsem.org
Tel. (314) 534-4200
Fax (314) 534-1075

Adina H. Rosenbaum, DC Bar No. 490928*
Public Citizen Litigation Group
1600 20th Street NW
Washington, DC 20009
arosenbaum@citizen.org
Tel. (202) 588-7720
*motion for pro hac vice pending

Counsel for Plaintiffs Johnathan Byrd, et al.