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

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

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INTRODUCTION

House Bill (HB) 1606's general subject is political subdivisions. Its title indicates that its contents relate to political subdivisions. And its original purpose related to county financial statements and reducing county publication costs.

The subject of section 67.2300—a section added to HB 1606 shortly before its passage—however, is homelessness. Among other things, section 67.2300 dictates how state funds for the homeless may be used, provides certain immunity to people operating private campgrounds with such funds, and makes it a class C misdemeanor for individuals to sleep or camp on state land without authorization.

By including section 67.2300, HB 1606 violates the Missouri Constitution's requirements that a bill contain only a single subject, Mo. Const. Art. III, § 23, that the bill's subject be clearly expressed in its title, *id*., and that the bill adhere to its original purpose, *id*. § 21. Accordingly, this Court should declare that HB 1606 is unconstitutional, declare that section 67.2300 is invalid, and enjoin Respondents from enforcing or implementing section 67.2300.[1]

[1] In their statement of facts, Respondents accuse Appellants Johnathan Byrd, Jessica Honeycutt, and Allison Miles (Appellants) of including in their statement of facts "argumentative characterizations of, and legal conclusions regarding the language of individual subsections of Section 67.2300." Resp. Br. 6. Respondents do not identify any such characterizations or conclusions, and Appellants believe that their description of section 67.2300's contents is factually and legally correct. Nonetheless, Appellants agree with Respondents that, if this Court has questions about section 67.2300's contents, it should look to the section's text, which is included in Appellants' Appendix (App.) at pages 61–64.

ARGUMENT

I. By including section 67.2300, HB 1606 violates the Missouri Constitution's single-subject requirement. (Reply in support of the first Point Relied On)

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

The general subject of HB 1606 is political subdivisions, as Respondents agree. Resp. Br. 9. As Appellants explained in their opening brief (at 20–24), however, the subject of section 67.2300 is not political subdivisions, but homelessness. All of section 67.2300's subsections address homelessness, but only some address political subdivisions. And the subsections that address political subdivisions do so only in service of the section's goals concerning homelessness. Because HB 1606's general subject is political subdivisions, but the bill includes section 67.2300, whose subject is homelessness, HB 1606 violates the single-subject requirement in Article III, Section 23, of the Missouri Constitution. *See City of De Soto v. Parson*, 625 S.W.3d 412, 418 (Mo. banc 2021) (holding that bill violated single-subject requirement where the bill's subject was elections, but "the subject of [certain] amendments [was] annexations, not 'elections'"); *Hammerschmidt v. Boone County*, 877 S.W.2d 98, 103 (Mo. banc 1994) (holding that bill violated single-subject requirement where the bill's subject was elections, but "the subject of [an amendment in the bill]—*its raison d'etre*—was to authorize a new form of county governance").

Respondents insist that section 67.2300 relates to political subdivisions, contending that, "[a]s a whole, Section 67.2300 empowers political subdivisions to address homelessness among their constituencies," Resp. Br. 10, and that the section's "overarching

thrust" is "dictating how political subdivisions utilize and monitor state funding to address homelessness within their jurisdictions," *id.* at 11–12 (quoting D23, p. 6; App. 6). Respondents' characterization of section 67.2300, however, ignores the provisions of section 67.2300 that do not affect how political subdivisions use state funds for the homeless or otherwise regulate political subdivisions—most notably, subsection 3's provision regarding immunity for people operating private campgrounds with state funds for the homeless and subsection 5's criminalization of individuals sleeping, camping, or building long-term structures on state-owned land without authorization. Moreover, although section 67.2300's provisions dictating how state funds for the homeless may be used apply to the use of such funds by political subdivisions, they also apply to the use of such funds by all other entities receiving state funds for the homeless (with respect to the restrictions in subsection 2 and the first sentence of subsection 4) or to not-for-profit organizations along with political subdivisions (with respect to the rest of subsection 4).

In *Rizzo v. State*, 189 S.W.3d 576 (Mo. banc 2006), this Court made clear that a provision cannot be included in a bill on political subdivisions without violating the single-subject requirement if the provision applies to political subdivisions but "is not so limited." *Id*. at 579. *Rizzo* involved a bill whose title, like HB 1606's, indicated that the bill's contents "relat[ed] to political subdivisions." *Id*. The Court held that the bill violated the single-subject requirement by including a provision forbidding anyone convicted of a federal crime from qualifying as a candidate for elective office in Missouri. Although the provision unquestionably applied to people running for office in political subdivisions, the Court held that the provision did not fairly relate to political subdivisions because it "applie[d] equally

to candidates in statewide elections." *Id*. "It stretches logic," the Court stated, "to suggest that laws 'relating to political subdivisions' would have any impact on *statewide* governmental functions." *Id*.

Likewise, here, it stretches logic to suggest that a bill relating to political subdivisions would dictate how not-for-profit organizations and other private entities use state funds for the homeless, let alone that it would affect the immunity of people operating private campgrounds or criminalize sleeping on state land without authorization. As in *Rizzo*, section 67.2300 "is constitutionally invalid in that it exceeds the scope of H.B. [1606's] declared subject—legislation relating to political subdivisions." *Id*. at 581.

Respondents make two attempts to distinguish *Rizzo*, neither of which is successful. First, they argue that, unlike the bill in *Rizzo*, "the 'statewide governmental functions' at issue in Section 67.2300 are fundamentally tethered to the regulation and operation of political subdivisions." Resp. Br. 13. This argument misses the point. The problem with section 67.2300's provisions on the use of state funds is not that those provisions apply equally to political subdivisions and statewide governmental functions: It is that they apply equally to political subdivisions and other, *private* entities, thereby "exceed[ing] the scope" of HB 1606's subject of political subdivisions. *Rizzo*, 189 S.W.3d at 581. In any event, section 67.2300's restrictions on the use of state funds are not, as Respondents claim, "fundamentally tethered to the regulation and operation of political subdivisions." Resp. Br. 13. They apply to the use of state funds for the homeless by *all* entities that use such funds, including private entities. Indeed, they would apply regardless of whether political subdivisions used state funds for the homeless at all.

Second, Respondents fight a straw man, contending that "*Rizzo* does not stand for the proposition that a provision in a bill violates the single-subject requirement if that provision, theoretically, could fall under multiple 'umbrella' topics." Resp. Br. 13–14. But section 67.2300's inclusion in HB 1606 does not violate the single-subject requirement because it falls under both the topic of political subdivisions and another topic. It violates the single-subject requirement because it does not fall under the topic of political subdivisions at all because "its scope is far more expansive" than political subdivisions. *Rizzo*, 189 S.W.3d at 580. As in *Rizzo*, section 67.2300 "does more than stretch the umbrella" topic of political subdivisions—"it breaks it." *Id.*

Respondents also assert that "*Rizzo*'s holding does not turn on the statute in that case being *equally* related to statewide government operations or political subdivisions." Resp. Br. 13. *Rizzo* makes clear, however, that its holding turns on the fact that application of the provision at issue was "not … limited" to political subdivisions. *Rizzo*, 189 S.W.3d at 579. The Court held that the provision at issue was not fairly related to political subdivisions because it "applies equally to candidates in statewide elections" and it "stretches logic to suggest that laws 'relating to political subdivisions' would have any impact on *statewide* governmental functions." *Id.* Moreover, *Rizzo*'s determination that a provision does not relate to political subdivisions for single-subject purposes simply because it applies to political subdivisions, among other entities, makes sense: As the Missouri Budget Project noted in its brief as amicus curiae, if a provision "can be included in a bill 'relating to political subdivisions' merely because political subdivisions are *among* those it affects," then "*any* law to which a political subdivision is now subject—or would become subject,

through the new law—can be changed in a law with the words 'relating to political subdivisions' in its title." Br. of the Mo. Budget Project at 15. Such a construction of the single-subject requirement would read "the words 'one subject' … so broadly that the phrase becomes meaningless." *Hammerschmidt*, 877 S.W.2d at 102.

Respondents' attempts to distinguish *City of De Soto*, 625 S.W.3d 412, fare no better. There, this Court held that the inclusion of amendments related to the annexation of land in fire protection districts in a bill whose subject was "elections" violated the single-subject requirement. Although the amendments mentioned elections, requiring fire protection districts serving annexed areas in one part of the state to continue to undertake certain actions unless a majority of voters of the annexing city and fire protection district voted otherwise, the Court held that the amendments did not fairly relate to elections, explaining that "the subject of those amendments is annexations, not 'elections.'" *Id*. at 418.

Respondents attempt to distinguish *City of De Soto* by arguing that, there, the "Court held that 'elections' were a way of implementing 'land annexations,'" whereas "[h]ere, the opposite is true: Section 67.2300 is just a way to implement the umbrella category of political subdivisions." Resp. Br. 12. It cannot seriously be argued, however, that the legislature's goal in enacting section 67.2300 was to regulate political subdivisions and that it chose to enact provisions relating to homelessness—including provisions affecting how private entities use state funds for the homeless and making it a class C misdemeanor for individuals to sleep on state land without authority—as a means of furthering its goal of regulating political subdivisions. Rather, the text of section 67.2300 makes clear that the legislature's goal was to enact policies regarding homelessness, and that to the extent the

provisions of the section regulate political subdivisions (and other entities), that regulation is a means of furthering those homelessness-related policies. Indeed, the earlier, standalone bills that contained versions of section 67.2300's provisions described the section as "relating to funding for housing programs." D20, p. 2; App. 31; D21, p. 2; App. 36.

In sum, section 67.2300's "*raison d'etre*" is to legislate about homelessness, *Hammerschmidt*, 877 S.W.2d at 103, and "its scope is far more expansive" than political subdivisions, *Rizzo*, 189 S.W.3d at 580. Because "it exceeds the scope of H.B. [1606's] declared subject—legislation relating to political subdivisions," section 67.2300 is "constitutionally invalid." *Id*. at 581.

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

1. Many of section 67.2300's individual provisions do not fairly relate to political subdivisions.

Under this Court's case law, a bill complies with the single-subject requirement only if each of its "provisions" has a sufficient relationship to the subject of the bill. *Trenton Farms RE, LLC v. Hickory Neighbors United, Inc.*, 603 S.W.3d 286, 295 (Mo. banc 2020) (citation omitted). In addition to violating the single-subject requirement because its subject, as a whole, is homelessness, section 67.2300's inclusion in HB 1606 violates the single-subject requirement because many of its individual provisions do not fairly relate to political subdivisions.

Subsection 2: Subsection 2 dictates how state funds for the homeless may be used by any entity that receives such funds, including not-for-profit organizations, private

developers, and others. Respondents argue that subsection 2 relates to political subdivisions because political subdivisions that receive state funds for the homeless are subject to the restrictions in subsection 2, along with all other entities that receive state funds for the homeless. Resp. Br. 16. As *Rizzo* demonstrates, however, that a provision applies to political subdivisions is not sufficient for that provision to relate to political subdivisions, when it is "not so limited." *Rizzo*, 189 S.W.3d at 579. Because subsection 2's "scope is far more expansive" than regulating political subdivisions, its inclusion in HB 1606 violates the single-subject requirement. *Id*. at 580.

Respondents also point to a sentence in subsection 2 stating that individuals using facilities funded through state funds for the homeless "shall be entered into a homelessness management information system maintained by the local continuum of care." D22, p. 22; App. 62. Respondents contend that this sentence "requires local political subdivisions to create local continuums of care" and "requires that 'the local continuum of care' maintain a homelessness management information system tracking overall usage of" facilities using state funds for the homeless. Resp. Br. 16–17. Both these contentions are incorrect, as Appellants explained in their opening brief (at 25–26). Subsection 2 does *not* require local political subdivisions to create local continuums of care: A federal regulation already requires the creation of continuums of care. *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 subsection 2 does *not* require continuums of care to maintain homeless management information systems: A federal regulation already requires that as well. *See id*. § 578.7(b)(1) (requiring the continuum of

care to "[d]esignate a single Homeless Management Information System (HMIS) for the geographic area"). Subsection 2's reference to the local continuum of care's homeless management information system simply requires entities receiving state funds for the homeless to enter information into a preexisting system designated by a coalition of numerous organizations—only some of which are political subdivisions. The subsection does not place any obligations on the local continuum of care to monitor or oversee the facilities, let alone any obligations that do not "appl[y] equally" to both the political subdivision members and non-political subdivision members of the continuum. *Rizzo*, 189 S.W.3d at 579. Thus, the reference to the continuum of care does not support Respondents' argument that subsection 2 relates to political subdivisions.

Subsection 3: Subsection 3 provides that owners, employees, and officers of private campgrounds operating 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. Although, by its plain terms, this provision applies only to *private* campgrounds, Respondents argue that it relates to political subdivisions because "[p]rivate campgrounds are not restricted from operating in collaboration with political subdivisions." Resp. Br. 18. That argument makes 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.

Respondents also argue that subsection 3 relates to political subdivisions because it applies to private campgrounds using state funds for the homeless, and subsection 2 requires individuals using facilities funded with state funds for the homeless to be entered into the local continuum of care's homeless management information system. As Appellants explained in their opening brief (at 26–28), however, that people using facilities funded with state funds for the homeless must be entered into the local continuum of care's homeless management information system does not cause all such facilities to be "corroborating [sic] with political subdivisions." Resp. Br. 18. And even if a private campground were collaborating with a political subdivision, that collaboration would not transform a provision that affects only the private campground into one that relates to political subdivisions. Respondents' brief fails to respond to Appellants' arguments on this point.

Finally, Respondents argue that subsection 3 does not violate the single-subject requirement because it "is one sentence, and its immunities provision is naturally connected with the rest of Section 67.2300." *Id*. Notably, Respondents provide no support for the notion that a bill may contain a provision that is unrelated to the bill's subject as long as that provision is short. And subsection 3's connection to other provisions within section 67.2300 is irrelevant: "Missouri law long has recognized 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 v. Mercy Hosps. E. Cmtys.*, 645 S.W.3d 492, 499 (Mo. banc 2022) (citation omitted). Moreover, the way that subsection 3 is connected to the rest of section 67.2300 is that it concerns homelessness

and applies to people operating private campgrounds with state funds for the homeless; 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 the rest of section 67.2300 only underscores that the subject of the section as a whole is homelessness, not political subdivisions.

Subsection 4: Subsection 4 addresses the use of state funds that would otherwise be used for the construction of permanent housing, provides for a portion of those funds to be given to not-for-profit organizations or political subdivisions as performance payments, and allows not-for-profit organizations and political subdivisions to use some such funds to conduct certain surveys. D22, p. 22; App. 62. Respondents contend that this section relates to political subdivisions because it "[e]xpressly authoriz[es] political subdivisions to use state grants" and because of the "continuum of care requirements from subsection 2." Resp. Br. 19. But subsection 4 "applies equally" to political subdivisions and not-for-profit organizations, and it "stretches logic to suggest that laws 'relating to political subdivisions' would have any impact" on funds given to not-for-profit organizations. *Rizzo*, 189 S.W.3d at 579. And as Appellants explained in their opening brief (at 28), that individuals using facilities funded with state funds for the homeless must be entered into the local continuum of care's homeless management information system does not cause all provisions concerning such funds to relate to political subdivisions. A facility's submission of data to an information system does not mean that the facility is "collaborat[ing]" with the entity that oversees that data information system. Resp. Br. 19. And even if a not-for-profit organization were collaborating with a local continuum of care, that would not cause

a provision concerning use of state funds by not-for-profit organizations to relate to political subdivisions, particularly given that continuums of care contain members that are *not* political subdivisions, such as non-profit homeless assistance providers, faith-based organizations, and affordable housing developers. *See* 24 C.F.R. § 578.5(a).

Subsection 5: Subsection 5 provides: "No person shall be permitted to use state-owned lands for unauthorized sleeping, camping, or the construction of long-term shelters. Any violation of this subsection shall be a class C misdemeanor; however, 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. Respondents argue that this subsection relates to political subdivisions because it "prohibits anyone—including political subdivisions—from using state-owned land to serve their homeless constituencies." Resp. Br. 19. But the subsection's text makes clear that it is aimed at "individual[s]": the provision envisions individuals receiving misdemeanors, being given warnings, and deciding whether to move to an offered service or shelter. And even if the subsection were read to place restrictions on political subdivisions, there can be no question that its scope is "far more expansive." *Rizzo*, 189 S.W.3d at 580.

Respondents also rely on subsection 6—which forbids 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" and from "prohibit[ing] or discourag[ing]" certain officers under their control "from enforcing any [such] order or ordinance," D22, p. 23; App. 63—to argue that subsection 5 relates to political subdivisions. According to Respondents, subsection 6 "underscore[s] the

applicability of subsection 5 to political subdivisions" and "identifies how political subdivisions shall comply with" it. Resp. Br. 19. Appellants addressed this argument in their opening brief (at 29–30), but Respondents do not respond to any of Appellants' points.

As Appellants explained, subsection 6 does *not* address political subdivisions' compliance with subsection 5. At most, it regulates how political subdivisions *enforce* subsection 5. But a substantive criminal prohibition does not fall within the topic of political subdivisions merely because political subdivisions might have to enforce it. If it did, *any* criminal provision on *any* topic could be placed in a bill on political subdivisions simply by including provisions on how political subdivisions would enforce the law. 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).

Moreover, it is unclear that subsection 6 even affects enforcement of subsection 5. Although subsection 6(2) begins with the phrase "In compliance with subsection 5 of this section," it proceeds to forbid political subdivisions from prohibiting or discouraging certain officers "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 a state statute such as subsection 5 as an "order or ordinance."

Simply put, subsection 5's criminalization of sleeping, camping, and building long-term structures on state-owned land without authorization regulates homeless people directly and does not fairly relate to political subdivisions. By including this provision, HB 1606 violates the single-subject requirement.

2. To comply with the single-subject requirement, each of a bill's individual provisions must fairly relate to the bill's subject.

Respondents concede that the proper inquiry in a single-subject analysis is "whether the individual provisions relate to the subject expressed in the title, not whether the individual provisions relate to each other." Resp. Br. 8–9 (quoting *Calzone v. Interim Comm'r of Dep't of Elementary & Secondary Educ.*, 584 S.W.3d 310, 322 (Mo. banc 2019)). And section 67.2300 itself makes clear that the section contains multiple provisions. *See* D22, p. 23; App. 63 (referencing the "provisions of this section"); *id*. at 24; App. 64 (same). Nonetheless, Respondents contend that it would be "improper," Resp. Br. 14, for this Court to consider whether each of "the individual provisions" within section 67.2300 "relate to the subject expressed in the [bill's] title," *Calzone*, 584 S.W.3d at 322. Instead, Respondents argue, the Court should only look at whether section 67.2300 as a whole relates to political subdivisions. Notably, however, Respondents do not point to a single case in which this Court has held that a provision that was unrelated to a bill's subject could be included in the bill because other provisions in the same section related to the subject of the bill. And when this Court, in *Missouri Coalition for the Environment v. State*, 593 S.W.3d 534 (Mo. banc 2020), considered whether a bill that contained only one section violated the single-subject requirement, it still looked at whether "[e]very provision" related to the bill's subject and held that the bill did not violate the single-subject requirement because its "provisions all relate[d]" to the bill's subject. *Id*. at 541. *Missouri*

Coalition for the Environment makes clear that every provision within a section must relate to the subject of the bill for the bill to comply with the single-subject requirement.[2]

Adopting Respondents' position would do violence to the single-subject requirement. The legislature would be able to include in bills provisions that do not relate to the bill's subject, simply by placing those provisions in sections with other provisions that do relate to the bill's subject. Doing so would, in turn, undermine the purposes that undergird the single-subject requirement, making it easier for "a clever legislator [to] tak[e] advantage of his or her unsuspecting colleagues by surreptitiously inserting unrelated amendments into the body of a pending bill," making it harder for the public to keep "fairly apprised" of the contents of bills, and making it easier for legislators to engage in "'logrolling'—the practice of combining a number of unrelated amendments in a bill, none of which alone could command a majority, but which, taken together, combine the votes of a sufficient number of legislators having a vital interest in one portion of the amended bill

[2] Although Respondents recognize that the requirement that each individual provision of a bill fairly relate to the subject of the bill is "a long-standing principle of single-subject jurisprudence," Resp. Br. 15, in arguing that that the Court should look at section 67.2300 as a whole, they focus on the case Appellants cited for the Court's long-standing principle, *Giudicy*, 645 S.W.3d 492. Respondents claim that *Giudicy* examined sections as a whole, rather than individual provisions. Resp. Br. 15. What *Giudicy* held, however, was that the bill at issue there "change[d] the law regarding, among other things, service, venue, interest on damages, admissible evidence, discovery, joint and several liability, privilege, and immunity for certain public health care providers," and that each of these changes was relevant to the bill's "subject of claims for damages and the payment of those claims." 645 S.W.3d at 499. The Court did not mention which section each change was in or whether there were other provisions in those sections. And it did not hold that any of the changes were unrelated to the bill's subject of claims for damages and the payment of those claims but could nonetheless be included in the relevant bill because of other provisions in their sections that *did* relate to the bill's subject.

to muster a majority for its entirety." *Hammerschmidt*, 877 S.W.2d at 101–102. *See generally* Br. of Amici Curiae Nat'l Homelessness Law Ctr., *et al.*, at 21, 21–34 (explaining that the history of the addition of section 67.2300 to HB 1606 shows "signs of logrolling, legislators taking advantage of their unsuspecting colleagues, stunted legislative discussion, and opacity to the public").

This Court should take its precedent at its word and look at whether each of the individual provisions of section 67.2300 relates to the bill's subject of political subdivisions. Both because many of section 67.2300's provisions do not relate to political subdivisions, and because the section as a whole does not relate to political subdivisions, section 67.2300's inclusion in HB 1606 violates the single-subject requirement.

II. By including section 67.2300, HB 1606 violates the Missouri Constitution's clear-title requirement. (Reply in support of the second Point Relied On)

The Missouri Constitution requires a bill's subject to be "clearly expressed in its title." Mo. Const. Art. III, § 23. This requirement can be violated by the title being either "underinclusive or too broad and amorphous to be meaningful." *Trenton Farms*, 603 S.W.3d at 295 (citation omitted). Here, HB 1606's title violates the clear-title requirement because it is underinclusive: The title, which indicates that the bill's contents relate to political subdivisions, does not encompass section 67.2300's provisions on homelessness.

Citing *Jackson County Sports Complex Authority v. State*, 226 S.W.3d 156 (Mo. banc 2007), Respondents wrongly claim that this "Court has already rejected Appellants' clear title arguments." Resp. Br. 21. *Jackson County*, however, held that a bill title indicating that the bill's contents "relat[ed] to political subdivisions" was "not so broad and

amorphous as to constitute a violation" of the clear-title requirement. 226 S.W.3d at 162. Appellants' clear-title argument, in contrast, is not that HB 1606's title is too broad and amorphous, but that it is *underinclusive*. Indeed, Respondents themselves recognized that Appellants were making an underinclusiveness argument, not an argument that the title was too broad, when Respondents drafted the judgment signed by Judge Walker, which states that Appellants "raised a underinclusive challenge, not an overinclusive challenge." D23, p. 12; App. 12. Because *Jackson County* did not address the type of clear-title challenge at issue here, Respondents' reliance on it is misplaced.

Respondents also contend that HB 1606's title is not underinclusive because section 67.2300 "is rationally related to the operation and regulation of political subdivisions." Resp. 21. As Appellants explained in section I above, however, many of section 67.2300's provisions, and the section as a whole, do not fairly relate to political subdivisions. No one reading HB 1606's title would suspect that it includes provisions that, for example, dictate how not-for-profit organizations use state funds for the homeless, confer immunity on people operating private campgrounds using state funds for the homeless, and make it a class C misdemeanor for an individual to sleep, camp, or build long-term structures on state-owned land without authorization.

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 a bill violated the clear-title requirement because the title of the bill stated that the bill's contents related to solid-waste management, but the bill also pertained to hazardous-waste management. Explaining that the bill's title did not reflect "the specific subjects contained in the bill" and that it gave

"the reader the mistaken impression that the bill pertains to solid waste management only," the Court held that the title was underinclusive. *Id*. at 821–22. Likewise, HB 1606's title does not reflect the subjects contained in section 67.2300, and it gives the reader the mistaken impression that the bill includes only provisions relating to political subdivisions, when many of section 67.2300's provisions, and the section as a whole, do not relate to that subject. HB 1606's title is accordingly underinclusive and violates the clear-title requirement.

III. By including section 67.2300, HB 1606 violates the Missouri Constitution's original-purpose requirement. (Reply in support of the third Point Relied On)

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, § 21. To determine whether a bill complies with the original purpose requirement, courts look at the "earliest title and contents" of the bill, *Missouri Ass'n of Club Executives v. State*, 208 S.W.3d 885, 888 (Mo. banc 2006), "compar[ing] the purpose of the original bill as introduced with the bill as passed," *Trenton Farms*, 603 S.W.3d at 294 (citation omitted). A bill violates the original-purpose requirement if it contains "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).

Section 67.2300 is not germane to the original objective and purpose of HB 1606. As introduced, HB 1606's title indicated that the bill "relat[ed] to county financial statements." D19, p. 2; App. 23. With respect to the bill's contents, 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. *Id*. at 2–8; App. 23–29. And the Representative who introduced the bill, Representative McGaugh, stated before the House Local Government Committee that the purpose of the bill was "just simply to save the counties money."[3] Section 67.2300, however, neither regulates county financial statements nor reduces counties' publication costs. *See* D22, pp. 21–24; App. 61–64. Because it is not germane to the original purpose of HB 1606, its inclusion in HB 1606 violates the Missouri Constitution's original-purpose requirement.

Respondents contend that the original purpose of HB 1606 was not regulating 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." Resp. Br. 25. The additional provisions to which Respondents refer, however, plainly concern *county financial statements*. They therefore do not demonstrate that the original HB 1606 had any purpose beyond regulating county financial statements. Respondents also state that the "original HB 1606 placed additional responsibilities on counties, and limited how counties could expend their resources." *Id*. But Respondents do

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

not (and cannot) identify any responsibilities and limitations in the original HB 1606 that do not relate to county financial statements.

Simply put, although Respondents are correct that regulating political subdivisions *can* be the original purpose of a bill, *see id*. (citing *Jackson Cnty.*, 226 S.W.3d at 161), nothing in HB 1606's "earliest title and contents" demonstrates that HB 1606's original purpose was to regulate political subdivisions generally, rather than county financial statements.

In any event, even under Respondents' 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.

CONCLUSION

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

Respectfully Submitted,

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CERTIFICATE OF SERVICE AND COMPLIANCE

I hereby certify that on August 31, 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 5,957 words.

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

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