

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

JOHNATHAN BYRD,	)	
	)	
JESSICA HONEYCUTT,	)	
	)	
and	)	
	)	
ALLISON MILES,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No.
	)	
STATE OF MISSOURI,	)	
	)	
Serve: Eric Schmitt	)	
Supreme Court Building	)	
207 W. High St.	)	
Jefferson City, MO 65102,	)	
	)	
ERIC SCHMITT, in his official capacity as	)	
Attorney General of the State of Missouri,	)	
	)	
Serve: Eric Schmitt	)	
Supreme Court Building	)	
207 W. High St.	)	
Jefferson City, MO 65102,	)	
	)	
MISSOURI HOUSING DEVELOPMENT	)	
COMMISSION,	)	
	)	
Serve: Missouri Housing Development	)	
Commission	)	
920 Mail Street	)	
Ste. 1400	)	
Kansas City, MO 64105,	)	
	)	
and	)	
	)	
MISSOURI DEPARTMENT OF ECONOMIC	)	
DEVELOPMENT,	)	
	)	
Serve: Missouri Department of	)	

Economic Development)
 Truman Building, Room 680)
 301 W. High St.)
 Jefferson City, Missouri 65102,)
)
 Defendants.)

PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF

1. The Missouri Constitution prohibits any bill from containing “more than one subject” and requires that the subject “be clearly expressed in its title.” Mo. Const. Art. III, § 23. The Missouri Constitution also prohibits any bill from being “so amended in its passage through either house as to change its original purpose.” *Id.* § 21. These requirements are intended to ensure that members of the legislature and the public are not misled about the purpose, cause, or effect of the proposed legislation.

2. On June 29, 2022, the Governor approved House Bill 1606 (HB 1606), which had passed the General Assembly in May. As originally introduced, HB 1606 was titled an act to “repeal [four sections of the Revised Statutes of Missouri] and to enact in lieu thereof two new sections relating to county financial statements,” and it contained provisions concerning county financial statements. As enacted, HB 1606 is titled an act to “repeal [forty-two sections of the Revised Statutes of Missouri] and to enact in lieu thereof fifty new sections relating to political subdivisions, with a delayed effective date for a certain section and with penalty provisions.” The legislation primarily contains provisions relating to political subdivisions.

3. In the course of the legislative process, a section was added to HB 1606—section 67.2300—the subject of which is not county financial statements or political subdivisions, but homelessness. Among other things, section 67.2300 imposes restrictions on use of state funds for the homeless, provides certain immunity to campground owners and employees operating a

campground using state funds for the homeless, and forbids people from using state-owned land for unauthorized sleeping, camping, or long-term shelters.

4. By including section 67.2300, HB 1606 violates the single-subject requirement, clear-title requirement, and original-purpose requirement of the Missouri Constitution. Plaintiffs therefore request that the Court declare section 67.2300 invalid and enjoin Defendants from enforcing it.

PARTIES

5. Plaintiff Johnathan Byrd is a Missouri taxpayer who lives and works in Greene County, Missouri. As a taxpayer, he has an interest in HB 1606, which dictates how state funds for the homeless are to be used, and the enforcement of which will require the expenditure of funds generated through taxation. As a low-income worker who has experienced homelessness and housing instability and as a housing justice advocate, Mr. Byrd believes that H.B. 1606 will harm Missourians who are unhoused or who are unstably housed.

6. Plaintiff Jessica Honeycutt is a Missouri taxpayer who lives and works in Greene County, Missouri. As a taxpayer, she has an interest in HB 1606, which dictates how state funds for the homeless are to be used, and the enforcement of which will require the expenditure of funds generated through taxation. As a community health worker who provides services to people who are homeless and as a housing justice advocate, she believes that HB 1606 will harm Missourians who are unhoused or who are unstably housed.

7. Plaintiff Allison Miles is a Missouri taxpayer who lives and works in Cape Girardeau County, Missouri. As a taxpayer, she has an interest in HB 1606, which dictates how state funds for the homeless are to be used, and the enforcement of which will require the expenditure of funds generated through taxation. As a low-income worker who has experienced homelessness and as a

housing justice advocate, Ms. Miles believes that HB 1606 will harm Missourians who are unhoused or who are unstably housed.

8. Defendant State of Missouri enacted HB 1606 and is responsible for executing it.

9. Defendant Eric Schmitt is the Attorney General of Missouri. He is sued solely in his official capacity. The Attorney General institutes cases to protect and enforce the State’s rights and interests and, under certain circumstances, may aid prosecuting or circuit attorneys or sign indictments. Subsection 6 of section 67.2300 gives the Attorney General power to bring a civil action to enjoin a political subdivision from violating the provisions of that subsection.

10. Defendant Missouri Housing Development Commission (the “Commission”) is a governmental instrumentality of the State of Missouri. The Commission is authorized to allocate funds raised by the state or federal funds received by the state for housing or homelessness.

11. Defendant Missouri Department of Economic Development (the “Department”) is a department within the executive branch of the Missouri government. The Department is authorized to allocate funds raised by the state or federal funds received by the state for housing or homelessness.

JURISDICTION AND VENUE

12. Venue is proper in this court. § 508.010, RSMo.

13. Plaintiffs seek injunctive relief and a declaration of rights, status, and other legal relations. §§ 526.030, 527.010, RSMo.

STATEMENT OF FACTS

14. On January 5, 2022, HB 1606 was introduced in the Missouri House of Representatives. 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.” 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.

15. HB 1606 passed the House of Representatives and was sent to the Senate, which passed a substitute bill. The bill then went to a conference committee, which proposed a conference committee substitute. In May 2022, the Senate and House of Representatives passed the conference committee substitute. The bill was approved by the Governor on June 29, 2022.

16. 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.”

17. HB 1606, as enacted, primarily contains provisions relating to political subdivisions. For example, in addition to provisions relating to county financial statements, it contains a provision extending to all non-charter counties the authorization for county coroners to receive a raise; a provision allowing any political subdivision to elect to cover emergency telecommunicators, jailors, and emergency medical service personnel as public safety personnel members of the Missouri local government employees’ retirement system; and a provision adding county and municipal park ranger vehicles to the definition of “emergency vehicles.”

18. Section 67.2300 of HB 1606 contains nine subsections concerning homelessness, the majority of which do not relate to political subdivisions or to county financial statements or burdens, or are far more expansive than those topics. Subsection 2 of section 67.2300, for example, dictates how state funds for the homeless may be spent. Subsection 3 concerns immunity for private campground owners, employees, and officers operating a campground with state funds for the homeless. 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. Subsection 5 makes it a misdemeanor for a person to use state-owned lands for unauthorized sleeping, camping, or the construction of long-term shelters.

19. Section 67.2300 provides in full:

1. As used in this section, the following terms mean:

(1) "Department", any department authorized to allocate funds raised by the state or federal funds received by the state for housing or homelessness;

(2) "State funds", any funds raised by the state and federal funds received by the state for housing or homelessness, but shall not include any federal funds not able to be used for housing programs pursuant to this section due to federal statutory or regulatory restrictions.

2. State funds for the homeless shall be used for the following:

(1) For parking areas, each area shall provide:

(a) Access to potable water and electric outlets; and

(b) Access to bathrooms sufficient to serve all of the parking areas;

(2) For camping facilities, individuals experiencing homelessness may camp and store personal property at such facilities, which shall be subject to the following:

(a) Individuals shall only camp and store personal property at such facilities in the areas designated to each individual by the agency providing the camping facilities; and

(b) Facilities shall provide a mental health and substance use evaluation as designated by a state or local agency and individuals may complete such evaluation;

(3) For individual shelters, which shall be subject to the following:

(a) Be suitable to house between one and three individuals;

(b) Provide basic sleeping accommodations and access to electricity;

(c) Provide adequate access to showers and bathroom facilities; and

(d) Be limited to occupation by each individual for a period of not more than two years;

(4) For congregate shelters housing more than four homeless individuals in one space, state funds shall be available only to the extent the shelter monitors and provides programs to improve the employment, income, and prevention of return to homelessness of individuals leaving those shelters. The department shall provide performance payments of up to ten percent for such programs that meet guidelines as established by the department.

Individuals utilizing such facilities pursuant to this subsection shall be entered into a homelessness management information system maintained by the local continuum of care.

3. A private campground owner or an employee or officer of a private campground operating such facility pursuant to this section shall be subject to the provisions of section 537.328.

4. (1) State funds otherwise used for the construction of permanent housing for the homeless shall be used to assist such individuals with substance use, mental health treatment, and other services, including short-term housing. The department shall provide up to twenty-five percent of the base allocation of such funds as performance payments to political subdivisions or not-for-profit organizations providing such services as rewards for meeting predetermined goals on reductions of:

- (a) Days unhoused;
- (b) Days in jail or prison; and
- (c) Days hospitalized, with the weights of such days to be determined by the department.

(2) Political subdivisions and not-for-profit organizations may use state grants otherwise used for permanent housing to conduct surveys to identify individuals with the greatest number of days unhoused, in jail or prison, or hospitalized but these expenses shall not exceed ten percent of the total grant amount

5. 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.

6. (1) A political subdivision shall not adopt or enforce any policy under which the political subdivision prohibits or discourages the enforcement of any order or ordinance prohibiting public camping, sleeping, or obstructions of sidewalks.

(2) In compliance with subsection 5 of this section, a political subdivision shall not prohibit or discourage a peace officer or prosecuting attorney who is employed by or otherwise under the direction or control of the political subdivision from enforcing any order or ordinance prohibiting public camping, sleeping, or obstructions of sidewalks.

(3) The provisions of this section shall not prohibit a policy of any political subdivision that encourages diversion programs or offering of services in lieu of a citation or arrest.

(4) The attorney general shall have the power to bring a civil action in any court of competent jurisdiction against any political subdivision to enjoin the political subdivision from violating the provisions of this subsection.

(5) The attorney general may recover reasonable expenses incurred in any civil action brought under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

7. Any political subdivision with a higher per-capita rate of homelessness than the state average, as determined by the most recent United States census numbers for the overall population and the most recent federal Department of Housing and Urban Development homelessness point-in-time continuum of care, as defined by 24 C.F.R. 578.5(a), in which the political subdivision is located, shall, within one year of the passage of this act, receive no further state funding by the department until the department determines:

- (1) The political subdivision has a per-capita rate of unsheltered homeless individuals at or below the state average; or

(2) The political subdivision is in compliance with subsection 6 of this act.

8. The department authorized to allocate funds pursuant to this section may promulgate all rules and regulations to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2023, shall be invalid and void.

9. The provisions of this section, including references to the disbursement of state grants and funds, shall not apply to shelters for victims of domestic violence as defined in section 455.200.

**COUNT I – Violation of Mo. Const. Article III, § 23
(Single-Subject Requirement)**

20. The Missouri Constitution, Article III, § 23, provides that “No bill shall contain more than one subject.”

21. The general subject of HB 1606 is political subdivisions.

22. Many provisions of Section 67.2300 do not fairly relate to or have a natural connection with political subdivisions and are not a means to accomplish the purpose of regulating political subdivisions.

23. HB 1606 contains more than one subject and violates the single-subject requirement in Article III, § 23, of the Missouri Constitution.

**COUNT II – Violation of Mo. Const. Article III, § 23
(Clear-Title Requirement)**

24. The Missouri Constitution, Article III, § 23, requires that the single subject of a bill “be clearly expressed in its title.”

25. The title of HB 1606 is “AN ACT To repeal [forty-two sections of the Revised Statutes of Missouri] and to enact in lieu thereof fifty new sections relating to political subdivisions, with a delayed effective date for a certain section and with penalty provisions.”

26. Many of the provisions of section 67.2300 are outside of or go beyond the subject of regulating political subdivisions.

27. The title of HB 1606 is underinclusive and violates the clear-title requirement in Article III, § 23, of the Missouri Constitution.

**COUNT III – Violation of Mo. Const. Article III, § 21
(Original-Purpose Requirement)**

28. The Missouri Constitution, Article III, § 21, provides that “no bill shall be so amended in its passage through either house as to change its original purpose.”

29. The original purpose of HB 1606 was to regulate county financial statements, thereby reducing counties’ publication costs.

30. None of the provisions of section 67.2300 regulates county financial statements or will reduce counties’ publication costs.

31. HB 1606 was amended during its passage to change its original purpose and violates the original-purpose requirement in Article III, § 21, of the Missouri Constitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court:

- a. Declare that HB 1606 is unconstitutional because it violates the single-subject requirement in Article III, § 23, of the Missouri Constitution;
- b. Declare that HB 1606 is unconstitutional because it violates the clear-title requirement in Article III, § 23, of the Missouri Constitution;
- c. Declare that HB 1606 is unconstitutional because it violates the original-purpose requirement in Article III, § 21, of the Missouri Constitution;
- d. Declare that section 67.2300 is invalid and may not be implemented or enforced;
- e. Enjoin defendants from implementing or enforcing section 67.2300; and

- f. Grant such other and further relief that the Court deems just and appropriate under the circumstances.

Respectfully Submitted,

/s/ Amanda J. Schneider

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