

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

OHIO STATE CONFERENCE OF THE	:	
NATIONAL ASSOCIATION FOR THE	:	
ADVANCEMENT OF COLORED	:	Case No. 2:14-cv-00404
PEOPLE, et al.	:	
	:	
Plaintiffs,	:	Judge Peter C. Economous
	:	
v.	:	Magistrate Judge King
	:	
JON HUSTED, et al.	:	
	:	
Defendants.	:	

**MOTION TO INTERVENE BY PROPOSED
INTERVENOR OHIO GENERAL ASSEMBLY**

Pursuant to Fed. R. Civ. P. 24(a) and (b), the Ohio General Assembly hereby moves to intervene as a Defendant in this case. Attached is a Memorandum in Support and Proposed Answer in accordance with Fed. R. Civ. P. 24(c).

Respectfully submitted,

OHIO ATTORNEY GENERAL
MIKE DeWINE

/s/ E. Mark Braden

E. Mark Braden (0024987)

*Trial Counsel

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Special Counsel for Proposed Intervenor Ohio
General Assembly

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Intervene was served upon all counsel of record by means of the Court's electronic filing system on this 11th day of July, 2014.

/s/ Robert J. Tucker

Robert J. Tucker (0082205)

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**MEMORANDUM OF PROPOSED INTERVENOR OHIO GENERAL ASSEMBLY IN
SUPPORT OF MOTION TO INTERVENE**

I. INTRODUCTION AND STATEMENT OF FACTS

Plaintiffs The Ohio Conference of the National Association for the Advancement of Colored People, League of Women Voters, Bethel African Methodist Episcopal Church, Omega Baptist Church, College Hill Community Church Presbyterian, U.S.A., A. Philip Randolph Institute, and Daryl Fairchild (collectively “Plaintiffs”) challenge the constitutionality of Senate Bill 238 (“SB 238” or the “Act”), an act passed by the Ohio General Assembly on February 19, 2014, and signed by the Governor on February 21, 2014. The Act became effective June 1, 2014. SB 238 amended Ohio Rev. Code §§ 3509.01(B) and 3511.10 regarding certain days and procedures for early voting.

The Ohio General Assembly has an interest, and a statutory right, in defending the constitutionality of the statutes it enacts. And although the Secretary of State and the Attorney

General are already defendants in this action, their primary interests are in administering and enforcing such statutes. As such, the interests of the Ohio Secretary of State and the Ohio Attorney General may differ from the Ohio General Assembly. The General Assembly seeks to intervene to submit additional arguments and evidence supporting the constitutionality of SB 238.

II. LAW AND ARGUMENT

A. The General Assembly is entitled to intervene as of right under Civ. R. 24(a).

The General Assembly is entitled to intervene based on its direct stake in this litigation. Federal Rule of Civil Procedure 24(a) states that upon timely request, the Court must permit anyone to intervene: (1) when a federal statute confers an unconditional right to intervene; or (2) when the person seeking to intervene claims an interest relating to the action such that disposition of the action may impair that person's ability to protect that interest, unless existing parties adequately represent the applicant's interest. Both provisions apply. Moreover, "Rule 24 should be 'broadly construed in favor of potential intervenors.'" *Stupak-Thrall v. Glickman*, 226 F.3d 467, 472 (6th Cir. 2000) (quoting *Purnell v. Akron*, 925 F.2d 941, 950 (6th Cir. 1991)).

Federal law grants a right to intervene to defend the constitutionality of state law. 28 U.S.C. §2403(b). In this case, Plaintiffs attack the constitutionality of SB 238, claiming it violates the Equal Protection Clause of the Fourteenth Amendment and Section 2 of the Voting Rights Act. The General Assembly seeks to intervene to ensure that arguments and evidence related to its interests in defending validly enacted and presumptively constitutional laws are protected. Additionally, if the Secretary of State or the Attorney General chooses not to appeal any potential adverse ruling by this Court, the General Assembly must be permitted to intervene to preserve any potential necessary appeal.

Moreover, the General Assembly has a manifest interest in defending the constitutionality of any law it enacts. Because the Secretary of State's and the Attorney General's duties to administer and enforce the laws are distinct from the duties of the General Assembly in enacting laws, the General Assembly's interests may not be adequately protected in this case. *See Stupak-Thrall*, 226 F.3d at 472 (proposed intervenors need only demonstrate a potential for inadequate representation). Additionally, the General Assembly's interests will not be protected to any extent if the Secretary of State or the Attorney General do not exercise their right to appeal any potential adverse ruling. Thus, intervention is necessary.

Accordingly, the Court should grant the motion to intervene as of right.

B. The General Assembly should be permitted to intervene under Civ. R. 24(b).

In the alternative, the General Assembly should be permitted to intervene under Fed. R. Civ. P. 24(b). Rule 24(b) provides that upon timely application, anyone may be permitted to intervene in an action: (1) when a federal statute confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. As explained above, the General Assembly has the right to defend the constitutionality of the acts it passes. The General Assembly, the body charged with enacting legislation under the Ohio Constitution, should be permitted to intervene to defend against a constitutional attack to that statute.

C. The General Assembly's Motion to Intervene is Timely.

Whether a motion to intervene is timely should be evaluated in the context of all relevant circumstances. *Jansen v. City of Cincinnati*, 904 F.2d 336, 340 (6th Cir. 1990). This matter was filed just over two months ago. Plaintiffs filed their motion for preliminary injunction less than two weeks ago. No responses have been filed yet, and the General Assembly anticipates the

ability to file its opposition in accordance with the Court's scheduling order. As such, there will be no prejudice to the parties from the General Assembly's intervention into this matter at this time.

III. CONCLUSION

For these reasons, the Ohio General Assembly respectfully asks the Court to grant its motion to intervene as a Defendant.

Respectfully submitted,

OHIO ATTORNEY GENERAL
MIKE DeWINE

/s/ E. Mark Braden

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General Assembly

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum in Support of Motion to Intervene was served upon all counsel of record by means of the Court's electronic filing system on this 11th day of July, 2014.

/s/ Robert J. Tucker

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	:	
Defendants.	:	

**ANSWER OF PROPOSED INTERVENOR-DEFENDANT
THE OHIO GENERAL ASSEMBLY**

For its Answer to Plaintiffs’ Complaint, Proposed Intervenor-Defendant the Ohio General Assembly (“General Assembly”) states as follows:

1. The General Assembly states that the decisions in *Obama for Am. v. Husted*, 888 F. Supp. 2d 897 (S.D. Ohio 2012), *aff’d*, 697 F.3d 423 (6th Cir. 2013), and the provisions of Senate Bill 238 (“SB 238”), which are matters of public record, speak for themselves. The General Assembly denies that Plaintiffs are entitled to any relief, and denies the remaining allegations in paragraph 1.

2. The General Assembly states that the provisions of SB 238 and Secretary of State Directive 2014-06 (“Directive 2014-06”) speak for themselves. The General Assembly denies the remaining allegations in paragraph 2.

3. In response to the allegations in paragraph 3 of the Complaint, the General Assembly admits that in 2005-2006, the 126th General Assembly passed laws establishing an

early voting system in Ohio and that those laws speak for themselves. The General Assembly further admits that following the passage of these laws, some counties held early voting on evenings and Sundays, but is not aware of specifically why such counties may have implemented such early voting hours. The General Assembly denies the remaining allegations in paragraph 3 of the Complaint.

4. The General Assembly is currently without sufficient knowledge or information to admit or deny the accuracy of the voting statistics in paragraph 4 of the Complaint, and, therefore, for now, denies the same. The General Assembly denies the remaining allegations in paragraph 4 of the Complaint.

5. The General Assembly denies the allegations in paragraph 5 of the Complaint.

6. The General Assembly denies that Plaintiffs are entitled to a declaratory judgment, preliminary injunction, or permanent injunction.

7. The General Assembly admits the allegations in paragraph 7 of the Complaint subject to its affirmative defenses asserted below.

8. The General Assembly admits that this Court has authority to grant declaratory and injunctive relief, but denies that Plaintiffs are entitled to such relief.

9. The General Assembly admits the allegations in paragraph 9 of the Complaint.

10. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations relating to the structure, history, purpose, and efforts of the Ohio NAACP. The General Assembly admits that the NAACP National Voter Fund and the Ohio Voter Fund testified against the adoption of SB 238. The General Assembly denies the remaining allegations in paragraph 10 of the Complaint.

11. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations relating to the structure, history, purpose, beliefs, and efforts of the League of Women Voters of Ohio. The General Assembly denies the remaining allegations in paragraph 11 of the Complaint.

12. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations relating to the structure, history, purpose, and efforts of the Bethel African Methodist Episcopal Church. The General Assembly denies the remaining allegations in paragraph 12 of the Complaint.

13. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations relating to the structure, beliefs, and efforts of the Omega Baptist Church. The General Assembly denies the remaining allegations in paragraph 13 of the Complaint.

14. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations relating to the structure, purpose, beliefs and efforts of the College Hill Community Church Presbyterian, USA. The General Assembly denies the remaining allegations in paragraph 14 of the Complaint.

15. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations relating to the structure, history, purpose, beliefs, and efforts of the A. Philip Randolph Institute. The General Assembly denies the remaining allegations in paragraph 15 of the Complaint.

16. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations relating to the residence and efforts of Darryl Fairchild. The General Assembly denies the remaining allegations in paragraph 16 of the Complaint.

17. The General Assembly admits that SB 238 was signed by the Governor on February 21, 2014 to be effective June 1, 2014, and that its provisions speak for themselves. The General Assembly further admits that Ohio Secretary of State Jon Husted issued Directive 2014-06 on February 25, 2014, and that its provisions speak for themselves. The General Assembly states that whether Plaintiffs' lawsuit is timely is a legal conclusion to which no response is required. The General Assembly denies any remaining allegations in paragraph 17 of the Complaint.

18. The General Assembly states that Ohio Revised Code § 3501.04 speaks for itself. The General Assembly admits the remaining allegations in paragraph 18 of the Complaint.

19. The General Assembly states that Ohio Revised Code § 109.02 speaks for itself. The General Assembly admits the remaining allegations in paragraph 19 of the Complaint.

20. The General Assembly states that the decision in *League of Women Voters of Ohio v. Brunner*, 548 F.3d 463 (6th Cir. 2008), is a matter of public record and speaks for itself. The General Assembly does not currently have knowledge or information sufficient to admit or deny the accuracy of the statistics and other remaining factual allegations referenced in paragraph 20 of the Complaint, and, therefore, for now, denies the same. The General Assembly denies the remaining allegations in paragraph 20 of the Complaint.

21. The General Assembly states that the decision in *Obama for Am. v. Husted*, 697 F.3d 423, 426 (6th Cir. 2012), is a matter of public record and speaks for itself.

22. The Ohio laws regarding early voting referenced in paragraph 22 of the Complaint speak for themselves.

23. The Ohio laws regarding early voting referenced in paragraph 23 of the Complaint speak for themselves.

24. The Ohio laws regarding early voting and the Uniformed and Overseas Citizens Absentee Voting Act referenced in paragraph 24 of the Complaint speak for themselves.

25. The Ohio laws regarding early voting referenced in paragraph 25 of the Complaint speak for themselves.

26. The provisions of Ohio Revised Code § 3501.10(C) speak for themselves.

27. The General Assembly denies the allegations in paragraph 27 of the Complaint.

28. The General Assembly does not currently have knowledge or information sufficient to admit or deny the accuracy of the voting statistics referenced in paragraph 28 of the Complaint, and, therefore, for now, denies the same. The General Assembly denies the remaining allegations in paragraph 28 of the Complaint.

29. The provisions of Ohio Revised Code §§ 3501.06, 3501.10, and 3501.11 speak for themselves. The General Assembly denies the remaining allegations in paragraph 29 of the Complaint.

30. The General Assembly states that the decision in *Obama for Am. v. Husted*, 697 F.3d at 426-27, which is a matter of public record, speaks for itself. The General Assembly is without knowledge or information sufficient to form a belief as to whether Cuyahoga and Franklin counties had early voting on some weekday evenings and on some weekends in the 2008 general election. The General Assembly does not currently have knowledge or information sufficient to admit or deny the accuracy of the voting statistics referenced in paragraph 30 of the Complaint, and, therefore, for now, denies the same. The General Assembly denies the remaining allegations in paragraph 30 of the Complaint.

31. The General Assembly does not currently have knowledge or information sufficient to admit or deny the accuracy of the voting statistics referenced in paragraph 31 of the Complaint, and, therefore, for now, denies the same.

32. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32 of the Complaint, and, therefore denies the same.

33. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 33 of the Complaint relating to the “Souls to Polls” programs, and, therefore, denies the same. The General Assembly denies the remaining allegations in paragraph 33 of the Complaint.

34. The General Assembly admits that in 2008, Senate Bill 380, which contained revisions to Ohio’s early voting laws, was passed, but vetoed by then Governor Ted Strickland in December, 2008. The General Assembly further admits that in 2009, House Bill 260, which likewise contained revisions to Ohio’s early voting laws, was passed by the House, but not the Senate. The legislative history of Senate Bill 380 and House Bill 260 are matters of public record and speak for themselves. The General Assembly denies any remaining allegations in paragraph 34 of the Complaint.

35. The General Assembly denies the allegations in paragraph 35 of the Complaint.

36. The General Assembly admits that HB 194 was signed into law in July, 2011 and that the text and legislative history of HB 194, which are matters of public record, speak for themselves. The General Assembly denies the remaining allegations in paragraph 36 of the Complaint.

37. The General Assembly admits that a referendum on HB 194 was initiated. The procedural history relating to the referendum for HB 194 is a matter of public record and speaks for itself. The General Assembly denies the remaining allegations in paragraph 37 of the Complaint.

38. The General Assembly admits that HB 194 was repealed effective August 15, 2012. The General Assembly denies the remaining allegations in paragraph 38 of the Complaint.

39. The General Assembly states that the decision in *Obama for Am. v. Husted*, 697 F.3d at 427, is a matter of public record and speaks for itself. The General Assembly denies the remaining allegations in paragraph 39 of the Complaint.

40. The General Assembly admits that Secretary of State Husted issued Directive 2012-35 (“Directive 2012-35) on August 15, 2012, and that its provisions speak for themselves. The General Assembly further states that the decision in *Obama for Am. v. Husted*, 888 F. Supp. 2d at 902, is a matter of public record and speaks for itself. The General Assembly denies the allegations in paragraph 40 to the extent they are inconsistent with the provisions of Directive 2012-35, and denies any remaining allegations in paragraph 40 of the Complaint.

41. The General Assembly states that the provisions of Ohio Revised Code §§ 3501.06 and 3501.11, and Directive 2012-35 speak for themselves. The General Assembly denies the remaining allegations in paragraph 41 of the Complaint.

42. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42 of the Complaint, and, therefore, denies the same.

43. The General Assembly states that the decision in *Obama for Am. v. Husted*, 888 F. Supp. 2d at 902, 902, 910-11, is a matter of public record and speaks for itself. The General Assembly denies any remaining factual allegations in paragraph 43 of the Complaint.

44. The General Assembly admits that Secretary of State Husted issued Directive 2012-40 on September 4, 2012 (“Directive 2012-40”) and that its provisions speak for themselves. Further answering, the General Assembly states that the order of the Court in *Obama for Am. v. Husted* dated September 5, 2012 is a matter of public record and speaks for itself. The General Assembly further admits that Secretary of State Husted rescinded Directive 2012-40 on September 7, 2012.

45. The decision by the Sixth Circuit in *Obama for Am. v. Husted* and Secretary of State Husted’s application to the United States Supreme Court relating to that decision are matters of public record and speak for themselves. The remaining allegations in paragraph 45 of the Complaint are mostly legal conclusions to which no response is required. To the extent paragraph 45 contains any additional factual allegations, the General Assembly denies any such allegations.

46. The General Assembly does not currently have knowledge or information sufficient to admit or deny the accuracy of the voting statistics referenced in paragraph 46 of the Complaint, and, therefore, for now, denies the same. The General Assembly denies the remaining allegations in paragraph 46 of the Complaint.

47. The General Assembly admits that Senate Bill 238 (“SB 238”) was introduced on November 13, 2013, and that its provisions speak for themselves. The General Assembly denies the remaining allegations in paragraph 47 of the Complaint.

48. The General Assembly admits that there were two hearings on SB 238 in the Senate Government Oversight and Reform Committee and that the legislative history of SB 238, which is a matter of public record, speaks for itself. The General Assembly denies any remaining factual allegations in paragraph 48 of the Complaint.

49. The General Assembly admits that SB 238 passed the Senate on November 20, 2013. The General Assembly denies the remaining allegations in paragraph 49 of the Complaint.

50. The General Assembly admits that a committee notice was issued for SB 238 on January 30, 2014, and that the notice and its contents, which are a matter of public record, speak for itself. The General Assembly is not aware of when each legislator learned that the committee meeting would be held on February 11, 2014. The General Assembly denies the remaining allegations in paragraph 50 of the Complaint.

51. The General Assembly admits that two additional amendments were submitted prior to the submission of SB 238 to the House floor, and that those amendments speak for themselves.

52. The General Assembly admits that the two amendments discussed in paragraph 51 of the Complaint were not voted upon during the House floor vote, and that the House passed SB 238 on February 19, 2014. Further answering, the legislative history of SB 238 on the House floor is a matter of public record and speaks for itself. The General Assembly denies the remaining allegations in paragraph 52 of the Complaint.

53. The General Assembly admits that the Senate concurred in the House's amendments to SB 238 on February 19, 2014, and that the legislative history surrounding the Senate's concurrence is a matter of public record and speaks for itself. The General Assembly denies any remaining allegations in paragraph 53 of the Complaint.

54. The legislative history surrounding the passage of SB 238 is a matter of public record and speaks for itself. The General Assembly denies the remaining allegations in paragraph 54 of the Complaint.

55. The General Assembly admits that SB 238 was signed by the Governor on February 21, 2014. The General Assembly denies the remaining allegations in paragraph 55 of the Complaint.

56. The General Assembly states that the quotation in paragraph 56 is not the full quotation attributed to Representative Huffman in the cited article, which speaks for itself. The General Assembly denies the remaining allegations in paragraph 56 of the Complaint.

57. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 57 of the Complaint, and, therefore, denies the same.

58. The General Assembly admits that Secretary of State Husted issued Directive 2014-06 on February 25, 2014, and that its provisions speak for themselves. The General Assembly denies the remaining allegations in paragraph 58 of the Complaint.

59. The General Assembly states that the provisions of Ohio Revised Code §§ 3501.06 and 3501.11 speak for themselves. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 59 of the Complaint.

60. The General Assembly states that the provisions of Ohio Revised Code § 3501.053 speaks for themselves. The General Assembly admits that Directive 2014-06 will apply to the November 2014 general election. The General Assembly is without knowledge or

information sufficient to form a belief as to the truth of the procedural history of Directive 2014-06. The General Assembly denies the remaining allegations in paragraph 60 of the Complaint.

61. The General Assembly states that the provisions of Ohio Revised Code § 3501.053 speaks for themselves. Further answering, the remaining allegations in paragraph 61 contain only legal conclusions to which no response is required.

62. The General Assembly states that the decision in *Serv. Emps. Int'l Union ("SEIU") v. Husted*, 2:12-CV-562, 2:06-CV-896, 2012 WL 5497757 (S.D. Ohio Nov. 13, 2012), is a matter of public record and speaks for itself. Further answering, the remaining allegations in paragraph 62 contain only legal conclusions to which no response is required.

63. The General Assembly states that the decision in *Serv. Emps. Int'l Union ("SEIU") v. Husted*, 2:12-CV-562, 2:06-CV-896, 2012 WL 5497757 (S.D. Ohio Nov. 13, 2012), is a matter of public record and speaks for itself. Further answering, the remaining allegations in paragraph 63 contain only legal conclusions to which no response is required.

64. The General Assembly states that the decisions in *Northeast Ohio Coalition for the Homeless v. Husted*, No. 2:06-CV-896, 2013 WL 4008758 (S.D. Ohio Aug. 5, 2013), and *Serv. Emps. Int'l Union ("SEIU") v. Husted*, 2:12-CV-562, 2:06-CV-896, 2012 WL 5497757 (S.D. Ohio Nov. 13, 2012), are matters of public record and speak for themselves. The General Assembly denies the remaining allegations in paragraph 64 of the Complaint.

65. The General Assembly states that the provisions of Directives 2012-35, 2014-01, and 2014-06, are matters of public record and speak for themselves. The General Assembly denies the allegations of paragraph 65 to the extent they are inconsistent with the language of those Directives, and denies any remaining allegations in paragraph 65 of the Complaint.

66. The General Assembly denies the allegations in paragraph 66 of the Complaint.

67. The General Assembly states that the provisions of SB 238, Directive 2014-06, and Ohio Revised Code §§ 3509.03, 3511.02, and 3511.19 speak for themselves. The remainder of paragraph 67 does not contain any factual allegations to which any response is required.

68. The General Assembly states that the provisions of SB 238 and Directive 2014-06 speak for themselves. The General Assembly denies the remaining allegations in paragraph 68 of the Complaint.

69. The General Assembly states that the provisions of SB 238 and Directive 2014-06 speak for themselves. Further answering, the General Assembly is currently without knowledge or information sufficient to admit or deny the accuracy of the voting statistics alleged in paragraph 69 of the Complaint, and, therefore, for now, denies the same. The General Assembly admits that in 2008, all Ohio county boards of election could permit early voting on weekends during the early voting period. The General Assembly denies the remaining allegations in paragraph 69 of the Complaint.

70. The General Assembly states that the provisions of SB 238 and Directive 2014-06 speak for themselves. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations that many African-American churches coordinated transportation vans to help their congregants vote after church on Sunday during the 2012 general election, and, therefore, denies the same. The General Assembly denies the remaining allegations in paragraph 70 of the Complaint.

71. The General Assembly is currently without knowledge or information sufficient to admit or deny the accuracy of the voting statistics and wait times alleged in paragraph 71 of the Complaint, and, therefore, for now, denies the same. The General Assembly denies the remaining allegations in paragraph 71 of the Complaint.

72. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 72 of the Complaint relating to voting practices and statistics from the state of Florida in 2012, and denies any conclusions drawn from such practices or statistics as applicable to Ohio elections.

73. The General Assembly states that the decision in *State ex rel. Colvin v. Brunner*, 896 N.E.2d 979, 991 (Ohio 2008), is a matter of public record and speaks for itself. The General Assembly denies the remaining allegations in paragraph 73 of the Complaint.

74. The General Assembly denies the allegations in paragraph 74 of the Complaint.

75. The General Assembly denies the allegations in paragraph 75 of the Complaint.

76. The General Assembly is without knowledge or information sufficient to form a belief as to the truth of the allegations relating to the “Souls to Polls” programs as alleged in paragraph 76 of the Complaint, and, therefore, denies the same. The General Assembly denies the remaining allegations in paragraph 76 of the Complaint.

77. The General Assembly denies the allegations in paragraph 77 of the Complaint.

78. The General Assembly denies the allegations in paragraph 78 of the Complaint.

79. The General Assembly denies the allegations in paragraph 79 of the Complaint.

80. The General Assembly states that the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution speaks for itself. The General Assembly further states that the decision in *Burdick v. Takushi*, 504 U.S. 248, 434 (1992), is a matter of public record and speaks for itself. The remainder of paragraph 80 contains legal argument or conclusions to which no response is required.

81. The General Assembly denies the allegations in paragraph 81 of the Complaint.

82. The General Assembly incorporates its responses to paragraph 1-81 of the Complaint as if fully restated herein.

83. The General Assembly states that the provisions of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution speak for themselves. The remainder of paragraph 83 contains only legal conclusions to which no response is required.

84. The General Assembly denies the allegations in paragraph 84 of the Complaint.

85. The General Assembly states that the first sentence of paragraph 85 of the Complaint contains only a legal conclusion to which no response is required. The General Assembly further states that the provisions of SB 238 and its legislative history are matters of public record and speak for themselves. The General Assembly further states that the provisions of Directive 2014-06 speak for themselves. The General Assembly denies the remaining allegations in paragraph 85 of the Complaint.

86. The General Assembly incorporates its responses to paragraph 1-85 of the Complaint as if fully restated herein.

87. The General Assembly states that the provisions of Section 2 of the Voting Rights Act of 1965, 42 U.S.C. § 1973(a) speak for themselves.

88. The General Assembly denies the allegations in paragraph 88 of the Complaint.

89. The General Assembly denies the allegations in paragraph 89 of the Complaint.

90. The General Assembly denies the allegations in paragraph 90 of the Complaint.

91. The General Assembly denies the allegations in paragraph 91 of the Complaint.

92. The General Assembly denies the allegations in paragraph 92 of the Complaint.

93. The General Assembly denies each and every allegation in the Complaint unless specifically admitted as true. Additionally, a denial of the factual allegations in any paragraph is

also a denial of the allegations or citations in any footnote to that paragraph unless specifically admitted as true.

AFFIRMATIVE DEFENSES

1. Plaintiffs' Complaint fails to state a claim upon which relief can be granted.
2. One or more of the Plaintiffs lack the requisite standing to pursue one or more of the claims in the Complaint.
3. One or more of the claims in the Complaint are barred by the doctrine of waiver, estoppel, or laches.
4. Neither SB 238, nor Directive 2014-06 violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.
5. Neither SB 238, nor Directive 2014-06 violates the Voting Rights Act.
6. SB 238 is constitutional.
7. The General Assembly reserves the right to assert additional affirmative defenses identified during the course of this litigation.

WHEREFORE, the Ohio General Assembly respectfully requests that Plaintiffs' Complaint be dismissed in its entirety.

Respectfully submitted,

OHIO ATTORNEY GENERAL
MIKE DeWINE

/s/ E. Mark Braden

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