

No. 25-00675, 25-0687

In the Supreme Court of Texas

IN RE STATE OF TEXAS,
Relator.

IN RE GREG ABBOTT,
IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE STATE OF TEXAS
Relator.

On Petition for Writ of Quo Warranto

**Brief of *Amici Curiae* on behalf of League of Women Voters of Texas, Asian
Texans for Justice, OCA-Greater Houston, UnidosUS, and the Texas State
Conference of the NAACP in Support of Respondents**

Counsel for *Amici Curiae*

DEMOCRACY FORWARD FOUNDATION
Skye L. Perryman TX 24060411
Lisa Newman
Victoria S. Nugent
P.O. Box 34553
Washington D.C. 20043
Tel: (202) 448-9090
Fax: (202) 796-4426
sperryman@democracyforward.org
lnewman@democracyforward.org
vnugent@democracyforward.org

TABLE OF CONTENTS

INDEX OF AUTHORITIES.....	iii
IDENTITY AND INTEREST OF AMICI CURIAE.....	1
INTRODUCTION	5
ARGUMENT	6
I. In Exercising a Constitutionally Enshrined Right to Resist Legislation, the Respondent Representatives Did Not Abandon Their Offices.....	6
II. The Relief Sought by Petitioners Is Barred by the Separation of Powers Provision Expressly and Clearly Defined in the Texas Constitution.....	12
III. Petitioners’ Attempt to Remove Elected Lawmakers from Office Undermines the Will of the People and Democracy Itself.....	16
CONCLUSION	18

INDEX OF AUTHORITIES

Cases

<i>Anderson v. Celebrezze</i> , 460 U.S. 780 (1983)	17
<i>Betts v. Johnson</i> , 73 S.W. 4 (Tex. 1903)	14
<i>Burdick v. Takushi</i> , 504 U.S. 428 (1992).....	17
<i>Davis v. Burnam</i> , 137 S.W.3d 325 (Tex. App. 2004).....	9
<i>Honey v. Graham</i> , 39 Tex. 1 (1873)	10
<i>In re Abbott</i> , 628 S.W.3d 288 (Tex. 2021)	5, 7
<i>In Re Nolo Press/Folk Law Inc.</i> , 991 S.W.2d 768 (Tex. 1999).....	14
<i>In re Turner</i> , 627 S.W.3d 654 (Tex. 2021).....	5, 9
<i>Powell v. McCormack</i> , 395 U.S. 486 (1969)	17
<i>Steingruber v. City of San Antonio</i> , 220 S.W. 77 (Tex. Comm’n App. 1920).....	11
<i>Williams v. Rhodes</i> , 393 U.S. 23 (1968)	17

Constitutional Provisions

Tex. Const. of 1845, art. III, § 12	13
Tex. Const. of 1861, art. III, § 12	8
Tex. Const. of 1866, art. III § 11	8
Tex. Const. of 1869, art. III § 15	8
Tex. Const. of 1876, art. III § 10	8
Tex. Const. art. I, § 13.....	13

Tex. Const. art. I, § 2.....	16, 18
Tex. Const. art. II, § 1	13
Tex. Const. art. III, § 10.....	6, 7, 8, 15
Tex. Const. art. III, § 11	14
Tex. Const. art. III, §§ 3–4.....	16
Tex. Const. art. IV, § 1.....	15
Tex. Const. art. V, § 17.....	9

Statutes

Texas Code § 22.002.....	14
--------------------------	----

Rules

Texas House Rule 5A(3).....	11, 13
-----------------------------	--------

Regulations

Tex. Ethics Comm’n Rules Ch. 50, § 50.1	11
---	----

Other Authorities

Amanda Becker, <i>Parenting while protecting democracy: The mom who fled the Texas legislature</i> , The 19th (Aug. 6, 2025), https://perma.cc/P3FP-LP8P	12
Elanor Klimanoff, <i>Abbott’s bid to expel the House Democratic leader goes to a court filled with his appointees</i> , Tex. Tribune (Aug. 7, 2025), https://perma.cc/KTK9-GEZQ	7
Hayden Betts, <i>Denying quorum has been a Texas political strategy since 1870</i> , Tex. Tribune (Aug. 4, 2025), https://perma.cc/H6Z5-237P	10

John Cornyn, <i>The Roots of the Texas Constitution: Settlement to Statehood</i> , 26 Texas Tech. L. Rev.1089 (1995)	9, 15
Oren Oppenheim et al., <i>Texas Republicans say “hunt down” Democrats who are leaving state over redistricting</i> , ABC News (Aug. 3, 2025), https://perma.cc/VPD9-GR2P	11
Patrick Svitek & Cassandra Pollock, <i>How the quorum break got broken: Texas Democrats splintered during second session break</i> , Tex. Tribune (Sept. 10, 2025), https://perma.cc/A8ZP-EJVZ	10
<i>Understanding the Rump Senate of the Twelfth Texas Legislature</i> , Tex. State Historical Ass’n, (June 1, 1995), https://perma.cc/BFK3-PUAU	10
Univ. Tex., Tarlton L. Libr., <i>Journals of the Convention, 1845</i>	8
Zoe Richards, <i>Gov. Greg Abbott sues to remove Texas House Democratic Caucus chair in redistricting standoff</i> , NBC News (Aug. 5, 2025), https://perma.cc/EN3G-DTDC	11

IDENTITY AND INTEREST OF AMICI CURIAE

The Governor's and Attorney General's petitions ask this Court to remove members of the Texas House of Representatives from office because they have seen fit to exercise a legislator's prerogative created by the Texas Constitution. The matters before the Court effectively request the disenfranchisement of Texas voters because they would remove duly elected officials—chosen by a majority of voters in their districts—from offices that have not been abandoned. This request should alarm every Texan and all Americans alike and should be denied.

Each of the *amici* submitting this brief has a public record of advocacy for the ideals of our democratic governance, increasing voter participation, and strengthening elections in Texas. Many of these organizations, moreover, were formed to overcome exclusion from voting, disenfranchisement, and voter suppression that had limited the participation of many people on account of their sex, race, national origin, or ethnicity in the paramount expression of democratic ideals: freely casting a vote to be represented and governed by a representative of their choice.

The League of Women Voters of Texas (LWVTX) is a nonpartisan, nonprofit, member-based grassroots organization that encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.

LWVTX was founded in 1919 and has led innumerable efforts to expand and strengthen the franchise, elections, and participatory democracy in the state. LWVTX has 33 local Leagues and more than 4,000 members across the state. LWVTX is the state affiliate of the League of Women Voters (LWV), which now has more than a million members and supporters and is organized in more than 750 communities across every state and the District of Columbia.

LWVTX's ultimate vision is a democracy where every person has the desire, the right, the knowledge, and the confidence to participate. LWVTX actively works to register eligible people to vote and ensure they cast a ballot that actually counts. LWVTX pursues a democracy where every resident is represented equally and every voter has an opportunity to elect the candidate of their choice.

Founded in 2021, **Asian Texans for Justice** grew out of informal organizing efforts within Texas's Asian American and Pacific Islander communities to both support voting rights and civic engagement and to oppose surging anti-Asian discrimination and violence. ATFJ strives to represent over 2 million Texans of AAPI heritage. This diverse group includes more than 50 ethnicities and speakers of more than 100 languages, is spread across the state, and reflects the full social and political spectrum of the state. ATFJ's supporters and constituents include voters across the state.

Through civic engagement, policy advocacy, and coalition building, ATFJ works to expand access to polls and voting, to healthcare and to education. Asian Texans for Justice has helped AAPI Texans testify before the Legislature on a range of issues and supported voter registration efforts in the 2023, 2024, and 2025 elections.

OCA-Greater Houston is a Texas chapter of OCA–Asian Pacific American Advocates, a national, membership-driven civil rights organization of community advocates dedicated to advancing the social, political, and economic well-being of Asian Pacific Americans (APAs) with more than 100 chapters and college affiliates across the country and a membership that reaches 30,000 constituents.

OCA–Greater Houston works with metropolitan Houston volunteer members to implement programs that empower the APA community utilizing: arts and culture to advocate for social justice and provide leadership training; education workshops; legal clinics; internships and scholarships; mentoring. Civic engagement is a key element of OCA–Greater Houston programs, which are designed to bring APA representation and contributions to all levels of business, corporate, government and community leadership. Many OCA-Greater Houston members live and vote in District 137.

UnidosUS, previously known as NCLR (National Council of La Raza) is the nation’s largest Hispanic civil rights and advocacy organization. UnidosUS uses

grassroots organizing, research, and advocacy to challenge the social, economic, and political barriers that affect Latinos at the national and local levels. UnidosUS's grassroots network includes more than 300 affiliated organizations across the United States; 33 of them are in Texas. These Texas affiliates work with social service agencies, local law enforcement, and institutions of higher education to ensure access to health care, educational opportunities, career training, housing and more. UnidosUS affiliates are located across the state.

UnidosUS advocates for progress on a wide range of economic and social issues, but voter registration and civic engagement have been a cornerstone of its work. In the last decade, UnidosUS has helped more than 1,000,000 citizens register to vote.

The **Texas State Conference of the NAACP** first organized as far back as 1915 in El Paso, Texas. As an affiliate of the NAACP, the Texas NAACP shares a history spanning decades of advocacy for civil rights in all spheres of life: public participation, voting rights, employment, education, housing, business, and other areas. A fundamental part of the Texas NAACP's work is action on voting rights and voter engagement.

The Texas State Conference of the NAACP has more than 10,000 members across the state.

No party or amici in this case paid a fee for the preparation of this brief.

INTRODUCTION

The Governor and Attorney General seek to violate the first principle of state government – separation of powers – by asking this Court to remove state legislators (herein “Respondent Representatives”) for refusing to heed the Governor’s call to participate in a special session. These legislators were exercising one of the legislative prerogatives enshrined in the Texas Constitution at the beginning of the Republic in 1836: refusing to assemble a quorum.

Quorum breaks have a long history in Texas, as this Court recognized in *In re Turner*, 627 S.W.3d 654, 660 (Tex. 2021): legislators “absent themselves” in order to express their “opposition” and “in order to prevent passage of [] legislation.” This behavior is the exact opposite of “abandonment” of their office. It is exercising a governance strategy created by the Texas Constitution and vested in the Legislature to avoid action that is not supported by a robust majority.

For the first time in the history of Texas, officers in the Executive Department are asking the Judicial Department to remove duly elected members of the Legislative Department, here from the Texas House of Representatives, based on the members’ use of a “foundational constitutional rule []” that has been exercised by state lawmakers at various times for more than 150 years in Texas. *In re Abbott*, 628 S.W.3d 288, 292 (Tex. 2021). In so doing, the Governor and the Attorney General are not just asking the Court to upend the carefully crafted separation of powers set

forth in the Texas Constitution to render the quorum requirement a nullity. They are asking this Court to deprive citizens of the State of their legislative representation chosen by their duly cast votes. The Governor and Attorney General seek to wield power that the Texas Constitution does not confer upon them.

This Court should resist the Executive Department's unprecedented and wholly unsupported attempt to conscript the Judicial Department into overriding the Legislative Department's well-established authority to break a quorum. This Court should deny their pending petitions.

ARGUMENT

I. In Exercising a Constitutionally Enshrined Right to Resist Legislation, the Respondent Representatives Did Not Abandon Their Offices

Article III Section 10 of the Texas Constitution states the quorum requirement precisely—"two-thirds of each House shall constitute a quorum to do business." Tex. Const. art. III, § 10 (Feb. 15, 1876). "[A] requirement of a majority quorum for lawful operations in each House of the legislature is the usual constitutional requirement, and, as such, is a distinguishing characteristic of any democratic constitution." Tex. Const. art. III, § 10, interp. commentary. But Texas's requirement of a two-thirds majority for a quorum was no historical accident. In adopting its constitution, Texas charted a different path than most states to protect

against a tyranny of the majority. As respected commentary on the Texas Constitution notes:

[T]he framers of the Texas Constitutions since the days of the Republic have been of a cautious nature somewhat distrustful of the legislature, and thus have required the presence of two-thirds of each house to constitute a quorum. It has been the belief that it is necessary to make the quorum large in order to prevent legislation from being carried through suddenly by minorities with little or no deliberation. Therefore a quorum in the Texas Legislature will require the presence of 100 Representatives and 21 Senators.

Id. This two-thirds requirement is unique to Texas and just a few other states that share a particular historical interest in limiting the government’s power over the people it serves. As one Texas constitutional historian has noted, Texans have “long been suspicious of their government and desirous of limiting its powers.”¹ This Court has unequivocally recognized that the Texas Constitution, through its quorum requirement, provides a “right of a legislative minority to resist legislation.” *In re Abbott*, 628 S.W.3d at 292.

Contemporary commentary about the important ends served by the quorum requirement is supported by the long, unbroken history of the quorum requirement

¹ Eleanor Klimanoff, *Abbott’s bid to expel the House Democratic leader goes to a court filled with his appointees*, Tex. Tribune (Aug. 7, 2025), <https://perma.cc/KTK9-GEZQ> (“Texas is one of these high-threshold states ... an uncontroversial proposal for a people who have ‘long been suspicious of their government and desirous of limiting its powers,’ said Texas constitutional historian Bill Chriss.”).

in the Texas Constitution. The quorum requirement was written into the first constitution of Texas – the Republic of Texas – in 1836. *See* Tex. Const. of 1836, art. 1, § 13. When convention delegates met in 1845 to write a new state constitution, the first legislative committee proposal set the quorum threshold at a simple majority of members. *See* Univ. Tex., Tarlton L. Libr., Journals of the Convention, 1845 (July 14, 1845) at 56 (discussing art. III, § 14).² But an amendment setting the quorum requirement at two-thirds of the members passed shortly thereafter, *see* Journals of the 1845 Convention (July 23, 1845) at 99, and was part of the constitution approved by the delegates on August 28, 1845. *See* Journals of the 1845 Convention (August 28, 1845) at 338. The two-thirds requirement was proposed and adopted at each of the subsequent constitutional conventions in 1861 (Tex. Const. of 1861, art. III, § 12), 1866 (Tex. Const. of 1866, art. III, § 11), 1869 (Tex. Const. of 1869, art. III, § 15) and 1876 (Tex. Const. of 1876, art. III, § 10).

The quorum requirement is consistent with other features of the Texas Constitution that were designed to restrain legislative activity and force consensus and minority representation in lawmaking. When debating the veto power of the governor during the 1845 Constitution, a delegate stated that “one of the greatest evils of democracy or republican governments is legislating too much” but that

² This provision appeared as Section 14 during the convention but was re-numbered as Section 12 in the final version of the constitution that was adopted.

executive veto power “would guard the people against the prospect that forty-nine men might with impunity control the destiny of forty-eight.” See John Cornyn, *The Roots of the Texas Constitution: Settlement to Statehood*, 26 Texas Tech. L. Rev. 1089, 1139–40 (1995).³ The 1845 Constitution gave the Legislature the power to override a gubernatorial veto with the support of a robust, two-thirds majority. Tex. Const. art. V, § 17.

Since 1870, Texas lawmakers have seen fit, from time to time, to be absent from the chamber of the House to deprive the body of a quorum. Lawmakers have absented themselves to further their duty to *represent* their communities, not to abandon their responsibilities to do so. In 2021, this Court recognized that members who opposed voting legislation “broke[] quorum to further their opposition ... cho[osing] to continue to absent themselves in order to prevent passage of voting legislation.” *In re Turner*, 627 S.W.3d 654, 660. Similar tactics were employed in 2003, *Davis v. Burnam*, 137 S.W.3d 325, 329 (Tex. App. 2004) (“Their intent was to break quorum in the House to prevent a vote on proposed Texas Congressional district boundaries then on the legislative agenda.”), and in earlier years. The

³ This theme was repeated during the debates. In discussing the governor’s veto power, another delegate warned “[w]e have had instances in this country where twenty-one members have disfranchised eighteen or twenty representing twice the population represented by those twenty one. Then it is not universally a rule of republicanism that a simple majority has the unrestricted right to force its edicts down upon a less number.” Univ. Tex., Tarlton L. Libr., Debates of the Texas Convention, 1845 (July 19, 1845) at 142–143.

Attorney General recites and concedes a longer history of quorum breaks – which have been used by both Republicans and Democrats to thwart majorities or the governor. *See* Attorney General Petition for Writs of Quo Warranto, Br. at 14–15 (Aug. 8, 2025). Indeed, in the examples cited by the Attorney General, a bipartisan coalition of legislators in 1870 broke quorum to block a proposed bill to allow the Texas Governor to declare martial law.⁴ In 1979, Democrats broke quorum to oppose a proposed bill to change Texas presidential primaries in a manner that would have benefitted a former governor, who had governed as a Democrat, in the primary.⁵ And in 2021, Democrats broke quorum during a special session called to enact restrictive voting measures.⁶ Thus, Petitioners have no historical or legal basis for asserting now that the Respondent Representatives have abandoned their office because of their participation in a quorum break.

Nor do Petitioners have the legal authority to declare vacancies in the Legislature under these circumstances. The question whether an official has “abandoned” his or her office is a fact question to be resolved in court. *See, e.g., Honey v. Graham*, 39 Tex. 1, 7 (1873). Abandonment requires an intent to abandon.

⁴ *Understanding the Rump Senate of the Twelfth Texas Legislature*, Tex. State Historical Ass’n, (June 1, 1995), <https://perma.cc/BFK3-PUAU>.

⁵ Hayden Betts, *Denying quorum has been a Texas political strategy since 1870*, Tex. Tribune (Aug. 4, 2025), <https://perma.cc/H6Z5-237P>.

⁶ Patrick Svitek & Cassandra Pollock, *How the quorum break got broken: Texas Democrats splintered during second session break*, Tex. Tribune (Sept. 10, 2021), <https://perma.cc/A8ZP-EJVZ>.

“The failure to perform the duties pertaining to the office must be with actual or imputed intention on the part of the officer to abandon and relinquish the office.” *Steingruber v. City of San Antonio*, 220 S.W. 77, 78 (Tex. Comm’n App. 1920).

While Petitioners assert that the Respondent Representatives have “abandoned” their offices because they chose to be absent from the chamber, public evidence demonstrates that these Representatives had no such intention. To the contrary, they believe, and publicly stated, that they were fulfilling their constitutional duty by leaving the chamber. *See, e.g.,* Zoe Richards, *Gov. Greg Abbott sues to remove Texas House Democratic Caucus chair in redistricting standoff*, NBC News (Aug. 5, 2025), <https://perma.cc/EN3G-DTDC>; Oren Oppenheim et al., *Texas Republicans say “hunt down” Democrats who are leaving state over redistricting*, ABC News (Aug. 3, 2025), <https://perma.cc/VPD9-GR2P> (“We’re not walking out on our responsibilities”).

The Respondent Representatives’ decision to absent themselves from the Legislature comes at significant personal cost. Not only do the Representatives face substantial daily fines for their absences, which are greater than a legislator’s prorated salary and per diem combined,⁷ they were separated from their families and

⁷ The daily fine for an unexcused absence while the chamber is in session is \$500. *See* Texas House Rule 5A(3)(e)(1). The annual salary of a legislator is \$7,200 and the per diem allowance for each day that the Legislature is in session is \$221. *See* Tex. Const. art. III, § 24; Tex. Ethics Comm’n Rules Ch. 50, § 50.1.

communities for the duration of the quorum break.⁸ Their willingness to undertake these costs in serving their constituents demonstrates that their absences were intentional and temporary – and not a dereliction of duty.

No precedent in Texas history or law supports a conclusion that lawmakers who are exercising their right to break quorum have abandoned their office. To the contrary, the decision by a lawmaker to exit the chamber for the purpose of breaking a quorum is a longstanding legislative tactic, created by the Texas Constitution and recognized by this Court.

II. The Relief Sought by Petitioners Is Barred by the Separation of Powers Provision Expressly and Clearly Defined in the Texas Constitution

The Texas Constitution—unlike that of the federal government—has a provision explicitly mandating the separation of powers. Article II, section 1, is strongly worded:

The powers of the Government of the State of Texas *shall* be divided into three distinct departments, each of which *shall* be confided to a separate body of magistracy, to wit: Those which are Legislative to one, those which are Executive to another, and those which are Judicial to another; *and no person*, or collection of persons, being of one of these departments, *shall exercise any power properly*

⁸ One legislator made the “difficult decision to leave her daughter at home with her father, not knowing how long she might be gone,” including missing her daughter’s first day of school. Another mother brought her child along with her. Amanda Becker, *Parenting while protecting democracy: The mom who fled the Texas legislature*, The 19th (Aug. 6, 2025), <https://perma.cc/P3FP-LP8P>.

attached to either of the others, except in the instances herein expressly permitted.

Tex. Const. art. II, § 1 (emphases added). Thus, the Legislature manages itself. To the extent that the Legislature wishes to conduct business, it has the power – authority and tools – to assemble a robust quorum for the purpose of lawmaking.

First, if legislative leadership truly wanted to secure a quorum, it has the ability to negotiate compromises, within Constitutional limitations, that would ensure the participation of a robust majority—two-thirds—of its members. And that, of course, would serve the very purpose the quorum requirement was intended to further.

Second, the Legislature has the authority under the Constitution to compel attendance of its members; this authority has existed since 1835. *See* Tex. Const. art. I, § 13. The constitution of 1845 and all constitutions adopted since have also included authority for the Legislature to craft rules for securing attendance, including penalties for non-compliance. *See* Tex. Const. of 1845, art. III, § 12; Tex. Const. of 1876, art. III, § 10 (“in such manner and under such penalties as each house may provide”). The Legislature has passed rules under this authority for addressing and punishing absent members. *See* Texas House Rule 5A(3) (providing the options, at House’s discretion, for addressing absent members).

Finally, the Constitution grants the Legislature the authority to remove members—namely, a two-thirds vote of the chamber to expel a fellow member. Tex. Const. art. III, § 11.

The Governor and the Attorney General have no lawmaking authority. Their outrage over the Respondent Representatives’ absence from the Legislature, and the petitions before the Court, are an attempt to force lawmaking. With the authority to manage and compel attendance for legislative sessions and to discipline members of the Legislature vested exclusively in the Legislative Department, Petitioners’ assertion that they are allowed to seek the removal of legislators from office under Texas Code § 22.002 cannot be reconciled with the proper separation of powers.⁹ Article II of the Constitution prohibits interference by the Governor and others in the Executive Department with the Legislature, which also includes interference with individual members of the Legislature representing the interests of their constituents.

⁹ Petitioners’ contentions also cannot be reconciled with this Court’s interpretation of the term “officer of state government.” This Court’s jurisprudence has long construed the term “officer of state government” narrowly and so as not to include any elected official in the state. The term is interpreted “to include only such state officers as are charged with the general administration of state affairs, namely, the heads of state departments.” *Betts v. Johnson*, 73 S.W. 4, 5 (Tex. 1903); *see also In Re Nolo Press/Folk Law Inc.*, 991 S.W.2d 768 (Tex. 1999) (“We have construed this phrase to refer, not to every State official at every level, but only to chief administrative officers – the heads of State departments and agencies who are charged with the general administration of State affairs.”).

Beyond the fundamental separation of powers set in place by the Texas Constitution, the Constitution also significantly limits the power of the Governor. *See, e.g.*, Tex. Const. art. IV, § 1 interp. commentary (stating a plural executive “makes for a separation of powers within the executive department itself”). Whatever “suspicion” Texans may have had at the founding of the republic of the legislature, *see* Tex. Const. art. III, § 10, interp. commentary, Texans had *an even greater suspicion* of consolidated executive power. When the framers of the 1845 Constitution debated the wisdom of more frequent or longer legislative sessions and shorter or longer terms in office for members of the legislature, one delegate warned against shorter terms because “to leave important matters to special sessions, would give one man, the governor, too much power.” Cornyn, *supra* at 9, at 1157–58 (1995).

For this Court to grant a unilateral request from the Governor and the Attorney General to remove elected legislators from office without any fact-finding and based only on their view that the legislators have “abandoned” their offices would turn the Texas Constitution’s quorum requirement on its head. It would also override the Constitution’s limitations on the Governor’s power. Such actions threaten to create a Constitutional crisis in the state and to harm Texans who trust our system of government to ensure they are represented by lawmakers chosen by the people, not the Governor.

Allowing the Governor and the Attorney General to usurp the removal function vested in the House further would undermine Texas's democratic structure and consolidate executive power in exactly the manner that the Texas Constitution's drafters sought to avoid.

III. Petitioners' Attempt to Remove Elected Lawmakers from Office Undermines the Will of the People and Democracy Itself

The ability of individuals to choose their lawmakers is the foundation of the Republic, both in the state of Texas and in the United States. Granting Petitioners' request would not just create a Constitutional crisis, it would also create a fundamental crisis for democracy in Texas.

The Texas Constitution commands that:

All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.

Tex. Const. art. I, § 2 (Feb. 15, 1876). Specifically, under the Constitution, the voters – not the Governor or the Attorney General – decide who will represent them in the Legislature. Tex. Const. art. III, §§ 3–4.

Yet the Petitioners' request would take power away from the people— substituting the Petitioners' dictates for the will of the voters who elected the

Respondent Representatives. *Cf. Powell v. McCormack*, 395 U.S. 486, 547 (1969) (“A fundamental principle of our representative democracy is, in Hamilton’s words, ‘that the people should choose whom they please to govern them.’” (quoting 2 Elliot’s Debates 257) (declaring vote of Congress to expel a member unlawful)).

Amici are institutions committed to the ability of people to be represented by elected officials they choose. *Amici* have thousands of members of the voting public within their memberships, including members represented by the Respondent Representatives. Petitioners’ request that this Court invalidate voter choice implicates not only the Texas Constitution’s guarantee of a Republican form of government based on and instituted for the benefit of the people, but also on a range of protections afforded by the United States Constitution, including the First Amendment right to freedom of speech and expression and the Fourteenth Amendment’s right to equal protection under the law. *See, e.g., Williams v. Rhodes*, 393 U.S. 23, 30 (1968) (freedom of association includes “the right of qualified voters, regardless of their political persuasion, to cast their votes effectively”); *Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *Anderson v. Celebrezze*, 460 U.S. 780, 787 (1983).

This action places Texas on a treacherous slope. If a Governor or Attorney General can conscript this Court into removing duly elected representatives because they disagree with a legislator’s approach to lawmaking that falls comfortably within

the confines of the Legislative Department and the Constitution, what will prevent the Governor and Attorney General from removing more lawmakers based on a political disagreement with them? If lawmakers chosen by the people can be removed for their actions advocating in good faith on behalf of the voters, what, then, is the significance of elections? Because these questions answer themselves and those answers would place Texas and the rights of Texans on an existentially dangerous trajectory, this Court should deny the Petitioners' requests.

CONCLUSION

The Governor's emergency petition to this Court began by asking the question: What is at stake here? The clear answer is the political power vested in the people, *see* Tex. Const. art. I, § 2, and democracy in the State of Texas. Because the pending petitions are contrary to the Texas Constitution's quorum requirement, contrary to this Court's caselaw recognizing that participating in a quorum break is a legislator's prerogative, and contrary to the imperative of a Republican form of government by allowing Executive Department officials to remove duly elected state legislators acting within their rights and authority under the Texas Constitution, this Court should deny the petitions.

Respectfully submitted,

COUNSEL FOR AMICI CURIAE

/s/ Skye L. Perryman

Skye L. Perryman (Texas Bar No. 24060411)

Lisa Newman (Texas Bar No. 24107878)

Victoria S. Nugent

DEMOCRACY FORWARD FOUNDATION

P.O. Box 34553

Washington D.C. 20043

Tel: (202) 448-9090

Fax: (202) 796-4426

sperryman@democracyforward.org

lnewman@democracyforward.org

vnugent@democracyforward.org

**COUNSEL FOR
TEXAS STATE CONFERENCE
OF THE NAACP**

Robert Notzon (Texas Bar No. 00797934)

The Law Office of Robert S. Notzon

1502 West Avenue

Austin, Texas 78701

Robert@NotzonLaw.com

(512) 474-7563

(512) 852-4788 facsimile

CERTIFICATE OF COMPLIANCE

The undersigned counsel certifies that this petition complies with the typeface requirements of TEX. R. APP. P. 9.4(e), because it has been printed in a conventional typeface no smaller than 14-point except for footnotes, which are no smaller than 12-point. This document also complies with the word-count limitations of TEX. R. APP. P. 9.4(i), because it contains 4,747 words, excluding any parts exempted by TEX. R. APP. P. 9.4(i)(1).

/s/ Skye L. Perryman
Skye L. Perryman

CERTIFICATE OF SERVICE

On September 2, 2025, I electronically filed this Amicus Brief in Support of Respondents with the Clerk of Court using the eFile.TXCourts.gov electronic filing system, which will send notification of the filing to all parties of record.

/s/ Skye L. Perryman
Skye L. Perryman