



WEEKLY CAPITOL UPDATE

Monday, November 6, 2023

REWRITTEN BALLOT WORDING UPHELD

The Missouri Court of Appeals Western District on Oct. 31 largely upheld a trial judge's complete rewrite of ballot language Secretary of State Jay Ashcroft prepared for ballot initiatives seeking to constitutionally protect reproductive rights in the state, calling Ashcroft's language "replete with politically partisan language".

Ashcroft's ballot language claimed the measures would allow "dangerous, unregulated, and

unrestricted abortions from conception to live birth”. Ruling in September in a lawsuit filed by the petition sponsor, Cole County Circuit Judge Jon Beetem rewrote the descriptions, finding Ashcroft had violated legal standards requiring ballot language to accurately describe a measure’s purpose without prejudicing voters.

In a unanimous opinion written by Judge Thomas Chapman, the three-judge Western District panel made some minor modifications to Beetem’s revised language but largely approved the trial judge’s work. The appellate court rejected Ashcroft’s argument that Beetem changed too much of the original wording.

“(T)he secretary’s summary statements do not fairly describe the purposes and probable effects of the initiatives,” Chapman wrote.

“The secretary’s summary statements are replete with politically partisan language. After removal of the inaccurate and partisan language, the circuit court was left with largely unworkable summary statements. The circuit court was authorized to write alternative language to fulfill its responsibility that a fair and sufficient summary statement be certified.”

The initiatives in question seek to amend the Missouri Constitution to restore abortion rights at the state

level in response to last year's U.S. Supreme Court ruling eliminating the federal right to abortion.

Petition supporters currently have six similar, but slightly different, versions ready to go once the litigation is complete. However, they plan to circulate only one when they begin gathering the minimum 171,000 signatures from registered Missouri voters needed to qualify for the November 2024 statewide ballot.

Also on Oct. 31, a separate Western District panel in a related case rejected an effort by two state lawmakers to force State Auditor Scott Fitzpatrick to drastically inflate the official cost estimates he prepared for the abortion petitions. The appellate judges agreed Fitzpatrick's estimates that the measures would impose no costs on the state and only minimal costs for local governments are accurate.

Ashcroft and the losing lawmakers are expected to appeal their respective cases to the Missouri Supreme Court.

The ballot language case is *Dr. Anna Fitz-James v. John R. Ashcroft*; and the fiscal estimate case is *Hannah Sue Kelly, et al., v. Scott Fitzpatrick, et al.*

COURT'S FEMALE MAJORITY RESTORED

A short-lived female majority on the Missouri Supreme Court was restored Oct. 30 when Gov. Mike Parson appointed Judge Ginger Gooch of Springfield to fill the latest vacancy on the state's highest court. Gooch had been serving on the Missouri Court of Appeals Southern District for nearly a year.

Parson gave the seven-member Supreme Court the first female majority in its 203-year history in September when he appointed Judge Kelly Broniec, previously on the Court of Appeals Eastern District, to fill a prior vacancy. That majority lasted only three weeks, however, ending with the Oct. 1 retirement of Judge Patricia Breckenridge whom Gooch replaces.

Gooch is just the seventh woman ever elevated to the court. Judge Ann Covington, now retired, became the first when then Gov. John Ashcroft appointed her in 1988.

Of the four women now serving on the Missouri Supreme Court, Parson has appointed three.

Interestingly, Gooch began her legal career as a law clerk for Covington after graduating from the University of Missouri-Columbia School of Law in 2000. Gooch later spent more than two decades in private practice, including 15 years as a partner with the Husch Blackwell

law firm in Springfield, before Parson appointed her to the Court of Appeals last November.

The two other finalists the Missouri Appellate Judicial Commission nominated for the Breckenridge vacancy are both members of the St. Louis-based Court of Appeals Eastern District – Judge Michael Gardner of Cape Girardeau and Judge John Torbitzky of Webster Groves.

The Missouri Nonpartisan Court Plan requires the governor to choose from among the finalists selected by the commission when filling appellate vacancies. The commission consists of the Supreme Court chief justice, three attorneys elected by the Missouri Bar and three non-lawyers appointed by the governor.

With Gooch's appointment, the Supreme Court consists of five judges appointed by Republican governors and two appointed by Democratic governors.

MoDOT'S SPENDING AUTHORITY UPHELD

A Cole County judge on Oct. 31 ruled the Missouri State Highways and Transportation Commission has the constitutional authority to spend money from the State Road Fund without legislative approval, so long as there is sufficient money available in it.

The commission, which oversees the state Department of Transportation, sued the Missouri Office of Administration which handles state payroll in December 2021 after it refused to process pay raises the commission had authorized for MoDOT workers to combat high turnover.

The Office of Administration said it couldn't do so since the legislature didn't authorize the raises in the state budget.

Although the Missouri Constitution generally prohibits state agencies from spending money without a legislative appropriation specifying the amount and purpose of the expenditure, MoDOT has a constitutionally dedicated funding source in the State Road Fund, the revenues of which the constitution says "shall stand appropriated without legislative action".

Despite this language, the General Assembly traditionally has appropriated money from the road fund each year, just as it does from revenue sources under its direct control. The case marks the first time the commission has moved to enforce its "stands appropriated" authority in response to the legislature refusing to allocate requested funding.

In his ruling, Cole County Circuit Judge Cotton

Walker said the constitution gives the commission “express and exclusive authority” to expend road fund money at its discretion, not the legislature’s. The Office of Administration is expected to appeal his decision.

The case is *Missouri Highways and Transportation Commission v. Kenneth Zellers*.

SPEAKER SAYS HE WON’T RESIGN

Embattled House Speaker Dean Plocher on Oct. 26 defiantly said he will “absolutely not” resign after documents became public showing he sought and received taxpayer reimbursement for about \$4,509 in travel expenses his campaign committee had already paid for.

Plocher, R-Des Peres, made his comments during an interview on the podcast “This Week in Missouri Politics”.

The Missouri Independent first reported Plocher’s double-dipping, which according to legal experts potentially violated at least three state laws, on Oct. 23.

The Independent, an on-line news organization covering

Missouri government, discovered the issue by comparing the expense reports of Plocher's official House office that it obtained through an open records request with his campaign committee's contribution and expenditure reports which are posted on the Missouri Ethics Commission's website.

Plocher began repaying the House for the reimbursements at issue after the Independent made its records request but claimed the double payments were inadvertent.



This weekend I had the opportunity to attend the 16th Annual Urban Summit Conference here in Kansas City. The conference included nationally respected speakers and informative learning sessions that were geared to identify and problem-solve tough issues facing our communities. Alongside me is my colleague state representative Michael Johnson.



SPORTS, COOKING & ARTS

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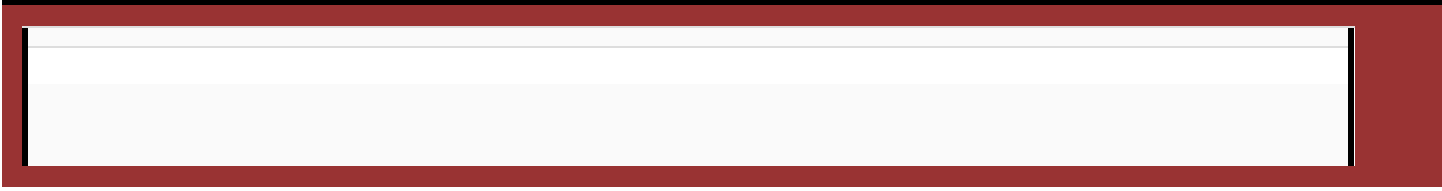
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November 17th | 6:00 PM

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South KC Food Pantries

South Kansas City is fortunate to have several food pantries to help less-fortunate residents have enough healthy food to eat. These include:

Community Assistance Council, 10901 Blue Ridge Blvd. on the north end of the Ruskin High School campus, from 9 a.m. to 2:30 p.m. Monday, Tuesday, Thursday and Friday. Persons should call 816-763-3277, ext. 100, or email info@cackc.org for appointments or questions.

Red Bridge Area Food Pantry, 100 W. Red Bridge Rd. in the First Baptist Church of Kansas

City, from 10 a.m. to noon on the third Saturday each month. Persons must call 816-908-7800 for appointments by the prior Wednesday.

Harvesters (the community food network) brings the semi-truck that serves as its mobile food pantry to seven sites in south Kansas City monthly to distribute fresh produce and other healthy food to families in need. The sites are:

Center School District, 8701 Holmes Rd., from 9 a.m. to 10:30 a.m. as long as food is left on the first Saturday of the month. Persons should drive through the bus parking lot to the district warehouse. The event is sponsored by Three Trails Community church in partnership with the Center School District.

Center District Warehouse, 8701 Holmes Rd., from 11:30 a.m. to 1:30 p.m. the second Friday of each month. Persons should go to the entrance to the Center Administrative Office and drive through the bus parking lot to the warehouse where volunteers will load the food. Persons should take the Troost Ave exit. The event is sponsored by the Center Education Foundation in partnership with the Center School District.

Evangel Church, 1414 E. 103rd St., from 7 to 8:30 a.m. the second Saturday of the month. Persons may remain in their vehicles, and food will be brought to them.

United Believers Community Church, 5600 E. 112th Terr., with vehicles lining up at 8:30 a.m. and contactless food distribution running from 9 to 11 a.m. the third Wednesday of the month.

Ruskin High School, 7000 E. 111th St., from 4 to 5:30 p.m. the third Thursday of the month. Vehicles should line up on Ruskin Way on the east side of the school, and staff and students will load the food when vehicles reach the school.

Colonial Presbyterian Church, 9500 Wornall Rd., with registration beginning at 8 a.m. and food distribution running from about 8:30 to 10 a.m. on the third Saturday of the month. Families are asked to bring two cardboard boxes for volunteers to put the food in.

Red Bridge United Methodist Church, 636 E. 117th St., from 2:30 to 3:30 p.m. on the fourth Friday of the month in the church parking lot.

Serve and Lift Center – South KC, 8001 Longview Rd., from 8:30 a.m. to 3:30 p.m. Monday, Tuesday, Wednesday and

Thursday. Walk-in, call for an appointment or order online
at <https://catholiccharities-kcsj.org/pantry/>



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**Please don't hesitate to contact me
with any feedback, questions or ideas!**