

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

STEPHANIE COEN, FAWN COLLINS, MARK
ANTHONY JONES, and JAY PERRY,

Relators,

v.

JACKSON COUNTY, MISSOURI LEGISLATURE,
FRANK WHITE, MARY JO SPINO, KANSAS CITY
ELECTION BOARD and JACKSON COUNTY
ELECTION BOARD

Respondents.

Case No.: 2516-CV21560

Division 10

And

JACKSON COUNTY ELECTION BOARD and
KANSAS CITY ELECTION BOARD,

Plaintiffs,

v.

MARY JO SPINO (in her official capacity), et al.

Defendants.

Case No.: 2516-CV21738

Division 10

BRIEF OF RESPONDENTS/PLAINTIFFS ELECTION BOARDS

Respondents / Plaintiffs Jackson County Election Board and Kansas City Election Board (collectively, the “Election Boards”) submit this Brief in support of November 4, 2025 as the earliest available election day for the recall election of the Jackson County Executive and enjoining any recall election to be held before November 4, 2025.

INTRODUCTION

The Election Boards are charged with conducting elections in compliance with state and federal law. This responsibility requires adherence to statutory timelines and procedures designed to protect the fundamental right to vote for all citizens, including military personnel, overseas citizens, absentee voters, and voters with disabilities. The central issue before this Court is straightforward: when can the recall election of the Jackson County Executive legally be held?

On July 18, 2025, Mary Jo Spino, acting in her official capacity as Clerk of the Jackson County Legislature, issued a certification and legal notice to the Election Boards to hold a recall election of the Jackson County Executive on Tuesday, August 26, 2025. While the Election Boards take no position on the merits of the recall effort itself, the Election Boards assert the following:

- November 4, 2025, is the earliest available election date authorized by statute on which a legally compliant recall election can be held; and
- Attempting to hold an election on August 26, 2025, would require violating multiple state and federal laws that protect fundamental voting rights, particularly for military and overseas voters and voters with disabilities.¹

SUMMARY OF ELECTION BOARDS' POSITION

The Election Boards' position is summarized as follows:

1. Under the Jackson County Charter, only the Jackson County Legislature has the authority to call an election for Jackson County, including a recall election.
2. While recall petitions initiate the process, they do not replace the Jackson County Legislature's authority to call an election or bypass statutory election requirements.

¹ The Election Boards believe there is no real disagreement by any party with this statement.

3. The Election Boards have no authority to call an election or set an election date, including for a recall election.

4. Missouri law (RSMo §115.123.1) requires public elections to be held on authorized election days: general election day, primary election day, general municipal election day, the first Tuesday after the first Monday in November, the first Tuesday after the first Monday in August in nonprimary years, or on another day expressly provided by city or county charter.

5. The Jackson County Charter does not establish "another day expressly provided" for elections as contemplated by statute.

6. Article XIV, Section 9 of the Charter, which requires a recall election be held "within sixty days after the petitions are filed," directly conflicts with Missouri law because it would force an election on an unauthorized day.

7. A county charter provision that conflicts with a state statute is void. Therefore, the Charter's 60-day recall timeframe is void and unenforceable.

8. The recall election for Jackson County Executive must be held on authorized election day under Missouri law.

9. Attempting to hold the recall election on August 26, 2025, would violate multiple state and federal laws, including the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), Missouri's absentee voting laws, and statutory notification requirements.

10. The recall election cannot be held on August 26, 2025, or any other unauthorized public election day. Tuesday, November 4, 2025, is the next available authorized public election day.

PROCEDURAL HISTORY

On July 9, 2025, Relators filed their original Writ of Mandamus naming the Election Boards, the Jackson County Legislature, Frank White, Jr., (in his official capacity as County Executive), and Mary Jo Spino (in her official capacity as Clerk of the Jackson County Legislature) as Respondents, requesting the recall election of Frank White, Jr., be held on Tuesday, August 26, 2025.

On July 10, 2025, the Election Boards filed a Verified Petition for Declaratory and Injunctive Relief seeking to enjoin an August 26, 2025 election date and requesting the Court to order the recall election be held on November 4, 2025, naming Frank White, Jr., (in his official capacity as County Executive) and Mary Jo Spino (in her official capacity as Clerk of the Jackson County Legislature) – Case No. 2516-CV21738.

On July 18, 2025, the Election Boards filed their Answer to Relators’ original Writ of Mandamus, raising several defenses including the failure to name necessary and indispensable parties and the legal impossibility of conducting an August 26, 2025, recall election.

On or about July 21, 2025, without seeking or obtaining leave of Court as required by Missouri Supreme Court Rule 55.33(a), Relators filed an Amended Writ of Mandamus after dismissing the Jackson County Legislature, County Executive, and Clerk of the County Legislature as Respondents.

The Amended Writ now asks this Court to declare that “under The Jackson County Home Rule Charter upon receipt of the verified signature petitions in a recall election of a county official meeting the amount required under the Charter, the election board receipt/verification is the vehicle that triggers the recall election and no action from the legislature is required in a recall election.”

The Amended Writ further asks this Court to order that “under the Charter, the election shall be held within sixty days, but if the Court finds that is not legally possible under election laws for the Respondents to do so, then to Order the Respondents to schedule the recall election at the soonest opportunity that allows under any other conflicting laws and not just automatically default to the November 2025 scheduled election.”

On July 22, 2025, this Court consolidated the Writ of Mandamus (Case No. 2516-CV21560) and the Petition of Declaratory and Injunctive Relief (Case No. 2516-CV21738) into this action.

ARGUMENT

The Missouri Constitution, article VI, section 18(b), provides that a county charter may not “invade the province of general legislation involving public policy of the state as a whole.” *Pepper v. St. Charles Cnty.*, 517 S.W.3d 590, 595 (Mo. App. E.D. 2017). A conflict exists where a charter “permits what the statute prohibits” or “prohibits what the statute permits.” *Home Builders Ass’n of Greater St. Louis, Inc. v. City of Wildwood*, 107 S.W.3d 235, 238 (Mo. banc 2003) (citing *Morrow v. Kansas City*, 788 S.W.2d 278, 281 (Mo. banc 1990)).

This case presents a clear conflict between state law and county charter provisions. Missouri's comprehensive election law establishes specific, mandatory requirements for when and how elections can be conducted. These requirements reflect the state's compelling interest in ensuring uniform, orderly elections that protect all citizens' right to vote.

The Jackson County Charter provision requiring a recall election within sixty days after petitions are filed requires an election on date not authorized by section 115.123 RSMo and directly conflicts with Missouri’s statutory scheme for the conduct of elections, which includes specific requirements for election timing, certification deadlines, and military, overseas, and absentee

voting deadlines. The County Charter's sixty-day recall provision is void and cannot be legally enforced.

I. NOVEMBER 4, 2025, IS THE EARLIEST AUTHORIZED DATE FOR THE RECALL ELECTION

The immediate issue before this Court is determining when the recall election can legally be held. Given the current timeline, November 4, 2025, is the earliest available authorized election day on which the recall election can be conducted.

Simply put, Tuesday, August 26, 2025, is not an authorized election day under Missouri law. Tuesday, November 4, 2025, is the earliest authorized election day.

RSMo section 115.123.1 establishes the authorized election days in Missouri.

1. All public elections shall be held on Tuesday. Except as provided in subsection 2 of this section, and section 247.180,² all public elections shall be held on the general election day, the primary election day, the general municipal election day,³ the first Tuesday after the first Monday in November, or on another day expressly provided by city or county charter, and in nonprimary years on the first Tuesday after the first Monday in August. Bond elections may be held on the first Tuesday after the first Monday in February but no other issue shall be included on the ballot for such election.

While Relators and Defendant Mary Jo Spino may attempt to rely on section 115.123, RSMo, to suggest that a day other than November 4, 2025, is an authorized election day, this reliance is misplaced and contrary to Missouri law. Although section 115.123 permits elections

² RSMo 247.180 addresses elections related to public water supply districts. Specifically, this statute deals with elections concerning the formation, alteration, or governance of water supply districts in Missouri. RSMo 115.123.2 provides an exception to the public election day for "special elections to fill vacancies and to decide tie voter or election contests." Neither of these exceptions are implicated by a recall election of the Jackson County Executive.

³ RSMo. Section 115.121 establishes the days: General Election Day - "The general election day shall be the first Tuesday after the first Monday in November of even-numbered years;" Primary Election Day - "The primary election day shall be the first Tuesday after the first Monday in August of even-numbered years;" and General Municipal Election Day - "The general municipal election day shall be the first Tuesday after the first Monday in April each year, except that no general municipal election shall be held on the day on which members of a religious faith or sect observe as the Sabbath or as a holy day if the religious faith or sect prohibits its members from participating in elections on that day, in which case, the general municipal election shall be held on the second Tuesday after the first Monday in April."

“on another day expressly provided by city or county charter,” this language does not authorize an August 26, 2025, recall election for multiple reasons.

First and foremost, the Charter's "within sixty days" provision does not "expressly provide" a specific election day as required by statute—it merely creates a floating timeframe that could fall on any day of the week in any month, depending on when petitions are filed. This interpretation would effectively nullify the carefully constructed election calendar established by Missouri election law.

Section 115.123 establishes the permissible public election days in Missouri, and there are no exceptions in the statute for recall elections.

The special election exception in section 115.123.2 is limited and only relates to “special elections to fill vacancies and to decide tie votes or election contests.” A special election to recall an office holder is not a permitted exception to the public election days. The Missouri legislature’s decision to expressly authorize special elections for vacancies and to decide tie votes and election contests, while omitting recall elections, demonstrates a clear intent that recall elections must be held on a regular election day.

The phrase “on another day expressly provided by city or county charter” in section 115.123 authorizes charter jurisdictions to establish specific, fixed election day—not a floating or arbitrary election day. For example, a charter city or county may establish an election day on the first Tuesday after the first Monday in March, which would be “another day expressly provided by charter.” This language allows a charter city or county to add other established election days to the generally available election days. The language does not override the entire state election framework with an election that could be conducted on any arbitrary day in violation of Missouri’s comprehensive election laws.

By example, the Charter of the City of Independence, Missouri, illustrates how charter provisions “expressly provide” specific election days rather than floating timeframes with an arbitrary election day based on when petitions are filed. Section 6.2 of the Independence Charter states, “[a] primary election shall be held on the first Tuesday after the first (1st) Monday in February of 1982 and of every fourth (4th) year thereafter. . . .” This establishes a specific, recurring election day that can be precisely identified on a calendar—exactly the type of “expressly provided” day contemplated by section 115.123. *See* Exhibit 1.

The Charter’s 60-day recall timeframe is not an “expressly provided day” as contemplated by the statute. If the Missouri legislature had intended to allow general timeframes established by charters to override other election laws, it would have used broader language such as “within a period expressly provided by city or county charter,” or would have broadened the public election day exception for special elections to include recall elections.

Because the Charter does not provide another public election day, such as the first Tuesday after the first Monday in September, the next authorized election day under section 115.123, RSMo, is November 4, 2025. The November 4th date is specifically authorized by statute—it is the earliest date authorized by statute when a recall election of the Jackson County Executive may be held.

Because November 4, 2025, is the next available authorized election day, the Election Boards can ensure:

- Proper notification under section 115.125, RSMo;
- Compliance with military and overseas voter requirements;
- Full access for absentee voters, including those with disabilities;
- Adequate time for voter registration and education;
- Proper preparation and testing of voting equipment;
- Recruitment and training of sufficient election judges; and
- Securing of polling locations consistent with voter expectations.

Additionally, conducting the recall election on November 4, 2025, would save Jackson County taxpayers approximately \$2 million compared to a standalone special election. The Jackson County Legislature certified a Charter amendment question for the November 4, 2025, ballot (Ordinance #5989), so the recall question would appear alongside this Charter amendment, allowing for an efficient use of County resources.

II. ATTEMPTING TO HOLD AN AUGUST 26, 2025 ELECTION WOULD VIOLATE MULTIPLE STATE AND FEDERAL LAWS

If the Election Boards were to attempt to conduct a recall election on August 26, 2025, they would be forced to violate multiple state and federal laws, potentially invalidating the election results and disenfranchising vulnerable voters.

A. Violation of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)

Federal law requires that ballots be made available to military and overseas voters at least 45 days before an election (52 U.S.C. § 20302(a)(8)(A)). Missouri law incorporates these federal protections through sections 115.900–115.936, RSMo. For an August 26, 2025, election, this deadline was July 12, 2025. The Missouri Secretary of State requires that such ballots be available to military and overseas voters at least 46 days before an election, which was July 11, 2025, for an August 26, 2025, election. Failure to comply with this requirement could result in disenfranchising military and overseas voters, potentially invalidating the election results.

B. Violation of Missouri's Absentee Voting Laws

Section 115.281, RSMo requires absentee voting to begin 42 days before an election. For an August 26, 2025, election, absentee voting would need to have begun on July 15, 2025. This requirement is particularly important for voters with disabilities who rely on absentee voting under section 115.277.1(2), RSMo.

Many absentee voters are individuals with disabilities who rely on absentee voting to exercise their fundamental right to vote. Failure to make absentee ballots available within the statutory timeframe would disproportionately impact these vulnerable voters, effectively disenfranchising citizens whose disabilities already create barriers to electoral participation.

C. Violation of Missouri’s Notification Requirements

Section 115.125, RSMo requires at least 10 weeks’ notice to election authorities before an election can be held. For an August 26, 2025, election, this notification deadline was June 17, 2025. The County Clerk’s certification was not received until July 18, 2025, more than four weeks after this deadline.

This notification requirement is not a mere formality—it ensures that election authorities have sufficient time to prepare for an election, including securing polling places, recruiting, and training election judges, preparing ballots, and conducting voter education. The Missouri Supreme Court has consistently held that election authorities must comply with these statutory requirements. See *Chastain v. Kansas City*, 289 S.W.3d 759, 763 (Mo. App. W.D. 2009).

D. Violation of Missouri’s Court Order Deadline

Section 115.125.3, RSMo explicitly prohibits courts from ordering an election less than 8 weeks before the election date. For an August 26, 2025, election, this deadline was July 1, 2025. This statutory prohibition is absolute and leaves no room for judicial discretion.

The Missouri Supreme Court has strictly enforced this provision. In *Chastain v. Kansas City*, 289 S.W.3d 759 (Mo. App. W.D. 2009), the court held that the 8-week deadline is mandatory and that courts lack authority to order an election within that timeframe.

E. Consequences of an Improper Election

Conducting an election in violation of these mandatory requirements would create serious legal challenges that could potentially invalidate the election results and undermine public confidence in the electoral process.⁴ It would also potentially disenfranchise military voters, overseas citizens, and voters with disabilities who rely on absentee voting.

The Election Boards have a legal obligation to conduct elections in compliance with all applicable laws. They cannot and should not be required to violate these laws by conducting a premature election that would undermine the integrity of the electoral process and violate voters' fundamental rights.

III. ELECTION BOARDS CANNOT “TRIGGER” ELECTIONS BASED ON PETITION VERIFICATION

Relators mistakenly claim that “election board receipt/verification is the vehicle that triggers the recall election.” This position contradicts both Missouri law and the County Charter. The Election Boards lack legal authority to independently call elections for three fundamental reasons:

First, Election Boards are administrative bodies with limited statutory powers. Section 115.015 RSMo establishes election authorities as administrative bodies that conduct—but do not call—elections. Section 115.055 further clarifies the roles of an election authority stating that they “may administer oaths and perform all other duties necessary to register voters and conduct elections,” further indicating that election authorities are ministerial bodies in the election process.

Second, the Charter explicitly assigns election-calling authority to the County Legislature. Article II, Section 16.12 expressly grants the County Legislature the power to “call elections for

⁴ Having a recall election on any day other than an authorized public election day in violation of RSMo section 115.123 would also potentially subject the election to a challenge, which could invalidate the election.

any lawful purpose and establish election procedures not inconsistent with the constitution and applicable law.” This specific provision would be rendered meaningless under Relators’ interpretation.

Third, Election Boards lack authority to appropriate the substantial funds (approximately \$2,000,000) required for a special election. Under Relators’ theory, unelected administrative bodies would gain the unprecedented power to commit county resources without legislative authorization.

While the Charter grants citizens the power to initiate the recall process through petitions, this merely starts the process—it does not bypass established governmental procedures or transform Election Boards into autonomous entities. The Charter establishes the Election Boards as verifiers of petition signatures, not as independent election schedulers.

Relators’ interpretation would create the absurd result of Election Boards operating as autonomous entities with authority to override both state election laws and the County Legislature’s constitutional role. Courts must avoid such unreasonable interpretations. *See State ex rel. Killingsworth v. George*, 168 S.W.3d 621, 623 (Mo. App. E.D. 2005).

The proper procedure for calling a recall election requires official county action, which occurred when the County Clerk certified the recall election pursuant to Ordinance #5993. However, this certification designated August 26, 2025—a date not authorized by Missouri law and incompatible with state and federal election requirements.

CONCLUSION

For the foregoing reasons, the Election Boards respectfully request that this Court:

- A. Deny Relators’ Amended Writ of Mandamus;
- B. Declare that November 4, 2025, is the earliest date on which a legally compliant recall election can be held; and

C. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was forwarded on July 28, 2025 to the following:

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