

**IN THE SUPREME COURT OF KANSAS**

GOVERNOR LAURA KELLY, in her	)	
official capacity,	)	
	)	
Petitioner,	)	Case No. 122,765
	)	
v.	)	
	)	
LEGISLATIVE COORDINATING	)	
COUNCIL, KANSAS HOUSE OF	)	
REPRESENTATIVES and	)	
KANSAS SENATE,	)	
	)	
Respondents.	)	

**MOTION TO EXPEDITE**

Petitioner, Governor Laura Kelly, respectfully moves that this proceeding be expedited given the urgency of the matter. Specifically, on April 8, 2020, the Legislative Coordinating Council (“LCC”) voted to revoke Governor Kelly’s Executive Order 20-18. As set forth in the Petition and Memorandum in Support for this proceeding, the LCC lacks authority to take that action. The LCC’s authority to revoke Governor Kelly’s executive orders through a vote of its seven members is derived from House Concurrent Resolution 5025 § (2)(D); but that resolution conflicts with K.S.A. 48-925(b), which only allows such orders to be revoked by “concurrent resolution of the Legislature.” A resolution cannot amend a statute. Therefore, the LCC’s revocation of Governor Kelly’s Executive Order 20-18 is void, leaving Executive Order 20-18 in full force and effect.

However, the LCC’s action has caused public confusion regarding the force and effect of Executive Order 20-18. And Executive Order 20-18 addresses a significant threat to the health and safety of Kansans, particularly heading into Easter weekend. The LCC's action creates a potential constitutional crisis. Governor Kelly respectfully requests an expedited decision on this

matter before the end of this week to avoid chaos and confusion as to the rights and responsibilities of Kansans, especially in light of the continued spread of COVID-19 and the additional deaths it will cause if unchecked. As Executive Order 20-18 is, as Governor Kelly has demonstrated, still in effect, Kansans should know they must follow it. If confusion on this issue reigns through the weekend, more Kansans will be endangered by COVID-19.

Kansas Supreme Court Rule 7.01, provides “cases are assigned for hearing as nearly as practicable in the order docketed except cases entitled by law to preferential setting. The court on motion may advance other cases as justice or the public interest may require.” This Court has accorded preferential setting for cases involving an urgent public interest of lesser magnitude than is presented here. In *State ex rel. Tomasic v. Kansas City*, 237 Kan. 164 (1985), due to the urgency of the matter and public interest involved, this Court gave preferential setting for an original action in quo warranto brought by a county district attorney regarding the constitutionality of tax provision and actions about to be taken on certain real property. *Id.* This Court issued a two-page judgment that was later supplemented by a lengthier opinion several months later in *State ex rel. Tomasic v. Kansas City*, 237 Kan. 572, 575 (1985). Petitioner urges a similar approach here, and while the Court noted in its brief initial judgment that the parties had thoroughly briefed the case, time for such thorough briefing does not exist here. But that is appropriate given that this case is not about a tax provision; this is a case about an immediate danger to the health and safety of Kansans, jeopardized by Respondents’ unconstitutional actions. Justice and the public interest require this case be heard and decided immediately.

The Governor notes that this Court has previously decided original actions in an expedited fashion when the circumstances warranted. *See, e.g., State ex rel. Schmidt v. Kelly*, No. 121,061, 309 Kan. 887 (2019); *see also Taylor v. Kobach*, No. 112,431 (Kan. S. Ct.) (petition filed

September 9, response due September 15, oral argument September 16, and opinion issued September 18). Even swifter dispatch is warranted here in light of the grave, urgent public health concerns the COVID-19 pandemic presents.

Accordingly, Governor Kelly respectfully requests that the Court decide this case before the end of this week.

RESPECTFULLY SUBMITTED

GOVERNOR LAURA KELLY

*/s/Clay Britton*

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**CERTIFICATE OF SERVICE**

I certify that on April 9, 2020, a true and correct copy of the above filing was served in accordance with Kansas Supreme Court Rule 9.01 and K.S.A. 60-205, on Respondents by e-mail with additional courtesy copies by personal service at the addresses of Respondents' state offices listed below, and further additional courtesy copies by personal service to Respondent's residences, not listed for privacy reasons to:

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