

In the
Supreme Court of Ohio

STATE ex rel. LETOHIOVOTE.ORG., et al.,	:	Case No. 2009-1310
	:	
Relators,	:	Original Action in Mandamus
	:	
v.	:	
	:	
OHIO SECRETARY OF STATE	:	
JENNIFER BRUNNER,	:	
	:	
Respondent.	:	

**ANSWER OF PROPOSED INTERVENORS
J. PARI SABETY, DIRECTOR, OFFICE OF BUDGET AND MANAGEMENT, AND
MICHAEL A. DOLAN, DIRECTOR, OHIO LOTTERY COMMISSION**

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J. PARI SABETY, DIRECTOR, OFFICE OF BUDGET AND MANAGEMENT, AND
MICHAEL A. DOLAN, DIRECTOR, OHIO LOTTERY COMMISSION**

Proposed Intervenor J. Pari Sabety, Director, Office of Budget and Management, and Michael A. Dolan, Director, Ohio Lottery Commission, in answer to Relators' Complaint, state as follows:

1. Intervenor state that no response is required to the allegations in paragraph 1 of the Complaint because they contain purely legal conclusions. To the extent a response is required, the allegations are denied.
2. Intervenor are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the Complaint.
3. Intervenor are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 of the Complaint.

4. Intervenor's admit that Respondent Jennifer Brunner is the Ohio Secretary of State and the chief elections officer of the State of Ohio. Further answering, Intervenor's state that Article III of the Ohio Constitution and R.C. 111.08 speak for themselves.

5. Intervenor's admit the allegations in paragraph 5 of the Complaint.

6. Intervenor's admit the allegations in paragraph 6 of the Complaint.

7. Intervenor's admit the allegations in paragraph 7 of the Complaint.

8. Intervenor's admit the allegation in paragraph 8 of the Complaint that Governor Strickland issued a Directive to the Ohio Lottery Director titled "Implementing Video Lottery Terminals." Further answering, Intervenor's admit that Exhibit A of Relator's Complaint is a true and accurate copy of the Directive, but without a signature by Governor Strickland.

9. Intervenor's admit the allegations in paragraph 9 of the Complaint and state that the complete Directive speaks for itself.

10. Intervenor's deny the allegations in paragraph 10 of the Complaint.

11. Intervenor's are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11 of the Complaint.

12. Intervenor's state with respect to paragraphs 12 and 13 of the Complaint that the Directive speaks for itself. Intervenor's deny all other allegations in paragraphs 12 and 13 of the Complaint.

13. Intervenor's admit the allegation in paragraph 14 of the Complaint that on July 13, 2009, the 128th General Assembly enacted Amended Substitute House Bill No. 1 ("Am. Sub. H.B. 1"), which included the 2010-2011 biennium budget.

14. Intervenor's admit that Governor Strickland signed Am. Sub. H.B. 1 on July 17, 2009, but deny the remaining allegations in paragraph 15 of the Complaint.

15. Intervenor admits the allegation in paragraph 16 of the Complaint that Am. Sub. H.B. 1 included amendments to Chapter 3770 of the Revised Code and that a true and accurate copy of the portions of Am. Sub. H.B. 1 amending Chapter 3770 are attached as Exhibit B to Relators' Complaint. Further answering, Intervenor states that Am. Sub. H.B. 1 speaks for itself.

16. Intervenor states with respect to paragraphs 17 and 18 of the Complaint that Am. Sub. H.B. 1's amendments to sections 3770.03 and 3770.21 of the Revised Code speak for themselves.

17. Intervenor states with respect to paragraph 19 of the Complaint that section 812.20 of Am. Sub. H.B. 1 speaks for itself.

18. Intervenor admits the allegation in paragraph 20 that Exhibit C to the Complaint is a true and accurate copy of section 812 of Am. Sub. H.B. 1. Further answering, Intervenor states that sections 812.10, 812.30, 812.40, and 812.50 of Am. Sub. H.B. 1 speak for themselves.

19. Intervenor is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 21 of the Complaint and therefore deny them.

20. Intervenor is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 22 and 23 of the Complaint and therefore deny them.

21. Intervenor, in response to the allegations in paragraph 24 of the Complaint, restates and incorporates herein their responses to paragraphs 1 to 23.

22. Intervenor states in response to the allegations in paragraph 25 of the Complaint that Section 1c of Article II of the Ohio Constitution speaks for itself and that paragraph 25 contains a legal conclusion to which no response is required.

23. Intervenor state in response to paragraph 26 of the Complaint that Section 1d of Article II of the Ohio Constitution speaks for itself and that paragraph 26 contains a legal conclusion to which no response is required.

24. Intervenor state that paragraph 27 of the Complaint sets forth a legal conclusion to which no response is required. Intervenor deny the remaining allegations in paragraph 27.

25. Intervenor deny the allegations in paragraph 28 of the Complaint.

26. Intervenor deny the allegations in paragraph 29 of the Complaint.

27. Intervenor deny the allegations in paragraph 30 of the Complaint.

28. Intervenor deny the allegations in paragraph 31 of the Complaint.

29. Intervenor deny that Relators are entitled to any relief sought in their demand for relief or any other relief.

30. Intervenor deny each and every allegation in the Complaint not otherwise expressly admitted.

WHEREFORE, having answered Relators' Complaint, Proposed Intervenor J. Pari Sabety, Director, Office of Budget and Management, and Michael A. Dolan, Director, Ohio Lottery Commission, raise the following defenses, including affirmative defenses:

FIRST DEFENSE

31. The Court lacks subject matter jurisdiction to hear Relators' claims.

SECOND DEFENSE

32. Relators have failed to state a claim upon which relief can be granted.

THIRD DEFENSE

33. Relators have no clear legal right to the relief requested.

FOURTH DEFENSE

34. Respondent Secretary Brunner has no clear legal duty to perform as requested by Relators.

FIFTH DEFENSE

35. Relators have an adequate remedy at law.

SIXTH DEFENSE

36. R.C. 3770.03 and R.C. 3770.21, as amended by Am. Sub. H.B. 1, provide for appropriations for the current expenses of the state government and state institutions, pursuant to section 1d of Article II of the Ohio Constitution, and therefore became immediately effective.

SEVENTH DEFENSE

37. R.C. 3770.03 and R.C. 3770.21, as amended by Am. Sub. H.B. 1, do not change the permanent law of the state.

EIGHTH DEFENSE

38. R.C. 3770.03 and R.C. 3770.21, as amended by Am. Sub. H.B. 1, are not subject to referendum under powers reserved to the people by Section 1d of Article II, of the Ohio Constitution.

NINTH DEFENSE

39. R.C. 3770.03 and R.C. 3770.21, as amended by Am. Sub. H.B. 1, are constitutional under Section 6, Article XV of the Ohio Constitution.

TENTH DEFENSE

40. R.C. 3770.03 and R.C. 3770.21, as amended by Am. Sub. H.B. 1, acknowledge the Ohio Lottery Commission's existing authority to operate, and promulgate rules for, video lottery terminals.

ELEVENTH DEFENSE

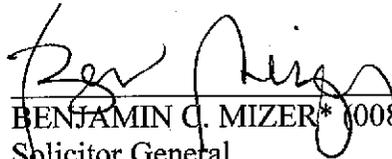
41. Relators are not entitled to attorneys' fees or costs.

TWELFTH DEFENSE

42. Proposed Intervenors reserve the right to add additional defenses, including additional affirmative defenses, as may be disclosed during the course of this proceeding.

Respectfully submitted,

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Ohio Attorney General



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CERTIFICATE OF SERVICE

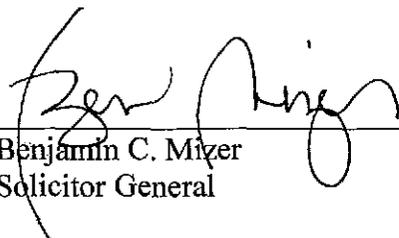
I certify that a copy of the foregoing Answer of Proposed Intervenors J. Pari Sabety, Director, Office of Budget and Management, and Michael A. Dolan, Director, Ohio Lottery Commission, was served by electronic mail on this 24th day of July 2009 upon the following counsel:

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