

STATE OF MISSOURI)
) SS
 COUNTY OF COLE)

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
 OF MISSOURI, COLE COUNTY, MISSOURI

CITY OF DE SOTO,)	
A Political Subdivision of the State)	
Of Missouri)	
)	
and)	
)	
JAMES ACRES)	
)	
Plaintiffs,)	
)	
v.)	Case No.
)	
MICHAEL L. PARSON, GOVERNOR)	Division
OF THE STATE OF MISSOURI,)	
)	
Serve at: Office of the Governor)	
Rm. 218, State Capitol Building)	
201 W Capitol Ave.)	
Jefferson City, MO 65102)	
)	
JOSH HAWLEY, ATTORNEY)	
GENERAL OF THE STATE OF)	
MISSOURI,)	
)	
Serve at: Missouri Attorney General's)	
Office, Supreme Court Bldg.)	
207 W High St.)	
Jefferson City, MO 65102)	
)	
Defendants.)	

PETITION

FACTS COMMON TO ALL COUNTS

COMES NOW Plaintiffs, CITY OF DE SOTO and JAMES ACRES, by and through undersigned counsel, and state and allege as follows:

1. Plaintiff CITY OF DE SOTO is a political subdivision of the State of Missouri within the County of Jefferson and organized pursuant to Revised Missouri Statutes Chapter 77, and said Plaintiff has a city-manager form of government.

2. Plaintiff JAMES ACRES is a resident and citizen of De Soto, Jefferson County, Missouri.

3. Defendant MICHAEL L. PARSON is the Governor of the State of Missouri whose predecessor, ERIC GREITENS, signed the legislation at issue in this case prior to the resignation of ERIC GREITENS.

4. Defendant JOSH HAWLEY is the Attorney General of the State of Missouri and is charged with enforcement of the legislation at issue in this case.

5. Pursuant to RSMo. Chapter 77, and specifically section 77.010, the mayor and the city council of any lawfully established third class city, including Plaintiff City of De Soto, has the power to sue.

6. Pursuant to RSMo Chapter 77.190, the City of De Soto may purchase fire equipment, form fire companies, and govern said fire companies.

7. Pursuant to Section 77.020, the City of De Soto may alter its city limits by involuntary and voluntary annexations.

8. Pursuant to the above powers vested in them by the statutes, Plaintiff City of De Soto has formed a municipal fire department. Plaintiff City of De Soto reserves the right to receive voluntary annexations from citizens in unincorporated Jefferson County, Missouri, and Plaintiff City of De Soto reserves the right to involuntarily annex property in unincorporated Jefferson County, Missouri in the future.

9. The City of De Soto has a population of approximately 6,500.

10. The County of Jefferson has a population of approximately 220,000.
11. The City of De Soto is surrounded by the De Soto Rural Fire Protection District.
12. In June 2018, the Legislature passed, and subsequently former Governor ERIC GREITENS signed, House Bill 1446, which, in part, repealed RSMo. Section 321.320 and a new RSMo. Section 321.320 was enacted in lieu of the repealed statute. The applicable provisions of said Bill and RSMo. Chapter 321 which are at issue in this matter are attached hereto and incorporated by reference herein as “**Exhibit A**” (hereafter also referred to as the “Applicable Provisions of House Bill 1446”).

COUNT I: DECLARATORY JUDGMENT: HOUSE BILL 1446 IS
UNCONSTITUTIONAL

13. Plaintiffs incorporate herein by reference Paragraphs 1 through 12 of this Petition, as if same were set forth herein.

14. Pursuant to the Applicable Provisions of House Bill 1446 and RSMo. Chapter 321, and more specifically RSMo. Section 321.320, the Legislature purported to deprive Plaintiff City of De Soto of certain powers previously granted to them by Chapter 321 and to cause harm to the City of De Soto and its citizens and residents in the following manners, the list of which is not intended to be exclusive nor exhaustive:

- a. First, the De Soto Rural Fire Protection District will continue to serve the annexed portion of the city after the annexation of property into the city limits (RSMo. Section 72.418.2);
- b. Second, the citizens of the City of De Soto will be subject to a *de facto* double taxation, as they will have to pay for the unilaterally assessed taxation prescribed by the De Soto Rural Fire Protection District for the services provided

to the annexed properties, while also paying for the fire protection costs associated with the City of De Soto's fire department. *Id*;

c. Third, the De Soto Rural Fire Protection District may approve or reject any proposal for the provision of fire protection and emergency medical services by the City of De Soto, thereby subverting the City of De Soto's right to determine the appropriate means to provide fire and emergency medical services to its citizens. (RSMo. Section 72.418.3).

15. RSMo. Section 321.320's Jefferson County criteria applies solely to the City of De Soto as demonstrated by the exclusionary or process-of-elimination criteria.

16. There is no substantial justification for the discrimination against the City of De Soto in such a manner as laid out by the statute at issue.

17. RSMo. Section 321.320 subjects annexed property to multiple, conflicting legal obligations in the form of competing ordinances.

18. RSMo. Section 321.320 requires the annexing city to enforce another jurisdiction's ordinances and rules.

19. The effective date of the Applicable Provisions of House Bill 1446 was August 28, 2018, so RSMo. Section 321.320 is now in effect and enforceable by Defendant JOSH HAWLEY or any other such governmental authority or court in the State of Missouri.

20. RSMo. Section 321.320 was passed and signed into law in violation of the Missouri Constitution, Article III, Section 40, prohibiting special laws, in that (and, again, said ways are not intended to be exclusive nor exhaustive):

a. RSMo. Section 321.320's Jefferson County criteria applies only to the City of De Soto, and no other similarly situated third class cities without a rational

relationship to a legitimate government purpose, nor does same have a substantial justification for such discrimination.

b. RSMo. Section 321.320's population range is so narrow that the only apparent reason for the narrow range is to target a particular political subdivision and to exclude all others.

c. RSMo. Section 321.320 arbitrarily removes certain powers and rights previously granted uniformly to third class cities by RSMo Chapter 321, and transfers these powers and rights to the fire protection districts, contrary to the general statutory scheme for third class cities and for fire protection districts across the State.

21. In addition, House Bill 1446 was passed and signed into law in violation of the Missouri Constitution, Article III, Section 23, which prohibits legislative bills from having more than one subject which must be clearly expressed in the bill's title in that and, again, said ways are not intended to be exclusive nor exhaustive):

a. The provisions of the bill contain more than one subject and not all of the provisions of the bill fairly relate to the same subject, have a natural connection therewith, or are incidents or means to accomplish that purpose. Specifically, the Bill deals with topics "relating to elections." However, only three of the four sections relate to elections. RSMo. Section 321.320 has no rational relation to elections whatsoever and, yet, the section was added to the end of the bill.

b. Furthermore the title of House Bill 1446, "To repeal sections 115.124, 115.157, and 321.320, RSMo, and to enact in lieu thereof four new sections relating to elections, with an emergency clause for a certain section" is fraudulent,

misleading, and, as demonstrated above, is so broad and amorphous that it effectively renders the single subject requirements of the Missouri Constitution meaningless and obscures the actual subjects of the legislation.

22. All of the provisions of House Bill 1446 should be struck as unconstitutional in violation of Missouri Constitution Article III, Sections 23 and 40.

23. There exists a genuine dispute and controversy between the parties concerning the legality and enforceability of RSMo. Section 321.320 and House Bill 1446 as a whole, as defined in RSMo. Chapter 527. Plaintiffs are entitled to a declaration by this Court of their rights and obligations under both RSMo. Section 321.320 and said House Bill 1446.

WHEREFORE, Plaintiffs CITY OF DE SOTO and PLAINTIFF JAMES ACRES pray for this Court to enter a Judgment decreeing and declaring, as follows:

- a. that RSMo. Section 321.320 is void as a special law in violation of Article III, Section 40 of the Missouri Constitution and that House Bill 1446 is in violation of Article III, Section 23 of the Missouri Constitution, said Bill having multiple subject matters and that HB 1446 is otherwise unconstitutional;
- b. that a permanent injunction should be issued enjoining the enforcement of the RSMo. Section 321.320 and House Bill 1446; and
- c. that Plaintiff be granted the costs and attorney's fees herein incurred; and
- d. any and all other relief this Court deems just and proper under the circumstances.

COUNT II: TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION
AND PERMANENT INJUNCTION

24. Plaintiffs incorporate herein by reference paragraphs 1 through 23 of this Petition as if same were set forth herein.

25. RSMo. Section 321.320 is a special law and unconstitutional because it specifically targets the City of De Soto while other similarly situated cities within Jefferson County and across Missouri are not affected.

26. If RSMo. Section 321.320 is permitted to remain in effect, Plaintiffs will suffer immediate and irreparable harm.

27. Monetary damages alone are inadequate compensation to Plaintiffs.

28. If RSMo. Section 321.320 is permitted to remain in effect, the harm to Plaintiffs will outweigh any harm done to other interested parties.

29. There is a public interest in enjoining the effect of RSMo. Section 321.320.

WHEREFORE, Plaintiff CITY OF DE SOTO and PLAINTIFF JAMES ACRES pray for this Court to enter a Judgment decreeing and declaring, as follows:

a. that, upon duly filed motions, both a temporary and preliminary injunction should issue enjoining the enforcement of the RSMo. Section 321.320 and, in the alternative, all such provisions of House Bill 1446 pending a hearing on the merits of Plaintiffs' claim;

b. after a hearing on the merits, that RSMo. Section 321.320 is void as a special law in violation of Article III, Section 40 of the Missouri Constitution and that House Bill 1446 is a violation of Article III, Section 23 of the Missouri Constitution, said Bill having multiple subject matters;

c. that a permanent injunction should be issued enjoining the enforcement of the RSMo. Section 321.320 and House Bill 1446; and

- d. that Plaintiff be granted the costs and attorney's fees herein incurred; and
- e. any and all other relief this Court deems just and proper under the circumstances.

Respectfully Submitted,

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