

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Lynn Shuler Teague, in her individual capacity;
League of Women Voters of South Carolina, Inc.,
Jace Woodrum, in his individual capacity; and
American Civil Liberties Union of South Carolina,
Inc.,

Plaintiffs,

vs.

The House Legislative Rules Committee of the
South Carolina House of Representatives; the
Honorable Micajah P. “Micah” Caskey, IV, in his
official capacity as Chairman of the House
Legislative Rules Committee; and Speaker G.
Murrell Smith, Jr., in his official capacity as
Speaker of the South Carolina House of
Representatives,

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Case No. 2026-CP-40-03393

**DEFENDANTS’ MEMORANDUM IN
OPPOSITION TO PLAINTIFFS’
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Defendants The House Legislative Rules Committee of the South Carolina House of Representatives (“the Rules Committee” of “the House of Representatives”); the Honorable Micajah P. “Micah” Caskey, IV (“Chairman Caskey”), in his official capacity as Chairman of the House Legislative Rules Committee; and Speaker G. Murrell Smith, Jr., in his official capacity as Speaker of the South Carolina House of Representatives (“Speaker of the House”) (collectively, “Defendants”), by and through undersigned counsel, respectfully submits this Memorandum in Opposition to Plaintiff’s Motion for a Temporary Restraining Order and Preliminary Injunction.

INTRODUCTION

Plaintiffs ask this Court to override the “sole discretion” of the Speaker of the South Carolina House of Representatives in applying the Rules of the House to its own internal procedures. This presents a quintessential nonjusticiable political question, and granting any Plaintiffs requested relief would clearly violate the fundamental principle of separation of powers.

I. Plaintiffs’ Motion Should Be Denied Because It Raises a Purely Political Question that Is Nonjusticiable, and Judicial Intervention would Violate Well-Established Separation of Powers Principles.

The South Carolina Constitution expressly establishes that “each house shall ... determine its rules of procedure.” S.C. Const. art. III, § 12. This “constitutional mandate” provides that “**each house in the General Assembly determines its rules of procedure free from interference from the judicial and executive branches.**” *Bd. of Trs. of Sch. Dist. of Fairfield Cnty. v. State*, 395 S.C. 276, 279, 718 S.E.2d 210, 211 (2011) (emphasis added). This is a longstanding principle consistently recognized by the South Carolina Supreme Court. *See State ex rel. Coleman v. Lewis*, 181 S.C. 10, 186 S.E. 625, 630 (1936) (“The Constitution empowers each House to determine its rules and proceedings.”). While those internal Rules are of course subject to “constitutional restraints,” “all matters of method are open to the determination of the House, and it is no impeachment of the rule to say that some other way would be better, more accurate, and even more just.” *Id.*; *see also United States v. Ballin*, 144 U.S. 1, 5 (1892) (“neither...the advantages or disadvantages, the wisdom or folly, of a rule present any matters for judicial consideration.”). The House of Representatives has plenary powers over the passage, interpretation, and implementation of its Rules. *See Coleman*, 181 S.C. 10, 186 S.E. 625, 631 (“the powers of the General Assembly are plenary as to all matters of legislation unless prohibited by some provision of the Constitution”); *see also Japan Whaling Ass’n v. Am. Cetacean Soc.*, 478 U.S. 221, 230 (1986) (stating the political question doctrine, which derives from the separation of powers doctrine, excludes from judicial review those controversies which revolve around policy choices and value determinations constitutionally committed for resolution to the halls of state legislatures).

As it is constitutionally empowered to do so, the South Carolina House of Representatives has adopted House Rule 4.4, which provides, in part, as follows:

A committee should give a minimum of twenty-four hour advance notice for all committee meetings. **Provided, however, in case of necessity due to exigent circumstances, the Speaker, in his sole discretion, may waive the twenty-four hour advance notice requirements herein.** Committee chairmen must notify the committee members of all meetings. **Failure of notice of any meeting shall not invalidate committee action unless bad faith is shown...**

House Rule 4.4 (emphasis added). This House Rule was modified recently to expressly grant the Speaker this authority, and this Rule was properly adopted by the House. *See* Rules of the House of Representatives; <https://www.scstatehouse.gov/housepage/hourule.php>.

Pursuant to Rule 4.4, the Speaker of the House exercised his sole discretion to determine that there were indeed “exigent circumstances.” While there is no requirement that the Speaker must affirmatively delineate such circumstances to waive the twenty-four hour requirement in the Rule, the legislative record is clear, including from Chairman Caskey, as to why exigency existed in this Special Session, including the number of amendments on the table, amendments and debate that were in no way germane to the bill, and other delay tactics that jeopardized the deliberative process of the House of Representatives. The Speaker of the House properly exercised his sole discretion in waiving notice requirements to address these exigent circumstances.

Plaintiffs challenge this waiver of notice under the South Carolina Freedom of Information Act (“FOIA”). As the Honorable Robert E. Hood previously concluded, an entity may be “exempt from the requirements of the FOIA pursuant to ... Rules of Procedure for the South Carolina House of Representatives.” *State Media Company, et al. v. South Carolina House Republican Caucus*, Civil Action No. 2017-CP-40-02523 (March 1, 2019 Order) (citing *Coggin v. Davey*, 211 S.E.2d 708, 710 (Ga. 1975) (“We do not believe it can reasonably be argued that the House or Senate cannot pass an internal rule for its own procedures that is in conflict with a statute formerly enacted.”)). Here, House Rule 4.4 expressly exempts the Rules Committee from the notice requirements of FOIA and, instead, implements its own procedural rules. Such rules are “free from

interference” from the judicial branch. *Bd. of Trs. of Sch. Dist. of Fairfield Cnty. v. State*, 395 S.C. 276, 279, 718 S.E.2d 210, 211 (2011).

II. Plaintiff’s Motion Should Be Denied Because South Carolina’s Freedom of Information Act Statute Does Not Apply to the Complained of Resolution.

While the separation of powers issue is wholly dispositive here, the FOIA provisions cited by Plaintiffs are not applicable here for additional reasons. For one, the General Assembly is not bound by the statutes enacted by a prior General Assembly. *See Manigault v. Springs*, 199 U.S. 473 (1905) (“A general law enacted by a legislature may be repealed, amended, or disregarded by a subsequent legislature, and a special act is not necessarily invalid because the legislature dispensed with certain formalities required by a general law in regard to the passage of such act.”). As such, a statute such as FOIA passed by a prior General Assembly cannot “restrict the plenary powers” of the current legislature. *Pinckney v. Peeler*, 434 S.C. 272, 287, 862 S.E.2d 906, 914 (2021) (noting that a piece legislation “is not binding upon any subsequent legislature, nor does a noncompliance with it impair or nullify the provisions of an act passed without the requirement”) (cleaned up).

CONCLUSION

Finally, Defendants “are entitled to absolute legislative immunity from claims against them arising out of their actions in a legislative capacity.” *Front Royal & Warren County Indus. Park Corp. v. Town of Front Royal*, 865 F.2d 77, 79 (4th Cir. 1989) (cleaned up). It is clear that a governmental body acts in a legislative capacity when it engages in the process of “adopting prospective, legislative-type rules.” *Id.*

For these reasons, Plaintiffs are unable to succeed on the merits of their claim. In addition, Plaintiffs have suffered no irreparable harm (and even admit that any notice issues could be

remedied), and have adequate remedies at law, namely through the democratic process, to address their concerns.

As discussed above, Defendants should prevail on the Motion for a Temporary Restraining Order and the underlying merits of this case, in which case, Defendants intend to seek all relief available to them under the law, including but not limited to recovery of attorneys' fees and costs incurred in defending this action, which fundamentally ignores the bedrock legal principle of separation of powers.

Respectfully submitted,

s/ Michael Parente

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May 20, 2026
Columbia, South Carolina