

No. \_\_-\_\_

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# In the Supreme Court of Texas

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IN RE GREG ABBOTT,  
IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE STATE OF TEXAS,  
*Relator.*

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On Petition for Writ of Quo Warranto

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## EMERGENCY PETITION FOR WRIT OF QUO WARRANTO

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## **STATEMENT OF THE CASE**

This is an original petition for a writ of quo warranto removing Representative Gene Wu from membership in the Texas House of Representatives. There are no prior proceedings in lower courts.

## **STATEMENT OF JURISDICTION**

This Court has jurisdiction to issue “writs of quo warranto” against “any officer of state government except the governor.” *See* TEX. CONST. art. V, § 3; TEX. GOV’T CODE § 22.002(a).

## **ISSUE PRESENTED**

1. Whether Respondent Gene Wu has forfeited the office of state representative and created a vacancy.

## INTRODUCTION

What is at stake here? Nothing less than the future of Texas. If a small fraction of recalcitrant lawmakers choose to run out the clock today, they can do so for any, and *every*, Regular or Special Session, potentially bankrupting the State in an attempt to get their way. That means every state budget could be held hostage until the whims of a small fraction of legislators is satisfied. It doesn't have to be that way. The rarely used writ of quo warranto exists to solve rare problems such as this. And this Court exists to solve cases with ramifications far beyond the individual parties to the case. So here too, the Court's decision will determine if only one-third of the Legislature can dictate the outcome for 100% of Texans.

Fearing one of eighteen items on the Special Session agenda, Democrat members of the Texas House claim an entitlement to abdicate their official duties by refusing to show up for work. To deprive the House of a quorum necessary to conduct business and prevent a vote that may not go their way, some House Democrats—led by Respondent Wu—recently fled the State and continue to remain absent to this day. These members have abandoned their official duties required by the

Constitution, which would allow legislation to pass in a 30-day session that is vital to Texans’ needs, such as flood relief, property tax relief, and public-school reforms. Public records suggest that the absconding Democrats even solicited money to pay the fines incurred for their absence. The problem here is that the harm these members have inflicted can continue perpetually. They may return from a quorum break for a few days and then abscond once again if legislation that does not please them is put to a vote. The only check on this hijacking of Texas government—beyond the reach of in-state compulsion tools—is quo warranto. *Cf. In re Abbott*, 628 S.W.3d 288, 291 (Tex. 2021).

If representatives are free not to show up whenever they choose, then Texans simply do not have a representative government. In fact, they don’t have a functioning government at all. This Court should make clear that a legislator who does not wish to perform his duties will be stripped of them.

### **STATEMENT OF FACTS**

The Regular Session of the 89th Texas Legislature concluded on June 2, 2025. Governor Abbott subsequently issued a Proclamation announcing a Special Session to begin on Monday, July 21, 2025, and

identifying eighteen items for the Legislature’s consideration. Much of the agenda focused on responses to tragic flooding in the Hill Country, as well as delivering property tax cuts and the elimination of the STAAR test. The Governor also directed the Legislature to consider a revised congressional redistricting plan.

Legislators are elected to represent their constituents in Texas’s bicameral legislature. When the Governor calls a Special Session, our Constitution provides that the “Legislature *shall* meet.” TEX. CONST. art. III, § 5 (emphasis added). Showing up to conduct legislative business is not cast by the Constitution as optional. Instead, by using the word “shall,” the Constitution imposes a mandate. While the Constitution does anticipate an inability to make a quorum, it does not suggest that an intentional lack of quorum by fleeing out of state can be used to violate the constitutional mandate that legislators “shall meet.” Historically, legislators have taken extreme measures to live up to this requirement, including one who—in defiance of doctor’s orders—

installed a gurney just off the Senate floor to ensure he could represent his constituents and fulfill his primary constitutional duty.<sup>1</sup>

To ensure legislators honor this duty, the House adopted rules providing that members may be fined “\$500 for each calendar day of absence” from the chamber, in addition to any costs incurred to secure their attendance. Rule 5, § 3, H. Res. 4, 89th Leg., Reg. Sess. (Tex. 2025). Any fines must be paid out of the member’s own personal funds rather than the member’s operating account or from political contributions. *Ibid.*

Almost immediately after Governor Abbott issued his proclamation calling a special session, members of the Texas House Democratic Caucus, including Wu, began discussing the possibility of “breaking quorum” to prevent the Legislature from fulfilling Article III, Section 5 of the Texas Constitution and considering the items designated by Governor Abbott. Reports indicate that, to facilitate that effort, some Democrat members sought to bankroll their obstruction

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<sup>1</sup> Gary Scharrer, *Ailing Gallego Risks Health to Stop Voter ID Bill*, CHRON (May 22, 2007), <https://www.chron.com/news/article/Ailing-Gallego-risks-health-to-stop-voter-ID-bill-1795678.php>.

with “the backing of big-dollar Democratic donors” who could “cover these expenses” as a benefit for legislators avoiding a vote.<sup>2</sup>

Meanwhile, other House members dutifully went about their work. On August 2, 2025, the House Select Committee on Congressional Redistricting conducted its fifth hearing and voted favorably to advance redistricting legislation for consideration by the full House. Then, on August 3, 2025, the House Committee on Calendars met to set a Daily House Calendar for August 4, 2025.

Within hours after the Calendars Committee posted its calendar, Respondent Wu—Chairman of the House Democratic Caucus—boarded a chartered plane for Chicago, Illinois, apparently provided as a benefit to withhold their vote and deny a quorum in the Legislature and fled the State with many of the other members of the House Democratic Caucus. Publicly available statements indicate that Wu deliberately fled the State to abandon his official duties indefinitely. He also solicited money from individuals and organizations both inside and

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<sup>2</sup> Owen Dahlkamp, *Texas Democrats Are Fundraising to Potentially Leave the State to Block GOP-backed Redistricting*, TEX. TRIB. (July 29, 2025), <https://www.texastribune.org/2025/07/29/texas-democrats-quorum-break-fundraising-fines-redistricting/>; Taylor Goldenstein, *Democrats Who Fled Texas Are Racking Up a Huge Bill. Who Is Paying the Tab?*, HOUS. CHRON. (Aug. 5, 2025), <https://www.houstonchronicle.com/politics/texas/article/democrats-redistricting-funding-20802647.php>.

outside of Texas to facilitate the violation of his duties and to skip a vote in the Texas Legislature.

First, Wu planned not to show up for work, for the specific purpose of abdicating his duties and thwarting the chamber’s business. Weeks earlier, Wu travelled “to California and Illinois to strategize with those states’ governors,”<sup>3</sup> including attending meetings to “determin[e] where the lawmakers could stay” out of state while denying the Texas House a quorum.<sup>4</sup> He committed to going where “the governor has no power to reach into other states”<sup>5</sup> and remaining there for one purpose—to kill the Special Session and stymie a vote on new congressional maps.<sup>6</sup>

After leaving the State, Wu claimed “this corrupt special session is over,” reposting an article touting the Democrats’ flight as a “bid to

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<sup>3</sup> Opinion, Michelle Cottle, *The High Road’s Not Available to Us’: Texas Democrats Have Had Enough*, N.Y. TIMES (July 31, 2025), <https://www.nytimes.com/2025/07/31/opinion/texas-redistricting-democrats.html>.

<sup>4</sup> J. David Goodman & Julie Bosman, *Texas Democrats Leave State to Block G.O.P. from Redrawing Political Map*, N.Y. TIMES (Aug. 3, 2025), <https://www.nytimes.com/2025/08/03/us/texas-democrats-walkout-redistricting-map-gop.html>.

<sup>5</sup> CNN, *Hear Top Texas Democrat’s Response to Gov. Abbott’s Threat*, YOUTUBE, at 03:38 (Aug. 4, 2025), [https://www.youtube.com/watch?v=xNqVy9\\_J4GU](https://www.youtube.com/watch?v=xNqVy9_J4GU).

<sup>6</sup> See, e.g., WFAA, *Inside Texas Politics – Full Interview with State Rep. Gene Wu*, YOUTUBE, at 13:05 (Jul. 31, 2025), <https://www.youtube.com/watch/e7dwSgFh4m0> (“[W]hile the Republicans are continuing to do this [redistricting] we’re saying we don’t want to do this. ... [I]f one side ... decides to launch nukes you cannot simply say we won’t respond.”); Texas House Democrats (@TexasHDC), X (Aug. 3, 2025), <https://x.com/TexasHDC/status/1952146260103729526> (“By breaking quorum, we’re putting an end to this corrupt special session.”).

block [the] GOP’s proposed congressional map.”<sup>7</sup>



Second, Wu has indicated his absence from the State is indefinite. When asked “how long [he would] stay out of the state,” Wu stated that his “commitment to this is one day at a time, and we’re going to deal with this special session.”<sup>8</sup> Obstructing only the current special session will surely not be enough for him, given the Governor’s ability to call subsequent special sessions. According to one major news outlet, Wu “suggested that the walkout could last through the rest of the 30-day special session, which was scheduled to end in late August, *and possibly*

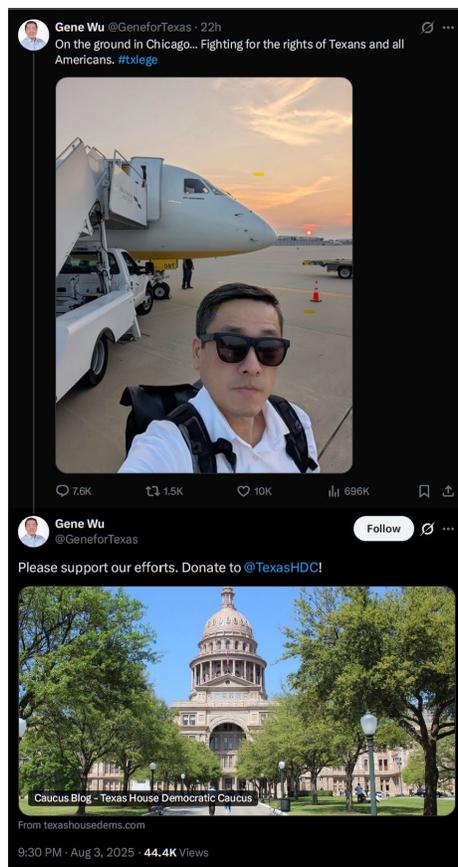
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<sup>7</sup> Texas Democrats (@texasdemocrats), X (Aug. 3, 2025, 4:13 P.M.), <https://x.com/texasdemocrats/status/1952115672701378797> (reposted by Gene Wu).

<sup>8</sup> CNN, *Hear Top Texas Democrat’s Response to Gov. Abbott’s Threat*, YOUTUBE, at 05:06 (Aug. 4, 2025), [https://www.youtube.com/watch?v=xNqVy9\\_J4GU](https://www.youtube.com/watch?v=xNqVy9_J4GU).

beyond.”<sup>9</sup>

Third, Wu has openly solicited and accepted funds and other consideration for the violation of his legislative duties. “Support Texas House Democrats as we deny quorum,” he pleads in one post.<sup>10</sup> In another, Wu posted an image of himself boarding a private charter plane, followed immediately by a request for donations.<sup>11</sup>



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<sup>9</sup> J. David Goodman & Julie Bosman, *Texas Democrats Leave State to Block G.O.P. from Redrawing Political Map*, N.Y. TIMES (Aug. 3, 2024), <https://www.nytimes.com/2025/08/03/us/texas-democrats-walkout-redistricting-map-gop.html>.

<sup>10</sup> Gene Wu (@GeneforTexas), X (Aug. 3, 2025, 5:46 P.M.), <https://x.com/GeneforTexas/status/1952138936932864163>.

<sup>11</sup> See, e.g., Gene Wu (@GeneforTexas), X (Aug. 3, 2025, 9:30 P.M.). <https://x.com/GeneforTexas/status/1952195353802866863>.

That plane, it turns out, was “a 76-seat private jet” taking Wu and other Democrats from Austin to Chicago on “a flight that likely cost tens of thousands of dollars.”<sup>12</sup> A recent report indicates that the “initial amount to get [Wu] off the ground” was provided by Beto O’Rourke’s political action committee.<sup>13</sup> In addition to offering the initial dollars, O’Rourke’s PAC also offered extensive public relations resources and a dedication of all donations received by the PAC to Wu and other Democrats—but only if they broke quorum.<sup>14</sup>

### ARGUMENT

Review is urgently needed. Under the Constitution, the current 30-day Special Session must end on August 20, 2025. TEX. CONST. art. III, § 40. Wu and his colleagues waited until just over two weeks remained in this Special Session to carry out a pre-meditated effort to thwart their constitutional duty to meet and conduct the business of the

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<sup>12</sup> Collin Anderson, *Texas Dems Fight Gerrymandering By Taking 76-Seat Private Jet to Gerrymandered Blue State*, WASH. FREE BEACON (Aug. 4, 2025), <https://freebeacon.com/democrats/texas-dems-fight-gerrymandering-by-taking-76-seat-private-jet-to-gerrymandered-blue-state/>.

<sup>13</sup> Taylor Goldenstein, *Democrats Who Fled Texas Are Racking Up a Huge Bill. Who Is Paying the Tab?*, HOUS. CHRON. (Aug. 5, 2025), <https://www.houstonchronicle.com/politics/texas/article/democrats-redistricting-funding-20802647.php>.

<sup>14</sup> *Ibid.*

House. Wu’s gambit threatens to run out the clock not only on this Special Session, but any future session, too.

The Court has jurisdiction to entertain this original action for a writ of quo warranto. The Legislature has authorized this Court to issue “all writs of quo warranto” against state officers like Wu. And the merits of the Governor’s claims are straightforward. Longstanding precedent recognizes that deliberate abandonment of office constitutes a forfeiture of that office. Indefinite removal to another State for purposes of avoiding the constitutional requirement that they “shall meet” likewise vacates the office. Finally, soliciting and accepting funds as consideration for the ongoing violation of legislative duties constitutes bribery under both the Texas Constitution and the Texas Penal Code.

**I. This Court Has Original Jurisdiction to Issue a Writ of Quo Warranto to Remove Representative Wu from His Office.**

Absent express authority, the Governor may not simply declare that an office holder has forfeited his office. *Honey v. Graham*, 39 Tex. 1, 11 (1873). Instead, that “[j]udgment belongs to the judiciary.” *Id.* To this end, the Constitution confers upon our Supreme Court original jurisdiction “to issue writs of quo warranto ... in such cases as may be specified” by the Legislature. TEX. CONST. art. V, § 3. The Legislature,

for its part, has indeed authorized this Court to issue “all writs of quo warranto ... agreeable to the principles of law ... against ... any officer of state government except the governor.” TEX. GOV’T CODE § 22.002(a).

It is clear that a member of the Texas House of Representatives is an “officer of state government.” More than a century ago, when describing the proper *object* for quo warranto proceedings, this Court held that phrase must be given its plain meaning. *See Pickle v. McCall*, 86 Tex. 212, 219 (1893). Similar to the Comptroller of Public Accounts in *McCall*, Wu “is an officer in [a] branch of state government, whose duties extend to the transaction of the business of that department throughout the entire state.” *Ibid.* He “is invested with some portion of the sovereign functions of the government”—*i.e.*, the Legislative power—“to be exercised by him for the benefit of the public.” *Kimbrough v. Barnett*, 93 Tex. 301, 310 (1900). Unsurprisingly, the Constitution’s oath-of-office provision classes “Members of the Legislature” alongside “*all other elected and appointed state officers.*” TEX. CONST. art. XVI, § 1(c) (emphasis added).

Just as surely, this petition also concerns the proper *subject* of quo warranto proceedings. Governor Abbott does not seek to impugn the

past acts of a government official. *Cf.* 33 WRIGHT & MILLER, FED. PRAC. & PROC. § 8306 (2d ed. 2025) (citing *Johnson v. Manhattan Ry. Co.*, 289 U.S. 479, 502 (1933)). Instead, he seeks to address ongoing abuses of public office by ousting “the non-user” Wu, who has abdicated his official responsibilities by avowedly repudiating them. *Banton v. Wilson*, 4 Tex. 400, 405 (1849); *see* 3 WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND \*262–264 (7th ed. 1775) (quo warranto “lies also in case of non-user” and describing examples of “forfeiture of [a] franchise by neglect”).

The Governor is likewise a proper movant for the writ. This Court has previously consulted “quo warranto’s common-law pedigree.” *Paxton v. Annunciation House, Inc.*, No. 24-0573, 2025 WL 1536224, at \*7 (Tex. 2025). And at least since the reign of the Tudors in England, “most of the informations [in the nature of quo warranto] were brought on the relation of private suitors.” JOHN BAKER, AN INTRODUCTION TO ENGLISH LEGAL HISTORY 156 (5th ed. 2019). This Court agreed before the Civil War that “information by *quo warranto* could be filed in this State on application by a private person” when challenging a “public injury.” *Banton*, 4 Tex. at 407. Wu’s willful renouncing of his duties here in

Texas—for the express purpose of “putting an end” to the Special Session and grinding the Legislature to a halt—is a quintessentially public abuse of power.

Chapter 66 of the Civil Practice and Remedies Code does not change the analysis. *See* TEX. CIV. PRAC. & REM. CODE §§ 66.001–66.003. As this Court has observed, Chapter 66 “is not styled as a limitation on quo warranto and has never been so understood since its initial adoption in 1879.” *Annunciation House*, 2025 WL 1536224, at \*13. That makes good sense given that this Court’s original acquisition of constitutional writ authority (in 1891) and the Legislature’s subsequent conferral of statutory quo warranto jurisdiction (in 1892) *both* post-date the predecessor to Chapter 66 (in 1879). *Compare* S.J. Res. 16, 22nd Leg., Reg. Sess. (Tex. 1891), *and* H.B. 12, 22nd Leg., 1st Spec. Sess. (Tex. 1892), *with* S.B. 79, 16th Leg., 1st Spec. Sess. (Tex. 1879).

In other words, the people of Texas, and the people’s representatives, clearly *expanded* access to the writ of quo warranto by conferring additional authority on this Court, without the strictures found elsewhere. The two quo warranto proceedings may run concurrently. Chapter 66 may be invoked in a trial court by the

attorney general, a county attorney, or a district attorney, TEX. CIV. PRAC. & REM. CODE § 66.002(a); original jurisdiction in this Court remains available in a different set of cases. Even assuming this Court’s original quo warranto jurisdiction also “must still be pursued *governmentally*” however, *Annunciation House*, 2025 WL 1536224, at \*7, the Governor as Chief Executive Officer may direct litigation on behalf of the State—even when state law does not otherwise provide the Attorney General a cause of action. *Paxton v. Am. Oversight*, No. 24-0162, 2025 WL 1793117, at \*19 (Tex. 2025) (Young, J., concurring) (citing *Day Land & Cattle Co. v. State*, 4 S.W. 865, 867 (Tex. 1887)).

Finally, this Court should exercise its discretion to entertain this original petition. Occasionally, this Court has treated its quo warranto jurisdiction as discretionary rather than mandatory. But like in *State ex rel. Angelini v. Hardberger*, 932 S.W.2d 489 (Tex. 1996), there are “compelling reasons” to exercise that discretion to hear this petition on the merits *now*. First, “time is of the essence.” *Id.* at 490. Only two weeks remain before the Special Session expires, and the legislation that Wu is committed to obstructing implicates the congressional district maps intended to govern the fast-approaching mid-term

elections. Wu has expressed intentions to continue to deny a vote on legislation for as long as it takes. Second, Relator “contends that [Wu] is improperly holding” office for the reasons explained below. *Ibid.* Third, “there are no disputed issues of fact.” *Ibid.* Wu may believe he is justified in taking certain actions because he is “committed to saving this democracy.”<sup>15</sup> But he cannot dispute the numerous, public statements described above showing the bargain he struck in exchange for his willful refusal to appear. *See In re Turner*, 627 S.W.3d 654, 658–659 (Tex. 2021) (per curiam) (considering what representatives “have publicly stated” to “justif[y] their departure from Texas and break[] quorum”). Any dispute over whether such actions suffice for removal is a legal, not a factual, one.

## **II. By Participating in a Pre-Meditated and Ongoing Quorum Break, Representative Wu Has Forfeited His Office.**

The writ of quo warranto is a tool for challenging “improper usurpation of an elected office.” *Annunciation House*, No. 24-0573, at \*7. Perhaps one familiar notion of usurpation is the ‘pretender to the throne,’ claiming an office that was never his. But there are more ways

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<sup>15</sup> WFAA, *Inside Texas Politics – Full Interview with State Rep. Gene Wu*, YOUTUBE (Jul. 31, 2025), <https://www.youtube.com/watch/e7dwSgFh4m0>.

than one to abuse public office. At common law, the writ of *quo warranto* “lies also in case of *non-user*” and an office could be forfeited “by neglect.” 3 WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND \*262–264 (7th ed. 1775).

That remains the law in Texas: An officeholder’s right “may be forfeited or lost by a nonuser or misuser, though the party continue to assert it.” *Honey*, 39 Tex. at 16. Such nonuse or misuse must be “with actual or imputed intention on the part of the officer to abandon and relinquish the office” and may be inferred from the officer’s conduct. *Steingruber v. City of San Antonio*, 220 S.W. 77, 78 (Tex. Comm’n App. 1920). Wu has expressed his intention to abandon the office three times over—with no end in sight—by openly acknowledging his abandonment of his official duties, accepting compensation and other benefits to abandon those duties, and fleeing the sovereign territory he purports to represent.

**A. Willful refusal to serve as a representative is abandonment of the office of representative.**

Every elected officer of this State, including Wu, swears an oath to “faithfully execute the duties of the office” to which they are elected. TEX. CONST. art. XVI, § 1. The principal duty of a legislator is to attend

and participate in legislative sessions as required by Article III, Section 5 of the Texas Constitution. The quorum provisions further underscore that attendance is not optional; it is an affirmative constitutional obligation. The Texas Constitution authorizes the House to “compel attendance of absent members.” *Id.* art. III, § 10. That power would be meaningless if members could freely make themselves absent for political advantage without consequence. Such actions also render meaningless the Governor’s authority to call a Special Session, for which the Legislature “shall meet.” *Id.* art. III, § 5.

Representative Wu has openly renounced these constitutional mandates by fleeing the State of Texas to break quorum, obstruct legislative proceedings, and paralyze the Texas House of Representatives. *Supra* at 6–8. Nor are those mere collateral consequences of his actions. They are the very *purpose* for which he willfully fled the State—*i.e.*, “preventing passage of legislation that [he] opposed.” *In re Turner*, 627 S.W.3d at 656. Accordingly, this scenario is entirely unlike the representative who unintentionally misses a vote, or who is forced to be absent because of a sudden illness or a family emergency. Absconding from the State during a constitutionally

mandated session, not for lawful cause, but for the very purpose of subverting the Legislature's ability to function, constitutes a flagrant violation of Wu's oath and is an intentional abandonment of his constitutional duty under Article III, Section 5.

It is no answer for Wu to say that he plans to continue serving as a representative. His own statements and actions show a refusal to actually serve *as a representative* in fact. That's because what representatives do is represent their constituents in the legislative chamber. They appear for a quorum. They meet with other legislators in hearings. They speak with their constituents. They debate bills. And, in the end, they vote their district. Neither the Governor's Special Session call nor the House procedures adopted by the Speaker has in any way deprived Wu of the ability to discharge these duties. He is free to debate the proposed redistricting legislation. And he is, of course, free to vote against it. *See Turner*, 627 S.W.3d at 660 (“[T]he Governor has not forced the Legislature to enact his priorities before addressing its own funding.”).

But he is not free to choose to be a legislator in name only who foregoes the constitutionally mandated tasks of actually legislating.

Most people who repeatedly fail to show up for work get fired. Public servants must be held to the same standard. Even “though [Wu] continue[s] to assert” his office, *Honey*, 39 Tex. at 16, he has functionally “le[ft] of his own accord,” *Angelini*, 932 S.W.2d at 492. And it is no answer that he could eventually be removed by the voters in his own district—for the damages he has caused and continues to cause are immediate and irreparable, extending beyond his district and impacting voters throughout the State. A voter in Lubbock, a voter in Dimebox, and a voter in Kerrville—all have no recourse for action by Wu.

**B. Representative Wu’s actions violate Article XVI, Section 41, which requires forfeiture of his office.**

There is an especially good reason why bribery may form the basis for removal from office: Our Constitution seeks to root out bribery at practically every turn. The oath-of-office provisions, for example, obligate state officers to sign a statement swearing that they have not and will not exchange things of value “for the giving or *withholding of a vote.*” TEX. CONST. art. XVI, § 1(b) (emphasis added). Only *after* filing that signed statement with the Secretary of State may members of the Legislature take the oath swearing to faithfully execute the duties of the office. *Id.* art. XVI, § 1(c).

Should they prove untrue to their word, the Constitution has more to say:

[A]ny member of the Legislature ... who shall solicit, demand or receive, or consent to receive, directly or indirectly for himself, or for another, from any company, corporation or person, any money, ... thing of value ... , or of personal advantage or promise thereof, for his vote or official influence, or for withholding the same, or with any understanding, express or implied, that his vote or official action shall be in any way influenced thereby, ... shall be held guilty of bribery, within the meaning of the Constitution, and shall incur the disabilities provided for said offenses, *with a forfeiture of the office they may hold*, and such other additional punishment as is or shall be provided by law.

TEX. CONST. art. XVI, § 41 (emphasis added). In other words, the Texas Constitution makes forfeiture of office the default remedy for any legislator who solicits or accepts money or other things of value for “withholding” his “vote or official influence,” or who allows their official action to be in “any way influenced” by such consideration. It is up to district attorneys to prosecute criminal bribery allegations.

It is up to this Court, however, to determine whether forfeiture of office has occurred under the Texas Constitution. (As this Court recently reiterated, the same underlying conduct that could form the basis for criminal law violations may also serve as a predicate for quo

warranto relief. *Annunciation House*, No. 24-0573, at \*10.) Wu’s actions broke through that line at full speed and never looked back. As recounted above, Wu met with outside groups weeks in advance while planning the quorum break to procure funding to enable Democrats to flee the State. He demonstrably accepted “things of value”—including an expensive trip on a private jet—to facilitate the “withholding of” his vote from the Texas House by effectuating his out-of-state absence.<sup>16</sup> He continuously “solicited” money, both for himself and others, in connection with the group’s coordinated “official action” of breaking quorum. And he did all of that in exchange for his failure to perform the most basic of duties placed upon him—showing up for meetings of the Legislature when convened by the Governor. *Supra* at 9–10.

On their face, those actions violate the prohibitions of Article XVI, Section 41. But they also could constitute crimes. Any member who “solicits, accepts, or agrees to accept” any benefit “as consideration for a violation of a duty imposed by law on a public servant or party official” is guilty of a second-degree felony. TEX. PENAL CODE § 36.02(a). The

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<sup>16</sup> Taylor Goldenstein, *Democrats Who Fled Texas Are Racking Up a Huge Bill. Who Is Paying the Tab?*, HOUS. CHRON. (Aug. 5, 2025), <https://www.houstonchronicle.com/politics/texas/article/democrats-redistricting-funding-20802647.php>.

Constitution undoubtedly “impose[s]” “a duty” “by law”—namely, that legislators “*shall* meet” when the Governor calls a Special Session. TEX. CONST. art. III, § 5 (emphasis added). That is *why* the House Rules impose fines for unauthorized absences. Using outside funds to end-run the very penalties designed to secure compliance with legislative duties is not merely unseemly. It is also a privately financed “violation of a duty imposed by law” and thus grounds for forfeiture of office.

**C. Removal from the State for an indefinite period of time likewise amounts to abandonment of state office.**

The Texas Constitution provides that “if any member [of the Legislature] remove his residence from the district or county for which he was elected, his office shall thereby be vacated.” TEX. CONST. art. III, § 23. Texas courts have consistently interpreted “removal of residence” to require both physical departure and an intention to remain away, thereby abandoning the district as the member’s principal place of habitation. *See, e.g., Mills v. Bartlett*, 377 S.W.2d 636, 637 (Tex. 1964).

Ordinarily, temporary absences do not offend this provision. However, a member of the Legislature deliberately and indefinitely departing from his district for the express purpose of sabotaging the Legislature’s operations, coupled with the solicitation of funds in

exchange for and to prolong that absence, is anything but ordinary. Such self-imposed exile evidences no intention to return in any timeframe during which actual legislative action can be taken on the Special Session. This effects a vacancy of office under Article III, Section 23.

Once again, it hardly matters that on paper Wu might have a homestead on file in Texas. At present, he has no stated intention of returning to Texas. Instead, he intends for Texas *not* to be his home for as long as legislation he dislikes is subject to a vote. *Supra* at 8–9. That “present intention” to remain in Illinois is what matters, not some abstract “intent subject to a future contingency.” *Prince v. Inman*, 280 S.W.2d 779, 782 (Tex. App.—Beaumont 1955).

### **III. Wu’s Publicly Stated Plan of Fleeing for the Remainder of Session Requires His Removal by this Court—or at least Leave to File an Information—Before Wednesday.**

This case is not a political dispute; it is a constitutional crisis. The current Special Session is set to expire in just two weeks. But Wu apparently has no intention of returning. Instead, he claims the “special session is over.” Permitting him to continue occupying his office so that

he can abdicate the duties of that office will only enable future legislators to grind state government to a halt.

Perhaps these absent members expect—someday—to return to Texas and be hailed as heroes who “fought” by fleeing. But in the meantime, they are preventing the Texas Legislature, duly called by the Governor, from addressing the acute needs of Texans across the State. Every day, their continued absence wastes taxpayer dollars and imperils urgent policy needs, ranging from improved flood response tools to the judicial omnibus bill governing the day-to-day workings of the state courts. And, in the future, whenever the Governor adds an item on the special session agenda that they find offensive they may feel empowered to once again flee the State and deny the Article III, Section 5 constitutional mandate. Absent quo warranto, there is no end in sight to this piracy.

The Constitution nowhere envisions Texans signing onto that kind of suicide pact. Legislators may, of course, disagree on specific pieces of legislation. But our Constitution conceives of deliberation and debate as the official way to process official disagreements. That is why, in addition to laying out general principles for the order of business, the

Constitution imposes mandatory duties on members to ensure they will be present to conduct business. Representative government cannot function if elected officials may monetize their absence, abandon their obligations, and paralyze the Legislature without consequence.

The writ of quo warranto exists precisely to remedy such abuses. And there is still time for this Court to use it here. Ordering Wu's removal from office would ensure that public office remains a trust exercised in good faith, as opposed to a platform for private gain and governmental sabotage. It could also begin to make it easier to establish a quorum while the Special Session is still under way. *See In re Abbott*, 628 S.W.3d at 300 (granting expedited and extraordinary writ relief "before the special session expired"); *In re Turner*, 627 S.W.3d at 656–657 (noting vacancies reduce the total membership for applying the two-thirds requirement). Above all, however, it promises to restrain future abuses. Refusing to address the problem now may simply invite it to recur, always in the final days of a session. The integrity of Texas's constitutional order demands this Court's urgent intervention, and Texas voters are counting on it.

## PRAYER

The Court should find that Representative Wu has forfeited his office as state Representative for Texas House District No. 137 and thereby created a vacancy. Alternatively, and at the very least, the Court should find that Governor Abbott has demonstrated probable grounds to file an information in the nature of quo warranto. Relator respectfully requests that the Court rule by **Thursday, August 7, 2025, at 5:00 P.M.**

Respectfully submitted.

GREG ABBOTT  
Governor of Texas

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## CERTIFICATE OF COMPLIANCE

The Texas Rules of Appellate Procedure do not prescribe a word limit for a dispositive motion in an original proceeding like this. Microsoft Word reports that this document contains 5,071 words, excluding the portions of the brief exempted by Rule 9.4(i)(1).

/s/ Trevor W. Ezell

Trevor W. Ezell

*Counsel for Relator*

## CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that, on August 5, 2025, a true and correct copy of the foregoing petition was served by email to Respondent Gene Wu at [gene.wu@house.texas.gov](mailto:gene.wu@house.texas.gov).

/s/ Trevor W. Ezell

Trevor W. Ezell

*Counsel for Relator*

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