

STATE OF MICHIGAN  
COURT OF CLAIMS

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MACKINAC CENTER FOR PUBLIC POLICY,  
a domestic nonprofit corporation,

Plaintiff,

v.

DEPARTMENT OF LABOR AND ECONOMIC  
OPPORTUNITY,  
a state government entity

Defendant.

No. 24-\_\_\_\_\_-MT

Hon. \_\_\_\_\_

**VERIFIED COMPLAINT**

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**MCR 1.109(D) DECLARATION**

There is no pending or resolved civil action arising out of the transaction or occurrence alleged in this complaint.

**VERIFIED COMPLAINT**

**INTRODUCTION**

1. The State Legislature passed, and the Governor signed, the Fiscal Year 2024-2025 General Omnibus Budget Bill, Senate Bill 747, PA 121 of 2024 (“FY 2024-25 general omnibus budget”).

2. This FY 2024-25 general omnibus budget was adopted in the State House with a vote of 56-54 on June 27, 2024.<sup>1</sup> It was adopted in the State Senate with a vote of 21-17 on June 27, 2024.<sup>2</sup>
3. This FY 2024-25 general omnibus budget was signed by the Governor on July 24, 2024.<sup>3</sup>
4. The FY 2024-25 general omnibus budget received less than two-thirds support in the House and the Senate. Two-thirds of the 110 House members would be 74, and two-thirds of the 38 Senate members would be 26. Thus, this FY 2024-25 general omnibus budget fell short of the necessary two-thirds in the House by 36 votes and fell short of the necessary two-thirds in the Senate by 5 votes.
5. Our Constitution contains a provision which prohibits appropriation of money for “local or private purposes,” unless the provision receives two-thirds of the vote in both houses of the Legislature. Const 1963, art 4, § 30:

**§ 30 Appropriations; local or private purposes.**

Sec. 30. The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

6. Because this FY 2024-25 general omnibus budget did not garner two-thirds of the votes, no appropriation within that legislation can be for a local or private purpose.

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<sup>1</sup> Journal of the House, 2024 HJ 59, at page 1438. This can be accessed online here: <https://www.legislature.mi.gov/documents/2023-2024/Journal/House/pdf/2024-HJ-06-27-059.pdf>

<sup>2</sup> Journal of the Senate, 2024 SJ 64, at page 1272. This can be accessed online here: <https://www.legislature.mi.gov/documents/2023-2024/Journal/Senate/pdf/2024-SJ-06-27-064.pdf>

<sup>3</sup> Journal of the Senate, 2024 SJ 65, at page 1443. This can be accessed online here: <https://www.legislature.mi.gov/documents/2023-2024/Journal/Senate/pdf/2024-SJ-07-30-065.pdf>

7. However, the FY 2024-25 general omnibus budget appropriates money for private and local purposes.
8. Two specific provisions of the FY 2024-25 general omnibus budget funding local sports stadiums are challenged here.
9. More specifically, Section 1050c(6), appropriates funds for a ballpark:

(6) From the funds appropriated in part 1 for community enhancement grants, \$1,500,000.00 shall be awarded to support capital and security improvements to a ballpark located in a city with a population between 5,000 and 5,500 in a county with a population between 800,000 and 900,000 according to the most recent federal decennial census.
10. The ballpark receiving the appropriation in the preceding paragraph is Jimmy John's Field in Utica.
11. This allocation for a ballpark in the preceding paragraph could only be Jimmy John's Field in Utica, in Macomb County. No other ballpark could qualify for this appropriation at the time the grant was made, as no other city in Michigan met the city and county population requirements in the appropriation.<sup>4</sup>
12. The Senate Fiscal Agency's analysis of 2024 PA 121 identified this grant as being made for the "Jimmy John's Field (Utica)." See Exhibit A, at p 62.
13. Upon information and belief, Jimmy John's Field is owned by GS Entertainment LLC, a private company which is not a party to this lawsuit.

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<sup>4</sup> Per the 2020 decennial census, Utica had a population of 5,245, and Macomb County has a population of 881,217. The U.S. Census data for Macomb County can be accessed here: <https://www.census.gov/quickfacts/fact/table/macombcountymichigan,uticacitymichigan/POP010220>

14. Jimmy John's Field is the home to four teams that play in the United Shore Professional Baseball League (USPBL).<sup>5</sup> Admission is by ticket sale.<sup>6</sup>
15. Section 1050a(8) of the FY 2024-25 general omnibus budget appropriates funds for another baseball stadium:
- (8) From the funds appropriated in part 1 for community enhancement grants, \$1,000,000.00 shall be awarded to a baseball stadium located in a city with a population between 112,000 and 113,000 according to the most recent federal decennial census to support infrastructure improvements.
16. The baseball stadium receiving the appropriation in the preceding paragraph is a municipally-owned stadium in the city of Lansing, Ingham County, Michigan,<sup>7</sup> where the Lansing Lugnuts play.
17. The Senate Fiscal Agency's analysis of 2024 PA 121 identified this grant as being made for the "Lansing Lugnuts." See Exhibit B, at page 61.
18. Although municipally-owned by the City of Lansing, the city has sold the naming rights to Jackson National Life Insurance Company through 2027 and is referred to as Jackson Field.<sup>8</sup>
19. The Lansing Lugnuts are the affiliate of the Major League Baseball High-A affiliate of the Athletics (formerly Oakland A's).<sup>9</sup>

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<sup>5</sup> <https://uspbl.com/teams/>

<sup>6</sup> <https://uspbl.com/single-game-ticket-sales-in-detroit-mi/>

<sup>7</sup> Per the 2020 decennial census, Lansing had a population of 112,644 and Ingham County has a population of 284,900. The U.S. Census data for the city and county can be accessed here: <https://www.census.gov/quickfacts/fact/table/inghamcountymichigan,lansingcitymichigan/POP010220>

<sup>8</sup> <https://www.wilx.com/2020/09/01/lansing-lugnuts-stadium-renamed-to-jackson-field/>

<sup>9</sup> <https://www.mlb.com/news/featured/explore-jackson-field-home-of-the-lansing-lugnuts>

20. According to press accounts, the purpose of this grant is to pay for a turf upgrade mandated by MLB.<sup>10</sup>
21. Admission to Jackson Field events is by paid ticket.<sup>11</sup>
22. Jackson Field is operated by the City of Lansing’s Lansing Entertainment & Public Facilities Authority (LEPFA).<sup>12</sup> Neither Lansing nor LEPFA are a party to this lawsuit.
23. The baseball stadium receiving the appropriation in the preceding paragraph could only be Jackson Field. No other baseball stadium could qualify for this appropriation at the time the grant was made or certified.
24. The grant to Jackson Field does not serve a public purpose.
25. The two subject grants are appropriations for local or private purposes.
26. The FY 2024-25 general omnibus budget states that “For any grant program or project funded in part 1 for a single recipient organization or unit of local government, the grant program or project is for a public purpose...” FY 2024-25 general omnibus budget at Art 9, Sec 222(1). But while the courts may consider the Legislature’s declarations of what is a public purpose, such a declaration is not binding on the courts—who are the ultimate arbiter of what is a public purpose under the Constitution.

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<sup>10</sup> Ellis, *Major League Baseball mandated new grass for Lansing's baseball stadium. State legislators ponied up.* Lansing State Journal, June 30, 2024. “The turf upgrade is a Major League Baseball requirement for the minor league Lansing Lugnuts to be able to play in 2025, Tristan Wright, LEPFA's director, told city council members during a May committee meeting.” A copy of the article is attached as Exhibit C.

<sup>11</sup> [https://www.ticketsales.com/jackson-field-tickets/venue?msclkid=705e3f4fb3641410dac358edc32913bb&utm\\_source=bing&utm\\_medium=cpc&utm\\_campaign=TS%20Venues%201&utm\\_term=Jackson%20Field%20Lansing%20MI%20Tickets&utm\\_content=\(v9189\)%20-%20Jackson%20Field%20-%20Lansing%20-%20MI](https://www.ticketsales.com/jackson-field-tickets/venue?msclkid=705e3f4fb3641410dac358edc32913bb&utm_source=bing&utm_medium=cpc&utm_campaign=TS%20Venues%201&utm_term=Jackson%20Field%20Lansing%20MI%20Tickets&utm_content=(v9189)%20-%20Jackson%20Field%20-%20Lansing%20-%20MI)

<sup>12</sup> <https://lepfa.com/Home/tabid/36/Default.aspx>

27. The FY 2024-25 general omnibus budget at Art 9, Sec 222(2)(c) instructs the Defendant to  
“Verify to the extent possible that a grant recipient will use funds for a public purpose.”

28. The two grants are illegal and unconstitutional expenditures of state funds.

### **PARTIES, STANDING, AND VENUE**

29. The Plaintiff incorporates the preceding paragraphs above as though restated herein.

30. The Plaintiff, Mackinac Center for Public Policy is a 501(c)(3) domestic nonprofit corporation organized for civic purposes headquartered in Midland, Michigan.

31. As a domestic nonprofit corporation organized for civic purposes, Plaintiff is a real party in interest pursuant to MCL 600.2041(3):

#### **600.2041 Real party in interest; actions on official or personal bonds; taxpayer's suit.**

Sec. 2041. Every action shall be prosecuted in the name of the real party in interest; but an executor, administrator, guardian, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in his own name without joining with him the party for whose benefit the action was brought, and further

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(3) an action to prevent the illegal expenditure of state funds or to test the constitutionality of a statute relating thereto may be brought in the name of a domestic nonprofit corporation organized for civic, protective, or improvement purposes, or in the names of at least 5 residents of this state who own property assessed for direct taxation by the county wherein they reside.

32. Similarly, Plaintiff’s status as a domestic nonprofit civic corporation organized for civic, protective, or improvement purposes makes it a real party in interest under MCL 2.201(B)(4)(a):

(B) Real Party in Interest. An action must be prosecuted in the name of the real party in interest, subject to the following provisions:

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(4) An action to prevent illegal expenditure of state funds or to test the constitutionality of a statute relating to such an expenditure may be brought:

(a) in the name of a domestic nonprofit corporation organized for civic, protective, or improvement purposes;

33. Plaintiff is filing this litigation seeking to prevent the illegal and unconstitutional expenditure of state funds.

34. MCL 600.2041(3) provides standing to Plaintiff as a non-profit seeking to prevent unconstitutional spending: “MCL 600.2041(3) does more than imply an intent by the Legislature to confer standing on domestic nonprofit corporations that seek to challenge the constitutionality of a statute that allegedly provides for the illegal expenditure of state funds; it expressly declares that intent. Accordingly, plaintiffs have standing to pursue their constitutional claims.” *Council of Organizations and Others for Education About Parochial v Michigan*, 326 Mich App 124, 137-138 (2018).

35. Defendant, the Department of Labor and Economic Opportunity (“LEO”) is a state government agency headquartered in Ingham County, Michigan. It is a principal department of the executive branch of state government created under Executive Order 2019-13, MCL 125.1998(1), and the authority of Article 5, Section 2 of the Constitution of 1963.

36. Venue is proper pursuant to MCL 600.6419(1)(a).

37. Pursuant to MCL 600.6419(1)(a), the Court of Claims has jurisdiction over this claim.

**COUNT I—THE GRANT TO JIMMY JOHN’S FIELD IS  
UNCONSTITUTIONAL BECAUSE IT SERVES A PRIVATE  
OR LOCAL PURPOSE**

38. The Plaintiff incorporates the preceding paragraphs above as though restated herein.

39. An appropriation that primarily benefits a corporation or individual serves a private purpose.

40. Whether an appropriation serves a private or a public purpose is a judicial question.

41. Jimmy John's Field is owned by a private corporation and not a public body. Upon information and belief, Jimmy John's Field is owned by GS Entertainment LLC (which is not a party to this action).

42. Generally, under our Constitution, economic development is not considered a public use. Const 1963, art 10, § 2:

"Public use" does not include the taking of private property for transfer to a private entity for the purpose of economic development or enhancement of tax revenues. Private property otherwise may be taken for reasons of public use as that term is understood on the effective date of the amendment to this constitution that added this paragraph.

43. The Legislature's determination that an expenditure serves a public purpose is not dispositive and the courts are not bound by such a determination. *In re Advisory Opinion re Constitutionality of PA 1975 No 301*, 400 Mich 270, n 5 (1977):

The legislative determination that this program is necessary for the promotion of the public welfare does not mandate the conclusion that resulting internal improvements are public. All acts of the Legislature presumably promote the public welfare but that premise does not insulate them from judicial review for constitutionality. The entire concept and process of judicial review would be without foundation if the Legislature could, by its own declaration, determinatively conclude the meaning to be ascribed to the constitution. See *Marbury v Madison*, 5 US (1 Cranch) 137 (1803).

44. This grant for Jimmy John's Field is an unconstitutional expenditure for a private purpose since it did not receive the necessary two-thirds vote in both chambers of the Legislature.

## **COUNT II—THE GRANT TO JACKSON FIELD IS UNCONSTITUTIONAL BECAUSE IT SERVES A LOCAL PURPOSE**

45. The Plaintiff incorporates the preceding paragraphs above as though restated herein.

46. 2024 PA 121, Sec 1050a(8) provided the following grant: "From the funds appropriated in part 1 for community enhancement grants, \$1,000,000.00 shall be awarded to a baseball stadium



located in a city with a population between 112,000 and 113,000 according to the most recent federal decennial census to support infrastructure improvements.”

47. The description in Sec1050a(8) could only apply to Jackson Field.

48. This grant in Sec 1050c(6) did not pass with a two-thirds vote in both chambers of the legislature.

49. This grant in Sec 1050c(6) was not made for a public purpose that benefited the state as a whole.

50. Whether an appropriation serves a private or a public purpose is a judicial question.

51. Generally, economic development does not count as a public use: Const 1963, Art 10, § 2:

"Public use" does not include the taking of private property for transfer to a private entity for the purpose of economic development or enhancement of tax revenues. Private property otherwise may be taken for reasons of public use as that term is understood on the effective date of the amendment to this constitution that added this paragraph.

52. The Legislature's determination that an expenditure serves a public purpose is not determinative and the courts are not bound by such a determination. *In re Advisory Opinion re Constitutionality of PA 1975 No 301*, 400 Mich 270, n 5 (1977):

The legislative determination that this program is necessary for the promotion of the public welfare does not mandate the conclusion that resulting internal improvements are public. All acts of the Legislature presumably promote the public welfare but that premise does not insulate them from judicial review for constitutionality. The entire concept and process of judicial review would be without foundation if the Legislature could, by its own declaration, determinatively conclude the meaning to be ascribed to the constitution. See *Marbury v Madison*, 5 US (1 Cranch) 137, 2 LEd 60 (1803).

53. This grant for Jackson Field is an unconstitutional local purpose expenditure pursuant to Const 1963, art 4, § 30, since it did not receive the necessary two-thirds vote in both chambers of the Legislature.

## **RELIEF REQUESTED**

For the reasons stated here, the two subject grants are unconstitutional and are null and void. Plaintiff asks this Court to enjoin any expenditure of the appropriated funds. If any subject funds have already been disbursed, then Plaintiff requests that the funds be recalled and deposited into the state treasury. Plaintiff asks this Court to issue a declaratory judgment that these two grants are null and void for the reasons set forth in the Complaint.

Alternatively, Plaintiff requests that this Court fashion an equitable remedy suitable to right this wrong and curtail future evasions of constitutional requirements. “[C]ourts possess broad equitable powers to right statutory and constitutional wrongs. Those powers are defined by pragmatic flexibility. ... With those principles in mind, this Court must fashion equitable relief that remedies the Legislature’s constitutional mischief while remaining mindful of [] reasonable reliance on the Legislature’s unconstitutional acts.” *Mothering Justice v Attorney General*, \_\_\_ Mich \_\_\_, slip copy at 29-30 (2024).

Dated: May 20, 2025

Respectfully Submitted,

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*Attorney for Mackinac Center for Public  
Policy*