

STATE OF INDIANA)
)
COUNTY OF MONROE)

IN THE MONROE CIRCUIT COURT

CAUSE NO. 53C06-2505-PL-001288

JUSTIN VASEL,)
)
Plaintiff,)
)
v.)
)
MIKE BRAUN, in his official capacity)
as Governor of the State of Indiana,)
)
Defendant.)

Plaintiff’s Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Summary Judgment

Plaintiff, by counsel, submits his Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Summary Judgment in this action.

WHEREFORE, plaintiff submits his Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Summary Judgment for this Court’s consideration in this matter and requests all further proper relief.

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Certificate of Service

I certify that on May 22, 2026, a copy of the foregoing was filed using the Indiana E-filing System ("IEFS"). I also certify that on May 22, 2026, the foregoing document was served on all counsel of record through IEFS.

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Findings of Fact, Conclusions of Law, and Summary Judgment for Plaintiff

Introduction

Pending before the Court are the parties' cross-motions for summary judgment. The Court makes the following findings of fact and conclusions of law following full briefing by the parties and a hearing held on April 24, 2026.

Of course, “[s]ummary judgment is appropriate ‘if the designated evidentiary matter shows that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.’” *Pennington v. Mem’l Hosp. of S. Bend, Inc.*, 223 N.E.3d 1086, 1092 (Ind. 2024) (quoting Ind. Trial Rule 56(C)).

Parties filing cross-motions for summary judgment neither alters this standard nor changes our analysis—we consider each motion separately to determine whether the moving party is entitled to judgment as a matter of law. We resolve all questions and view all evidence in light most favorable to the non-moving party so as not to improperly deny him his day in court.

G&G Oil Co. of Indiana, Inc. v. Continental Western Ins. Co., 165 N.E.3d 82, 86 (Ind. 2021) (cleaned up).

Applying these standards and for the reasons that follow, the Court GRANTS the plaintiff's Motion for Summary Judgment, DENIES defendant's Motion, and enters a PERMANENT INJUNCTION against the defendant as set out in detail below.

Findings of Fact

1. Prior to May 6, 2025, the date of the enactment of Section 253 of HEA 1001 (2025), every university in Indiana that granted baccalaureate and graduate degrees provided, by statute, that one or more of the members of their board of trustees would be selected directly by alumni of the school.
2. This direct selection was accomplished as follows at the various schools and continues for all schools with the exception of Indiana University:
 - *Ball State University* – The Governor appoints all members of the university’s board of trustees but two of its board of trustee members must be alumni whose names are selected by the university’s alumni council and submitted to the Governor for his “immediate appointment.” Ind. Code § 21-19-3-2, Ind. Code § 21-19-3-6. The Governor
 - *Indiana State University* – Although the Governor currently appoints all members of the board of trustees, two must be alumni who have been nominated by the university’s alumni council. Ind. Code § 21-21-3-2, Ind. Code § 21-21-3-9.
 - *Purdue University* – The Governor appoints the members of the university’s board of trustees, although three of the board of trustee members are selected by the Purdue Alumni Association. Ind. Code § 21-23-3-1 through Ind. Code § 21-23-3-3.
 - *University of Southern Indiana* – At least one of the members of the board of trustees appointed by the Governor must be an alumnus selected by the screening committee created by the University’s alumni association. Ind. Code § 21-24-3-2 through Ind. Code § 21-24-3-4.
 - *Indiana University* – Three members of the board of trustees were selected by alumni through an election in which all alumni could participate. Ind. Code § 21-20-3-4(a) (repealed eff. May 6, 2025). Six were appointed by the Governor. Ind. Code § 21-20-3-12 (amended eff. May 6, 2025); Ind. Code § 21-20-3-13 (amended eff. May 6, 2025).
3. There are two other public colleges in Indiana.

- Vincennes University does not offer graduate degrees and predominantly offers only associate degrees. (Defendant’s Answer to Amended Complaint [“Answer to Amended Complaint 7-30-25”] at 6 ¶ 17, filed on July 30, 2025; Declaration of Justin Vasel at 3 ¶ 9, filed on September 16, 2025 [“Vasel Dec. 9-16-25”] [attached to plaintiff’s Motion for Summary Judgment]). Demonstrating the local focus of the school, the superintendents of three school systems in Knox County are ex-officio members of the Board of Directors as is the president of the school. Ind. Code § 21-25-3-7. Additionally, at least one member of the board must be a resident of Knox County. Ind. Code § 21-25-3-2.
- Ivy Tech is a “two (2) year state educational institution” that does not offer four-year degrees. Ind. Code § 21-22-2-2 (Vasel Dec. 9-16-25 at 3 ¶ 10). Its board of trustees is appointed by the Governor and is made up of persons appointed by geographic regions who have knowledge of specific substantive areas. Ind. Code § 21-22-3-1, Ind. Code § 21-22-3-3.

4. From 1891 to May 6, 2025, Indiana University alumni elected a portion of the membership of the board of trustees. (Dallis-Comentale Declaration at 1 ¶ 5, Ex. 17 to defendant’s Submission of Evidentiary Material, filed on January 16, 2026 [“Dallis-Comentale Dec. 1-16-26”]).

5. Indiana law has provided and continues to provide that there are nine members of Indiana University’s Board of Trustees. Ind. Code § 21-20-3-2(a).

6. Under the statutory scheme that was repealed on May 6, 2025, three members of the board of trustees were elected by alumni for three-year terms. Ind. Code § 21-20-3-4(a) (repealed).

7. The other six members of the board of trustees were appointed by the Governor for three-year terms, except for a student member who was appointed for two years. Ind.

Code § 21-20-3-12 (amended eff. May 6, 2025); Ind. Code § 21-20-3-13 (amended eff. May 6, 2025).

8. The elections for the Indiana University trustees occurred as follows:

- an alumnus could become a candidate by securing a written nomination from at least 100 alumni. Ind. Code § 21-20-3-9 (repealed eff. May 6, 2025);
- Indiana University's Librarian conducted the elections. Ind. Code § 21-20-3-9 (repealed eff. May 6, 2025);
- ballots were sent to those who requested them and perhaps to those who voted in recent elections (Dallis-Comentale Dec. 1-16-26 Ex. 17 at 4 ¶ 15; Vasel Dec. 9-16-25 at 1 ¶ 2);
- it was the responsibility of the University Librarian to prepare, receive, verify, and safeguard the ballots and to declare the winner of the election. Ind. Code § 21-20-3-7(b) (repealed), Ind. Code § 21-20-3-10 (repealed); (Dallis-Comentale Dec. 1-16-26 Ex. 17 at 3-4 ¶ 12).

9. At the beginning of 2024, there were 790,033 living Indiana University graduates and that year 20,101 persons voted in the election, although some votes were not deemed to be valid. (Dallis-Comentale Dec. 1-16-26 Ex. 17 at 3 ¶ 10; Ex. 20 to Defendant's Submission of Evidentiary Materials of Jan. 16, 2026). The number of ballots cast in the previous 4 elections were: 2019—14,3225; 2021—20,380; 2022—16,302, and 2023—10,455. (Ex. 20 to Defendant's Submission of Evidentiary Materials of Jan. 16, 2026).

10. HEA 1001 (2025) repealed the alumni election of Indiana University trustee members and the law now provides that the Governor appoints all members of the board of trustees. Ind. Code § 21-20-3-2(a).

11. Following the passage of the new statute, the Governor immediately appointed three new trustees to replace the ones who had been elected. (Answer to Amended Complaint 7-30-25 at 13 ¶ 44; Vasel Dec. 9-16-25 at 1-2 ¶ 3).
12. The new trustees, and the expiration dates of their terms, are Brian Eagle (June 30, 2027), Sage Steele (June 30, 2028), and James Bopp, Jr. (June 30, 2028). (Answer to Amended Complaint 7-30-25 at 13 ¶ 45; Vasel Dec. 9-16-25 at 2-3 ¶ 7).
13. The newly appointed trustees join the other five non-student members of the board: W. Quinn Buckner (term expires June 30, 2028), Dr. David Hormuth (term expires June 30, 2028), Timothy Morris (term expires June 30, 2026), Marilee Springer (term expires June 30, 2028), and Isaac Torres (term expires June 30, 2026). (Vasel Dec. 9-16-25 at 2-3 ¶ 7).
14. At the time of the passage of HEA 1001, one of the terms of the elected trustee was set to expire on July 1, 2025, and she was not seeking reelection. (Plaintiff's Verified Amended Complaint, filed on June 9, 2025 ["Ver. Am. Comp. 6-9-25"] at 8 ¶ 31).
15. Justin Vasel, Ph.D., was one of six candidates verified by the University Librarian as an eligible nominee for the soon-to-be vacant position on the board of trustees. (Dallis-Comentale Dec. 1-16-26 Ex. 17 at 4 ¶¶ 17-18).
16. Dr. Vasel received a doctorate in physics from Indiana University. (Ver. Am. Comp. 6-9-25 at 9 ¶ 34).

17. Even if Dr. Vasel had not been a candidate for the 2025 election, he would have voted in the election as he desires that alumni have a role in shaping the university's future. (Ver. Am. Comp. 6-9-25 at 10 ¶ 40).
18. The 2025 election was scheduled to occur from June 1 to June 30, 2025. (Dallis-Comentale Dec. 1-16-26 Ex. 17 at 4 ¶ 16).
19. However, with the enactment of the changes in HEA 1001 (2025), effective on May 6, 2025, the election was canceled. (Ex. 28 to defendant's Submission of Evidentiary Material of June 2, 2025; Exhibit to Vasel Dec. 9-16-25).
20. If he prevails, Dr. Vasel intends to be a candidate for election to the trustees, no matter when the election occurs. (Vasel Dec. 9-16-25 at 3 ¶ 11). He will also vote in all trustee elections. (*Id.*).
21. Indiana University has 805,000 living alumni, with nearly 417,000 living in Indiana. (Plaintiff's Additional Evidentiary Materials filed February 10, 2026 ["Pl. Add. Ev. 2-10-26"] Ex. 1).
22. There are approximately 6.9 million people living in Indiana. (*Id.* Ex. 2).
23. Purdue has an alumni network of more than 600,000 people. (*Id.* Ex. 3).
24. The General Fund appropriation for the general operating expenses for the West Lafayette Campus of Purdue University for the 2025-2027 Biennium exceeds \$480 million and that for the Bloomington Campus of Indiana University is almost \$398 million. (*Id.* Ex. 5 at 19).

25. The elected members of the board of trustees brought a different, unique, and much needed perspective to the board of trustees than the trustees appointed by the Governor. (Declaration of Patrick Shoulders, Pl. Add. Ev. 2-10-26 at 2 ¶¶ 8, 12).
26. The elected members served as the representatives and the voices of the alumni. (*Id.* at 2 ¶¶ 9-11).
27. The trustee members who were appointed by the Governor often advanced interests favored by the Governor, whereas those elected by the alumni brought a different point of view. (*Id.* at 3 ¶¶ 14, 16).
28. The fact that only a small percentage of Indiana University alumni participate in trustee elections does not minimize the fact that those who do participate in elections play a vital role in the direction of the University in that they communicated directly with the elected trustees who were able to advance their voices and thus shape the University. (*Id.* at 3-4 ¶ 17).
29. The State of Indiana's budget amount to Indiana University is 25% or less of Indiana University's total budget. (*Id.* at 4 ¶ 18).
30. Donations and philanthropy, much of it from alumni, account for a much greater percentage of Indiana University's total budget, along with tuition and research dollars, than is appropriated to the University in the State of Indiana's budget. (*Id.*).
31. Indiana University reports that 33% of its living alumni contribute to it. (*Id.*).
32. There are no contested issues of material fact in this case.

33. Any finding of fact shall be deemed to be a conclusion of law to the extent necessary and appropriate.

Conclusions of Law

Standing

1. The Governor argues that Dr. Vasel does not have standing to sue him in this case.

This is erroneous and the Court finds that Dr. Vasel has standing.

2. “Indiana courts have recognized four types of standing: (1) common-law standing, sometimes referred to as judicial standing or constitutional standing; (2) public standing; (3) the related concept of taxpayer standing; and (4) statutorily defined standing.”

Lockerbie Glove Co. Town Home Owner’s Ass’n, Inc. v. Indianapolis Historic Pres. Comm’n, 194 N.E.3d 1175, 1181 (Ind. Ct. App. 2022) (citation omitted).

3. “Common law standing . . . derives from our state constitution’s separation-of-powers clause.” *Solarize Indiana, Inc. v. Southern Indiana Gas and Electric Co.*, 182 N.E.3d 212, 216 (Ind. 2022) (footnote and citation omitted).

4. Common-law standing requires that a plaintiff must “demonstrate ‘a personal stake in the outcome of the litigation and . . . show that they have suffered or were in immediate danger of suffering a direct injury as the result of the complained-of conduct.’” *Solarize*, 182 N.E.3d at 217 (citation omitted).

5. Dr. Vasel, who would have been a candidate for a trustee position and would have voted in the election but for the challenged law, has suffered a direct injury as the result of the statute, and thus satisfies the requirements for common-law standing.

6. The Governor does not deny that Dr. Vasel has been injured by the statutory change that ended the election of alumni representatives to the board of trustees.

7. Instead, the Governor argues that since it was the University Librarian who cancelled the election, as the statute establishing the elections had been repealed, the Governor is not responsible for Dr. Vasel's injuries. To the extent that this is an argument concerning redressability, it is misplaced. There is no "redressability" requirement under common-law standing as there is in federal standing as this requirement stems from the "case or controversy" requirement explicit in Article III of the United States Constitution and which is not present in the Indiana Constitution. *Id.* at 219 n.5.

8. In any event, whether viewed as redressability or causation, the Governor's argument is erroneous.

9. The Indiana Supreme Court has made it clear that if a governor executes an unconstitutional law that causes harm the governor can be sued. In *Holcomb v. City of Bloomington*, 158 N.E.3d 1250 (Ind. 2020), the Court stated that "[a] state official's role in implementing or enforcing a statute can arise from the statute itself or the general law," thus creating a justiciable controversy. *Id.* at 1259. In support, the Indiana Supreme Court quoted the United States Supreme Court's statement in *Ex parte Young* that "[t]he fact that

the state officer by virtue of his office has some connection with the enforcement of the act, is the important and material fact, and whether it arises out of the general law, or is specifically created by the act itself, is not material so long as it exists.” 209 U.S. 123, 157 (1908) (as quoted in *City of Bloomington*, 158 N.E.3d at 1260).

10. In *City of Bloomington*, the Supreme Court held that due to the Governor’s enforcement authority and executive authority he was the appropriate defendant against whom declaratory relief could be sought. 158 N.E.3d at 1260-61.

11. The Governor has more than “some connection” with the challenged statute here as he has enforced it by removing the elected trustees and appointing in their place three non-elected members of the board.

12. Thus, there are no longer any vacancies on the board of trustees because of the actions of the Governor and this injury is “a direct result” of the actions of the Governor. *Solarize*, 182 N.E.3d at 219. This is sufficient to bestow standing.

13. To the extent that redressability is a concern, and it should not be given Indiana law, *supra* ¶ 7, the injury is clearly redressable by the Governor. The voiding of the statutory changes made to Indiana Code 21-20-3 by HEA 1001 (2025) because they are unconstitutional restores the election procedures that were in effect prior to the passage of the unconstitutional repeal of the election process and voids the actions that the Governor took under the statute. This is because “[t]he general rule is said to be that a statute declared unconstitutional is void *ab initio*.’ . . . [G]enerally action based upon an

unconstitutional statute cannot stand.” *Indiana High School Athletic Ass’n, Inc. v. Reyes*, 694 N.E.2d 249, 255 (Ind. 1997) (quoting *Martin v. Ben Davis Conservancy Dist.*, 238 Ind. 502, 510, 153 N.E.2d 125, 129 (1958)).

14. However, rather than require that the appointed trustees vacate their positions, the Governor can be enjoined from appointing three trustees when their terms end so that elections may occur as required by Indiana law prior to HEA 1001 (2025).

15. Dr. Vasel has been injured by the Governor’s conduct and that injury can be resolved by allowing elections to occur. Dr. Vasel has common-law standing.

16. Dr. Vasel also has standing under the public standing doctrine, which is available in “situations in which public rather than private rights are at issue and [cases] hold that the usual standards for establishing standing need not be met. This Court held in those cases that when a case involves enforcement of a public rather than a private right the plaintiff need not have a special interest in the matter.” *State ex rel. Cittadine v. Indiana Dep’t of Transp.*, 790 N.E.2d 978, 980 (Ind. 2003) (quotation and citation omitted).

17. The public standing doctrine removes the requirement that the injury suffered by the plaintiff be different than that suffered by the general public, although there must still be some injury. *Serbon v. City of East Chicago*, 194 N.E.3d 84, 94 (Ind. Ct. App. 2022).

18. There is certainly injury here and the ability to participate in the election of Indiana University trustees affects more than 805,000 alumni, nearly 417,000 of whom live in Indiana and the right of these persons to participate in an election for trustee members is

a public right and Dr. Vassel has standing under the public standing doctrine, which “permits the assertion of all proper legal challenges, including claims that government action is unconstitutional.” *Cittadine*, 790 N.E.2d at 983.

Indiana’s special legislation jurisprudence

19. Article 4, Section 23 of the Indiana Constitution provides in pertinent part that in all “cases where a general law can be made applicable, all laws shall be general, and of uniform application throughout the State.”

20. “A statute is general if it applies to all persons or places of a specified class throughout the state.” *Municipal City of South Bend v. Kimsey*, 781 N.E.2d 683, 689 (Ind. 2003) (quotation and citation omitted).

21. “A statute is special if it pertains to and affects a particular case, person, place, or thing, as opposed to the general public.” *Id.* (quotation and citation omitted).

22. The analysis under Art. 4, Sec. 23, requires that a court determine whether the law is general or special and if the law is general, whether it is applied generally throughout the State. *Id.* “If it is special, we must decide whether it is constitutionally permissible.” *Id.* at 690.

23. A special law is “constitutionally permissible . . . [i]f the subject matter of an act is not amenable to a general law of uniform operation throughout the State.” *Williams v. State*, 724 N.E.2d 1070, 1085-86 (Ind. 2000). In this situation the “affected class’s unique

characteristics justify the differential legislative treatment.” *City of Hammond v. Herman & Kittle Properties, Inc.*, 119 N.E.3d 70, 78 (Ind. 2019).

24. A special law is unconstitutional “when there are no unique circumstances of an affected class that warrant the special treatment—meaning that a general law could be made applicable.” *Id.* at 84 (citation omitted).

25. “[B]ecause a special-legislation challenge is a type of constitutional challenge, there is an overarching presumption that the statute is constitutional.” *Id.* (citation omitted).

26. This means that “in close cases, the special law will be upheld.” *Id.* (citation omitted). On the other hand, if there are no unique circumstances that justify the differential treatment, the special legislation will be found unconstitutional. *Id.* at 85.

Indiana Code § 21-20-3-2(a) and the repeal of the election of three of Indiana University’s board of trustee members represents special legislation

27. The Supreme Court has held that “it is now well-settled that if a piece of legislation distinguishes and identifies a locality—whether by name or some other defining unique characteristic—it is a special law.” *State v. Buncich*, 51 N.E.3d 136, 141 n.6 (Ind. 2016) (citation omitted).

28. The comparable situation exists here as the statutory changes in HEA 1001 (2025) are directed to Indiana University alone and leaves Indiana University as the only university in Indiana awarding baccalaureate and graduate degrees where alumni have no say in the selection of any of the school’s trustees.

29. While Indiana University, Purdue University, Ball State University, Indiana State University, and the University of Southern Indiana are different institutions, they have been united by legislative enactments allowing alumni to have a direct voice in the selection of alumni.

30. The Governor asks that each institution be treated as a unique entity. However, the Supreme Court has warned that allowing the prohibition on special legislation to be avoided by “self-defin[ing] the specified classwould. . . render useless the provision[] of Section[] . . . 23.” *Alpha Psi Ch. of Pi Kappa Phi Fraternity, Inc. v. Auditor of Monroe Co.*, 849 N.E.2d 1131, 1136 (Ind. 2006).

31. In *Alpha Psi*, the challenged statute permitted the untimely filing of property tax exemptions, but only extended this benefit to certain fraternities at Indiana University. *Id.* at 1133-34. This was clearly special legislation as it singled out a small group of Indiana University fraternities for special treatment as compared to the other property-owning fraternities and sororities throughout Indiana. *Id.* at 1140. This precise targeting made the legislation “special.”

32. The changes in HEA 1001 (2025) that have singled out Indiana University alumni for the special treatment of being denied a direct say in the selection of board of trustee members have “single[d] out a group smaller than the previously specified class to receive unique privileges” and in such a situation “the law necessarily becomes special.” *Id.* at 1137.

33. As HEA 1001 (2025) singles out a group (Indiana University) smaller than the previously specified class (Indiana, Purdue, Ball State, Indiana State, and the University of Southern Indiana), it is special legislation.

The special legislation here is not justifiable and is unconstitutional

34. The Supreme Court has established that:

a special law complies with Article 4, Section 23 when an affected class's unique characteristics justify the differential treatment the law provides to that class. But, a special law violates Article 4, Section 23 when there are no unique circumstances of an affected class that warrant the special treatment—meaning that a general law could be made applicable.

City of Hammond, 119 N.E.3d at 84 (citations omitted).

35. Once it is determined that a law is special, the proponent must “clear a low bar by establishing a link between the class's unique characteristics and the legislative fix.” *Id.* at 84.

36. This requires the Governor here to demonstrate “unique characteristics justifying” the legislation. *City of Bloomington*, 158 N.E.3d at 1265. The Governor therefore must establish something unique about Indiana University that justifies denying its alumni, and no other alumni of Indiana universities awarding graduate and baccalaureate degrees, any voice in the selection of the institution's trustees.

37. The Governor has not established anything unique about Indiana University “that warrant[s] the special treatment” of denying Indiana University's alumni any say in the selection of trustees. *City of Hammond*, 119 N.E.3d at 84.

38. The Indiana Supreme Court has also specified that if

the case poses a question of degree—i.e., the characteristics used to justify the special law are common to the specified class and to those outside of the class—then the opponent of the legislation must show why the specified class’s characteristics are not defining enough to justify the special legislation. By carrying this burden, the opponent demonstrates that the law’s proponent has failed to justify the special treatment.

Id. at 84-85 (internal citation omitted).

39. To the extent that Indiana University is different than the other universities in Indiana that award baccalaureate and graduate degrees, those distinctions are not “defining enough to justify” HEA 1001 (2025).

40. Indiana Code § 21-20-3-2 and the other changes that ended the election of Indiana University trustees in HEA 1001 (2025) violate Article 4, Section 23, and this Court so declares. Ind. Code § 34-14-1-1, *et seq.*; Ind. R. Trial P. 57.

Dr. Vasel is entitled to a permanent injunction

41. To obtain a permanent injunction, Dr. Vasel must demonstrate that he has succeeded on the merits; his remedies at law are inadequate, thereby causing irreparable injury; the harm he is facing outweighs any harm that would be caused to the Governor; and the public interest will not be disserved by the grant of the injunction. *Ferrell v. Dunescape Beach Club Condominiums Phase I, Inc.*, 751 N.E.2d 702, 712-13 (Ind. Ct. App. 2001); *L.E. Services, Inc. v. State Lottery Comm’n of Ind.*, 646 N.E.2d 334, 349 (Ind. Ct. App. 1995), *trans. denied*.

42. Dr. Vasel has succeeded on the merits of his claim.

43. Indiana law provides that “when the acts sought to be enjoined are unlawful, the plaintiff need not make a showing of irreparable harm or a balance of the hardship in his favor.” *B&S of Fort Wayne, Inc. v. City of Fort Wayne*, 159 N.E. 3d 67, 76 n. 2 (Ind. Ct. App. 2020) (quotation and citation omitted), *trans. denied*; see also, e.g., *Short on Cash.Net of New Castle, Inc. v. Dep’t of Financial Institutions*, 811 N.E.2d 819, 823 (Ind. Ct. App. 2004) (discussing the *per se* rule when the action to be enjoined is unlawful).

44. Therefore, given the unconstitutionality of Ind. Code § 21-20-3-2, and the repeal by HEA 1001 (2025) of the statutes providing for the election of three members of Indiana University’s Board of Trustees, there is no need to consider irreparable harm and the balance of hardships.

45. Even if not presumed as a matter of law, Dr. Vasel has demonstrated that he is suffering irreparable harm for which there is no adequate remedy at law. “[W]hen a candidate is unconstitutionally deprived of access to the ballot—irreparable harm can be presumed.” *Esshaki v. Whitmer*, 455 F. Supp. 3d 367, 379 (E.D. Mich. 2020), *partial stay granted pending appeal*, 813 Fed. App’x 170 (6th Cir. 2020). Obviously, being denied the “fair chance to win the election [is] a harm where monetary damages are inadequate.” *Kim v. Hanlon*, 99 F.4th 140, 159 (3d Cir. 2024) (quotation and citation omitted).

46. Similarly, the denial of the opportunity to vote in an election is irreparable harm as “[i]rreparable harm is that harm which cannot be compensated for through damages.”

Coates v. Heat Wagons, Inc., 942 N.E.2d 905, 912 (Ind. Ct. App. 2011) (citing *Ind. Family & Soc. Servs. Admin. v. Walgreen Co.*, 769 N.E.2d 158, 162 (Ind. 2002)).

47. Inasmuch as Dr. Vasel has demonstrated that the challenged statutory changes violate the Indiana Constitution, there is no need to assess the balance of harms. *B&S of Fort Wayne*, 159 N.E. 3d at 76 n. 2. However, Governor Braun cannot successfully claim that he is harmed by having to comply with the Indiana Constitution. Federal courts have stressed that the government cannot argue that it has an interest in violating the United States Constitution. *See, e.g., Christian Legal Soc’y v. Walker*, 453 F.3d 853, 867 (7th Cir. 2006) (referring to the First Amendment). This is no less true when the violation is of the Indiana Constitution.

48. Given the clear unconstitutionality of the legislative changes and application of the *per se* rule, the “public interest is so great that the injunction should issue regardless” of the balance of harms between the parties and the existence of independent irreparable harm. *Short on Cash.Net*, 811 N.E.2d at 823. In any event, federal courts have found that “[i]njunctive preventing the violation of constitutional rights are always in the public interest.” *Mi Familia Vota v. Abbott*, 497 F. Supp. 3d 195, 220 (W.D. Tex. 2020) (quotation and citations omitted). The same is true here. The public interest is benefitted by compliance with the Indiana Constitution, which is “in a sense, a contract between the State and its citizens.” *Bayh v. Sonnenburg*, 573 N.E.2d 398, 409 (Ind. 1991).

The permanent injunction that will issue

49. Dr. Vasel is therefore entitled to a permanent injunction as this Court has found that the statutory changes implemented by HEA 1001 (2025) that ended the ability of Indiana University alumni to have any direct say in the selection of any trustees are unconstitutional.

50. Inasmuch as the challenged statutory changes are void *ab initio*, *Reyes*, 694 N.E.2d at 255, the former statutes that existed prior to HEA 1001 (2025) are now in effect.

51. Dr. Vasel has not asked that this Court order the Governor to replace the three trustees that he appointed to replace those who had been elected by the alumni and this Court will not do so.

52. Instead, as specified in the permanent injunction that is set out below, this Court will enter an injunction preventing the Governor from appointing any trustees when the current terms of the trustee members who were appointed to replace the previously elected positions expire and instead will require the positions to be filled pursuant to the statutory procedures that were in effect prior to the unconstitutional changes in HEA 1001 (2025).

53. Enjoining the Governor from appointing persons to entities established by an unconstitutional law is not new in Indiana. In *State v. Nixon*, 384 N.E.2d 152 (Ind. 1979), the Supreme Court found the Pari-Mutual Wagering Act unconstitutional and affirmed

an injunction against the Governor, preventing him from appointing members to the Indiana Racing Commission as had been required by the Act. *Id.* at 153, 162.

Conclusion

54. There are no contested issues of material fact, the law is with the plaintiff, and he is therefore entitled to summary judgment and the Governor's motion must be denied.

55. Any conclusion of law is deemed to be a finding of fact to the extent necessary.

Final Judgment and Permanent Injunction

WHEREFORE, based on the above Findings of Fact and Conclusions of Law, the Court finds that the statutory changes to HEA 1001 (2025) that repealed the statutes providing for the election of three alumni-members of the Indiana University Board of Trustees and established in the new Indiana Code § 21-20-3-2(a) that all trustees are appointed by the Governor with no direct input by alumni is unconstitutional as special legislation that violates Article 4, Section 23 of the Indiana Constitution and is void.

IT IS THEREFORE ORDERED that plaintiff's motion for summary judgment is GRANTED and defendant's motion for summary judgment is DENIED.

IT IS FURTHER ORDERED that Governor Braun, in his official capacity, is permanently enjoined from appointing replacements to any of the current trustee members who were appointed to replace the previously elected trustees (including reappointing the current trustee members) when their current terms expire or they resign, and instead, the positions will be filled by trustees elected pursuant to the procedures that were in place prior to the enactment of HEA 1001 (2025). Thereafter alumni elections for the three trustee positions shall continue pursuant to the statutory procedures that were in place prior to the enactment of HEA 1001 (2025), absent constitutional and lawful changes to the statutes and statutory procedures.