

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV2026026256

07/24/2026

HONORABLE GREG S. COMO

CLERK OF THE COURT
C. Lacey
Deputy

ARIZONA EDUCATION ASSOCIATION, et al. JOSHUA A BARRO

v.

STATE OF ARIZONA, et al.

NATHAN T ARROWSMITH

KAREN HARTMAN-TELLEZ
THOMAS J BASILE
JAMES E BARTON II
KARA MARIE KARLSON
KORY A LANGHOFER
JOHN N THORPE
BRENNAN A R BOWEN

DOCKET CV TX
JUDGE COMO

MINUTE ENTRY

On July 23, 2026, the Court heard oral argument on Plaintiffs' Verified Complaint for Declaratory Judgment and Injunction and took the matter under advisement. The Court now issues its ruling.

Case Background

The Parties

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This case concerns Plaintiffs' challenge to a legislatively referred ballot referendum, passed as House Concurrent Resolution 2040 (HCR 2040). Plaintiffs argue that HCR 2040 violates the Arizona Constitution's Separate Amendment Rule. They further argue that it violates the Arizona Constitution's Single Subject Rule, as it pertains to the title of the bill. In separate briefing, the State of Arizona joins Plaintiffs' arguments.

The Intervenor-Defendants are Warren Petersen, in his official capacity as President of the Arizona State Senate, and Steve Montenegro, in his official capacity as Speaker of the Arizona House of Representatives. For simplicity, they will be referred to as "Intervenors." They argue that HCR 2040 does not violate the Separate Amendment Rule. They further argue that the Single Subject Rule does not apply to ballot referendum bills passed by the legislature. Intervenors' arguments are supported by an *amicus curiae* brief filed by Freedom Foundation.

HCR 2040

HCR 2040 seeks to amend Article XVIII (18) of the AZ Constitution by adding Section 11. The Act's title is:

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA;
AMENDING ARTICLE XVIII, CONSTITUTION OF ARIZONA, BY ADDING
SECTION 11; RELATING TO LABOR ORGANIZATION USE OF PUBLIC
RESOURCES.

The provisions of Section 11(A)-(F) all involve prohibiting a school district from using public monies and public resources to support the operations of a labor organization.

Section 11(G) addresses negotiations with labor organizations. It provides:

A school district employee has a right to negotiate the school district employee's own terms and conditions of employment, including wages, benefits and working conditions. This state or any political subdivision of this state may not negotiate with a labor organization an exclusive representation agreement, collective bargaining agreement, memorandum of understanding, contract or other agreement regarding the terms and conditions of employment.

Section 11 provides definitions, including the following for "labor organization":

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“Labor organization” means any employee representation organization that exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

Legal Analysis

Separate Amendment Rule

The source for the Separate Amendment Rule is Article XXI, §1, of the Arizona Constitution, which provides, in part: “[i]f more than one proposed amendment is submitted at any election, the proposed amendments shall be submitted in such a manner that the electors may vote for or against such proposed amendments separately.”

The intent of the Separate Amendment Rule is to ensure that voters are allowed to express their separate opinion as to each proposed amendment. *McLaughlin v. Bennett*, 225 Ariz. 351, ¶ 7 (2010). It prevents a person from having to vote in favor of an amendment she opposes, to support one she agrees with. *Kerby v. Luhrs*, 44 Ariz. 208, 215-16 (1934).

Here, Plaintiffs (and the State) argue that HCR 2040 violates the Separate Amendment Rule because it combines a prohibition on school districts using public resources to support labor organizations, with a complete ban on state and local governments from contracting with *any* labor union. Plaintiffs point to the following language as imposing the broad contracting ban:

This state or any political subdivision of this state may not negotiate with a labor organization an exclusive representation agreement, collective bargaining agreement, memorandum of understanding, contract or other agreement regarding the terms and conditions of employment.

HCR 2040, Section 11(G).

Intervenors concede that if the above language bans all state and local governments from contracting with labor unions, then HCR 2040 violates the Separate Amendment Rule. They argue, however, that this is an illogical interpretation of Section 11(G). Intervenors argue that, read in context, the above language only limits school districts from contracting with labor organizations. Framed thus, the result turns solely on interpretation of the above language. HCR 2040 seeks to amend Arizona’s Constitution. Thus, principles of constitutional interpretation apply.

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Constitutional construction starts with the plain meaning of the constitutional text. *Knight v. Fontes*, 261 Ariz. 29, 36, ¶ 19 (Ariz. 2025). “When the language of a provision is clear and unambiguous, we apply it without resorting to other means of constitutional construction.” *Id.*

The Court finds no ambiguity in the phrase “this state or any political subdivision of this state may not negotiate with a labor organization.” The term “labor organization” does not require interpretation because it is defined in HCR 2040 as “any employee representation organization that exists for the purpose of dealing with employers.” Far from limiting the term to teachers’ unions or school employee associations, the definition does not even *mention* such organizations.

Delving further, the “state” obviously means the State of Arizona. The phrase “any political subdivision” is not ambiguous either. It includes any Arizona cities, counties and other local governments. Reading “state” and “political subdivision” to mean “school district” requires impermissibly rewriting the bill, not interpreting it. The presumption of constitutionality does not permit a court to “rewrite a statute to save it.” *Fann v. State*, 251 Ariz. 425, ¶ 23 (2021).

Additionally, reading subsection 11(G) in context with the rest of Section 11 does not save it. While other provisions of HCR 2040 address school districts, those provisions involve the use of public monies and resources to support labor unions. When the topic shifts to *contracting* with labor unions, the language takes a broader turn and applies to the state and “any” political subdivision. As the provisions deal with separate prohibitions (use of public resources vs. contracting with unions), their context is different.

Further, when interpreting a provision in context, it is not just the words that immediately surround it that matter. Instead, the “meaning of words in our constitution must be drawn from the context in which they are used and considered *in light of the document as a whole*.” *Fann v. State*, 251 Ariz. 425, 442 ¶ 60 (2021) (emphasis added). Courts are to “presume a word or phrase bears the same meaning throughout a text.” *Id.*

The words “state” and “political subdivision” are used repeatedly throughout the Arizona Constitution to refer to the State of Arizona and its political subdivisions, including counties, cities, towns, *and* school districts. *See, e.g.s*, Ariz. Const. art. II, §§ 3, 8.1, 27, 29, 35, 36; art. IV, pt. 2, §§ 4, 23; art. VII, §§ 6, 7; art. IX, §§ 20, 22; art. X, § 6; art. XV, § 15; art. XVI, § 1; art. XVIII, § 1; art. XX, §§ 1, 2; and art. XXVIII, § 6. At no point are the terms “state” or “political subdivision” used *exclusively* to mean “school district,” as Intervenor urge here. Accordingly,

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Intervenors' contextual interpretation is rejected. *See Fann*, at ¶ 61 (contextual analysis focusing on how the terms "act" and "measure" are used throughout the Arizona Constitution).

Reading subsection 11(G) in context with the Arizona Constitution, there is no ambiguity. It flatly prohibits the State of Arizona or *any* local government from contracting with *any* labor union. As such -- and as Intervenors stipulate -- its inclusion in HCR 2040 violates the Separate Amendment Rule.

When a proposed ballot measure violates the Separate Amendment Rule, severance of the offending provision is not an option. The entire measure fails. *Clean Elections Institute, Inc. v. Brewer*, 209 Ariz. 241, ¶ 8 (2004).

Because the Court agrees with Plaintiffs' interpretation of HCR 2040, the Court does not reach Plaintiffs' alternative arguments, including whether the Act's title violates the Single Subject Rule.

Rulings

IT IS ORDERED:

1. Declaring that House Concurrent Resolution 2040 violates Article XXI, §1, of the Arizona Constitution (Separate Amendment Rule).
2. Enjoining the Arizona Secretary of State from including HCR 2040 on the 2026 General Election Ballot.
3. Finding there is no just reason for delay and entering judgment under Arizona Rule of Civil Procedure 54(b).
4. If Plaintiffs seek an award of attorney fees and/or costs, they shall file an application for attorney fees and/or a statement of taxable costs by **August 13, 2026**.

DATED this 24th day of July, 2026.

/s/ HONORABLE GREGORY S. COMO

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JUDICIAL OFFICER OF THE SUPERIOR COURT