

COPY

JUL 16 2026



CLERK OF THE SUPERIOR COURT
M. PATTERSON
DEPUTY CLERK

James E. Barton II, 023888
Jacqueline Mendez Soto, 022597
Joshua A. Barro, 039369
BARTON MENDEZ SOTO PLLC
6625 S. Rural Road, Suite 111
Tempe, Arizona 85283
480-550-5165
James@bartonmendezsoto.com
Jacqueline@bartonmendezsoto.com
Josh@bartonmendezsoto.com
Attorneys for Plaintiffs

ARIZONA SUPERIOR COURT
MARICOPA COUNTY

ARIZONA EDUCATION ASSOCIATION,
an Arizona nonprofit corporation,
AMERICAN FEDERATION OF STATE
COUNTY AND MUNICIPAL
EMPLOYEES LOCAL 449, an Arizona labor
organization; AMERICAN FEDERATION
OF STATE COUNTY AND MUNICIPAL
EMPLOYEES LOCAL 905, an Arizona labor
organization; AMERICAN FEDERATION
OF STATE COUNTY AND MUNICIPAL
EMPLOYEES LOCAL 2384, an Arizona
labor organization; AMERICAN
FEDERATION OF STATE COUNTY AND
MUNICIPAL EMPLOYEES LOCAL 2960,
an Arizona labor organization; and
AMERICAN FEDERATION OF STATE
COUNTY AND MUNICIPAL EMPLOYEES
LOCAL 3282, an Arizona labor organization;

Plaintiffs,

v.

STEVE MONTENEGRO, in his official
capacity as Speaker of the Arizona House of
Representatives; WARREN PETERSEN, in
his official capacity as President of the
Arizona Senate; Sen. DENISE "MITZI"
EPSTEIN, in her official capacity as an
Arizona State Senator; Sen. DAVID
FARNSWORTH, in his official capacity as
an Arizona State Senator; Sen. BRIAN
FERNANDEZ, in his official capacity as an
Arizona State Senator; Sen. JOHN
KAVANAGH, in his official capacity as an
Arizona State Senator; Sen. LAUREN
KUBY, in her official capacity as an Arizona
State Senator; Sen. ANALISE ORTIZ, in her
official capacity as an Arizona State Senator;

Case No.:

CV 2026-029474

VERIFIED COMPLAINT FOR
SPECIAL ACTION

Election Case/Challenge to
Publicity Pamphlet Analysis
Pursuant to A.R.S. § 19-124)

1 Sen. Thomas "T.J." SHOPE, in his official
2 capacity as an Arizona State Senator; Sen.
3 PRIYA SUNDARESHAN, in her official
4 capacity as an Arizona State Senator; Rep.
5 NEAL CARTER, in his official capacity as a
6 member Arizona House of Representatives;
7 Rep. OSCAR DE LOS SANTOS, in his
8 official capacity as a member Arizona House
9 of Representatives; Rep. BRIAN GARCIA, in
10 his official capacity as a member Arizona
11 House of Representatives; Rep. NANCY
12 GUTIERREZ, in her official capacity as a
13 member Arizona House of Representatives;
14 Rep. NICK KUPPER, in his official capacity
15 as a member Arizona House of
16 Representatives; Rep. QUANG NGUYEN, in
17 his official capacity as a member Arizona
18 House of Representatives; and ADRIAN
19 FONTES, in his official capacity as the
20 Secretary of State of Arizona

21 Defendants.

22 By this Verified Complaint for Special Action, Plaintiffs challenge the Legislative
23 Council ("Council") description of House Concurrent Resolution 2040 ("HCR 2040") as
24 failing to provide "an impartial analysis of the provisions" of HCR 2040 as required by
25 A.R.S. § 19-124(C).
26

27 **PARTIES**

28 1. Plaintiff Arizona Education Association ("AEA") is an Arizona non-profit
corporation, and a professional association and a labor union advocating on behalf of
students, staff, and teachers in Arizona. AEA has more than 20,000 members consisting
of Arizona students, educators, workers, and allies, and it has a mission of promoting
quality public education in our state.

2. Plaintiff American Federation of State, County and Municipal Employees,
AFL-CIO (AFSCME) Local 449 is a private, voluntary, nonprofit labor organization.
AFSCME Local 449 represents both public employees and private employees in
negotiating and enforcing agreements governing their terms and conditions of
employment. Public employees represented by Local 449 include but are not limited to
school district employees. Specifically, Local 449 represents blue collar employees of the

1 Tucson Unified School District, as well as employees of Pima County, Arizona and Pima
2 Community College. The Pima County employees represented by Local 449 work across
3 the full spectrum of county functions that help keep the County safe and secure, including
4 as 911 dispatchers, public health registered nurses, aircraft maintenance technicians,
5 librarians, zoning and building code inspectors, attorneys, and architects. The Tucson
6 County School District employees represented by Local 449 include custodians, fleet and
7 heavy equipment mechanics, bus drivers, facilities technicians, and security officers.
8 Local 449 has negotiated and is party to current, active Memoranda of Understanding
9 governing terms and conditions of employment with Pima County and Tucson Unified
10 School District.

11 3. Plaintiff American Federation of State, County and Municipal Employees,
12 AFL-CIO (AFSCME) Local 905 is a private, voluntary, nonprofit labor organization.
13 AFSCME Local 905 represents 650 employees of the City of Tucson, Arizona. These
14 employees work in blue collar, labor, and trades positions in the Municipal Departments
15 of Water, Parks and Recreation, Housing, General Services, Environmental Services, and
16 Transportation. Local 905 has negotiated a Memorandum of Understanding with the City
17 of Tucson covering terms and conditions of employment. These workers have been
18 represented by AFSCME for over forty years.

19 4. Plaintiff American Federation of State, County and Municipal Employees,
20 AFL-CIO (AFSCME) Local 2384 is a private, voluntary, nonprofit labor organization.
21 AFSCME Local 2384 has represented blue collar employees of the City of Phoenix for 54
22 years with respect to their terms and conditions of employment with the City. Local 2384
23 currently represents around 1,600 City of Phoenix public service workers in a variety of
24 crucial roles that help keep the City safe and secure, including Airfield Maintenance
25 Workers, Airport Security Guards, Fire Equipment workers, Construction Inspectors, and
26 Water Services Technicians. Eleven members of Local 2384 who work as fire response
27 electricians and technicians were recognized for their quick and effective response to a
28 2025 fire at a Phoenix Wastewater Treatment Plant, which was vital for maintaining the

1 water supply used to cool nuclear reactors at the Palo Verde Nuclear Plant. Local 2384
2 recently completed negotiations for a Memorandum of Understanding with the City of
3 Phoenix governing terms and conditions of employment that will be in effect until 2028.

4 5. Plaintiff American Federation of State, County and Municipal Employees,
5 AFL–CIO (AFSCME) Local 2960 is a private, voluntary, nonprofit labor organization.
6 AFSCME Local 2960 represents pre-professional employees of the City of Phoenix,
7 Arizona with respect to their terms and conditions of employment the City, and Local
8 2960 recently completed negotiations for a Memorandum of Understanding governing
9 those terms with the City of Phoenix that will be in effect until 2028. Local 2960 has
10 represented Phoenix city employees for 48 years, and currently represents 3,000 city
11 employees. Public employees represented by Local 2960 range from employees who carry
12 out public safety functions, such as detention officers, 911 dispatchers, and security
13 guards, to educators in the Head Start program, to workers at Sky Harbor Airport.

14 6. Plaintiff American Federation of State, County and Municipal Employees,
15 AFL–CIO (AFSCME) Local 3282 is a private, voluntary, nonprofit labor organization.
16 AFSCME Local 3282 represents employees of the City of Peoria, Arizona with respect to
17 their terms and conditions of employment with the City, and the parties
18 currently operate under a Memorandum of Understanding governing those terms that is in
19 effect until 2028. Local 3282 has represented Peoria city employees for 37 years,
20 and currently represents over 500 city employees across 125 job classifications.
21 These employees perform a wide array of critical municipal functions—including Solid
22 Waste and Sanitation Operations, Streets and Public Works Maintenance, Water and
23 Wastewater Operations, Park and Recreation Maintenance, Fleet Maintenance and Skilled
24 Trades, and Administrative and Support Services.

25 7. All Plaintiffs to this matter are also Plaintiffs in Case No. CV2026-026256
26 currently pending before the Honorable Greg Como in which Plaintiffs challenge HCR
27 2040 for violating the Arizona Constitution by asking Arizona voters to cast a single vote
28 on separate amendments, failing to provide a proper title and failing to comply with the

1 Single Subject Rule.

2 8. Defendant Steve Montenegro, is named in his official capacity as Speaker
3 of the Arizona House of Representatives, and Defendant Warren Petersen, is named in his
4 official capacity as President of the Arizona Senate; both are Defendant-Intervenors in
5 Case No. CV2026-026256 defending the constitutionality of HCR 2040 and arguing that
6 it has a proper title and complies with the Single Subject Rule. Both are members of the
7 Legislative Council

8 9. Senators Denise “Mitzi” Epstein, David Farnsworth, Brian Fernandez, John
9 Kavanagh, Lauren Kuby, Analise Ortiz, Thomas “T.J.” Shope, and Priya Sundareshan, are
10 all named in their official capacity as members of the Arizona Senate and the Legislative
11 Council.

12 10. Representatives Neal Carter, Oscar De Los Santos, Brian Garcia, Nancy
13 Gutierrez, Nick Kupper, and Quang Nguyen are all named in their official capacity as
14 members of the Arizona House of Representatives and the Legislative Council.

15 11. Defendant Adrian Fontes is the Arizona Secretary of State, a public officer,
16 and is named as a defendant in this action in his official capacity. The Secretary of State
17 is the officer responsible for publishing the publicity pamphlet containing the Legislative
18 Council analysis.

19 **JURISDICTION AND VENUE**

20 12. This Court has jurisdiction to review the publicity pamphlet under the Rules
21 of Special Action. *See, e.g., Fairness & Accountability in Ins. Reform v. Greene*, 180 Ariz.
22 582, 586 (1994).

23 13. Venue is proper under A.R.S. § 12-401.

24 **GENERAL ALLEGATIONS**

25 14. Subsections A through E of HCR 2040 set out broad and overlapping
26 restrictions against school districts’ and school employees’ use of school district monies
27 and resources by prohibiting (a) school districts from using public monies or resources “to
28 support the operations of a labor organization”; (b) school districts from honoring school

1 district employees' requests to deduct union dues from their paychecks; (c) school districts
2 from providing access to internal communications systems for recruitment or political
3 materials; (d) school district employees from distributing "written, printed, or digital
4 communications in a manner that consumes public resources on a labor organization's
5 behalf"; and (e) school districts from using public monies or resources for labor
6 organization activities during working hours, including (i) the use of government
7 accounting or payroll systems to collect dues, or other payments to a unions; (ii) the use
8 of any school facilities to allow unions to hold "captive audience meetings" to speak to
9 potential members during working hours ; (iii) allowing school district employees to use
10 any of their paid leave to conduct business on behalf of the union; and (iv) the use of
11 school districts' internal communication systems, or any other public resource, to
12 distribute union materials. Subsection F provides that the section supersedes any contract,
13 memorandum of understanding, meet-and-confer agreement, policy, ordinance, or other
14 written or oral agreement. Importantly, Subsection H of HCR 2040 defines "public
15 monies" as "monies that are received by a school district and that are derived all or in part
16 from tax revenues" and "public resources" as "facilities, vehicles, postage,
17 telecommunications, computer hardware and software, websites, personnel, equipment,
18 materials, buildings or any other thing of value of the school district." This unique
19 definition of the term "public monies," and the topics of Subsections A through E all focus
20 exclusively on school district resources being directed to assist school district employees
21 in the operation of an employee organization that has a contract with the school district.

22 15. Subsection G has two parts. The first sentence grants a school district
23 employee the right to negotiate the employee's own terms and conditions of employment,
24 including wages, benefits, and working conditions. It specifically grants to the employees
25 of school districts a so-called right to negotiate without the support of a labor organization.
26 The second sentence of Paragraph G sweeps far beyond school districts and their
27 employees by banning certain contract negotiations between a labor organization and the
28 state or any political subdivision thereof. It provides that "this state or any political

1 subdivision of this state may not negotiate with a labor organization an exclusive
2 representation agreement, collective bargaining agreement, memorandum of
3 understanding, contract, or other agreement regarding the terms and conditions of
4 employment.” The second sentence refers to “this state or any political subdivision of this
5 state,” rather than to a “school district.”

6 16. The text of Subsection G in its entirety is as follows:

7 G. A school district employee has a right to negotiate the
8 school district employee’s own terms and conditions of
9 employment, including wages, benefits and working
10 conditions. This state or any political subdivision of this state
11 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.

12 HCR 2040, § 1 *available at* <https://apps.azleg.gov/BillStatus/GetDocumentPdf/543925>.

13 17. As Defendant-Intervenors in Case No. CV2026-026256, Defendants
14 Petersen and Montenegro have argued that the second sentence of Subsection G applies
15 only to employees of public school districts.

16 18. The Legislative Council approved by a straight party-line vote the analysis
17 of HCR 2040. [HCR 2040 – 2026] *Analysis by Legislative Council, available at*
18 [https://www.azleg.gov/alispdfs/Council/2026BallotMeasures/Adopted%20analysis%20](https://www.azleg.gov/alispdfs/Council/2026BallotMeasures/Adopted%20analysis%20HCR2040%20-%202026.pdf)
19 [HCR2040%20-%202026.pdf](https://www.azleg.gov/alispdfs/Council/2026BallotMeasures/Adopted%20analysis%20HCR2040%20-%202026.pdf)

20 19. Paragraph 7 of the analysis provides this description of Subsection G.

21 Grant a school district employee the right to negotiate the
22 school district employee’s own terms and conditions of
23 employment, including wages, benefits and working
24 conditions. This state or any political subdivision of this state
25 would be prohibited from negotiating an agreement with a
labor organization regarding the school district employees’
terms and conditions of employment.

26 20. Thus, the text of Subsection G says, “This state or any political subdivision
27 of this state may not negotiate with a labor organization an exclusive representation
28 agreement, collective bargaining agreement, memorandum of understanding, contract or

1 other agreement regarding *the terms and conditions of employment*,” while the
2 Legislative Council’s description of that section says, “This state or any political
3 subdivision of this state would be prohibited from negotiating an agreement with a labor
4 organization regarding *the school district employees’ terms and conditions of*
5 *employment*.” (Emphases added.)

6 21. The Legislative Council’s addition to the phrase “terms and conditions of
7 employment” of the phrase “school district employees”, which is not contained in the text
8 of the second sentence of subsection G, directly supports the legal position asserted by
9 Defendants Petersen and Montenegro in Case No. CV2026-026256.

10 **FIRST CLAIM FOR RELIEF**

11 **Declaratory Judgment – Violation of A.R.S. § 19-124(C)**

12 22. Plaintiffs incorporate the allegations set forth in the foregoing paragraphs of
13 this complaint as if fully set forth herein.

14 23. A.R.S. § 19-124(C) directs the Council to “prepare and file with the
15 secretary of state an impartial analysis of the provisions of each ballot proposal of a
16 measure or proposed amendment.”

17 24. The Supreme Court has explained that this section “requires the legislative
18 council to produce a neutral explanation of initiative proposals, avoiding argument or
19 advocacy, and describing the meaning of the measure, the changes it makes, and its effect
20 if adopted.” *Fairness & Accountability in Ins. Reform v. Greene*, 180 Ariz. 582, 591
21 (1994).

22 25. Analysis “is not a neutral explanation” unless it is “devoid of argument or
23 advocacy.” Even if the advocacy or are argument is not unfair, if it is argument it does not
24 belong in the analysis. *Id.*

25 26. The Arizona Supreme Court has directed that a particular “paragraph of the
26 Council’s analysis should be deleted or revised to provide an impartial description of the
27 initiative measure, free of argument or advocacy.” *Citizens for Growth Mgmt. v. Groscost*,
28 199 Ariz. 71, 71 ¶ 1 (2000).

1 27. In *Tobin v. Rea*, 231 Ariz. 189, 194 ¶ 16 (2013), Proposition 204 would have
2 kept in place a sales tax that was set to expire, which the Council characterized as a “tax
3 increase.”

4 28. In that case, “[t]he Council rejected a proposed amendment that would have
5 deleted the word “increase” and would have instead inserted the following, new second
6 sentence: ‘Currently, there is a three-year temporary one-cent-per-dollar sales tax that will
7 expire on the date this permanent tax goes into effect.’” *Id.*

8 29. The Supreme Court agreed with the superior court that the phrase “tax
9 increase,” absent some such explanatory context, was not impartial—even though in a
10 sense it is *true* that Proposition 204 increased the sales tax back to its previous value after
11 its instantaneous expiration. *Id.* at 195 ¶ 22.

12 30. Virtually the same language was also challenged for the ballot language
13 providing the so-called yes/no language for Proposition 204 required by A.R.S. § 19-125;
14 but that language was upheld because ballot language will only be overturned if it is “false
15 or clearly misleading.” *Quality Educ. & Jobs Supporting I-16-2012 v. Bennett*, 231 Ariz.
16 206, 208 (2013).

17 31. The offending language in *Fairness* “understate[d] the power already vested
18 in the legislature and the people, as well as the additional powers the amendment would
19 create. Moreover, it ma[de] no reference at all to an important provision of the initiative.”
20 *180 Ariz. at 591.*

21 32. In *Citizens for Growth Mgmt.*, the Council’s analysis “attempt[ed] to
22 persuade the reader at the very outset that present laws adequately address the perceived
23 problems the initiative seeks to remedy.” *199 Ariz. at 72 ¶ 6.* And for that reason was not
24 impartial.

25 33. Here, the Council’s analysis adds a modifier to the final sentence of its
26 description of Subsection G—i.e., its description of the second sentence of Subsection
27 G— that is not in the text, adding the words “school district employees” ahead of the
28

1 phrase “terms and conditions of employment.”

2 34. By doing so, the analysis dramatically underrepresents the potential impact
3 of HCR 2040.

4 35. Even if this was a fair reading of Subsection G, which is currently being
5 litigated in Case No. CV2026-026256, it is not an impartial analysis.

6 36. In fact, a prior analysis of the meaning of the second sentence of
7 Subsection G by the Legislative Council took a more moderate position, stating that the
8 scope of that sentence was only “likely” limited in this fashion, and only then because
9 the contrary view, which appears to be supported by the plain language of the sentence,
10 would “likely” violate the Arizona Constitution’s Separate Amendments Rule.

11 37. The current summary goes even further than that Legislative Council had
12 previously, and attempts to make HCR 2040 more palatable to voters by arguing that its
13 scope is definitively limited to only contracts covering the terms and conditions of
14 employment of school district employees, as opposed to any public employees without
15 limitation.

16 38. Nor does that analysis include the fact that labor organization is defined in
17 the measure, but defines labor organization to encompass more than just organizations
18 that represent school district employees. HCR 2040, § 1 (“‘Labor organization’ means
19 any employee representation organization that exists for the purpose of dealing with
20 employers concerning grievances, labor disputes, wages, rates of pay, hours of
21 employment or other conditions of employment.”)

22 39. The subtle nature of the additional language belies its dramatic impact.

23 40. Those who would campaign for passage of HCR 2040 despite its
24 potentially devastating impact on all Arizona public employees, including public safety
25 employees, are surely eager to point to this modification of the text that has been inserted
26 into the Council’s analysis as a way to comfort voters that the impact of HCR 2040 will
27 be less than its plain language threatens.
28

1 41. The Council's analysis is thus fatally deficient, and Plaintiffs are entitled to
2 declaratory Relief to that effect.

3 **SECOND CLAIM FOR RELIEF**

4 **Mandamus Pursuant to A.R.S. § 12-2021**

5 42. Plaintiffs incorporate the allegations set forth in the foregoing paragraphs
6 of this complaint as if fully set forth herein.

7 43. Plaintiffs incorporate the allegations set forth in the foregoing paragraphs
8 of this complaint as if fully set forth herein.

9 44. A.R.S. § 19-124(C) directs the Council to "prepare and file with the
10 secretary of state an impartial analysis of the provisions of each ballot proposal of a
11 measure or proposed amendment."

12 45. The Council's duty to comply with this requirement is mandatory and it
13 has failed to do so.

14 46. Plaintiffs have no other plain, adequate, and speedy remedy at law to
15 compel Defendants to comply with Arizona Law.

16 47. Thus pursuant to RPSA 3 and A.R.S. § 12-2021, Plaintiffs are entitled to a
17 writ of mandamus ordering the Defendants on the Council to strike the modifier from the
18 final sentence of paragraph 7 of the description of HCR 2040 as follows, "This state or
19 any political subdivision of this state would be prohibited from negotiating an agreement
20 with a labor organization regarding the ~~school-district-employees'~~ terms and conditions
21 of employment," or otherwise amend the description to bring it into compliance with
22 A.R.S. § 19-124(C).

23 **THIRD CLAIM FOR RELIEF**

24 **Injunction Pursuant to A.R.S. § 12-1801**

25 48. Plaintiffs incorporate the allegations set forth in the foregoing paragraphs
26 of this complaint as if fully set forth herein.

27 49. Plaintiffs are entitled to the analysis of HCR 2040 that is published in the
28

1 publicity pamphlet for the 2026 General Election to be compliant with A.R.S. § 19-124.

2 50. Plaintiffs are entitled to an order enjoining Defendant Secretary of State
3 from including the noncompliant, current summary of HCR 2040 in the publicity
4 pamphlet, pursuant to A.R.S. § 12-1801.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff request the following relief:

7 A. A declaration that the Legislative Council's analysis of HCR 2040 violates
8 A.R.S. § 19-124(C).

9 B. A writ of mandamus compelling Defendant-Legislators who are members
10 of the Legislative Council to prepare and submit to the Secretary of State an analysis of
11 HCR 2040 that strikes the modifier from the final sentence of paragraph 7 of the
12 description as follows, "This state or any political subdivision of this state would be
13 prohibited from negotiating an agreement with a labor organization regarding the ~~school~~
14 ~~district employees'~~ terms and conditions of employment," or that is otherwise compliant
15 with A.R.S. § 19-124(C).

16 C. An order enjoining the Secretary of State from including the current analysis
17 of HCR 2040 in the publicity pamphlet for the 2026 General Election.

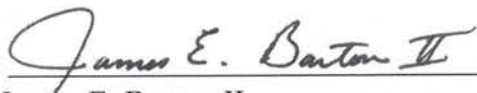
18 D. An award of costs.

19 E. An award of reasonable attorneys' fees pursuant to A.R.S. § 12-2030(A) and
20 the private attorney general doctrine.

21 F. Any other relief the Court may deem appropriate.

22
23 **RESPECTFULLY SUBMITTED** this 16th day of July 2026.

24 **BARTON MENDEZ SOTO PLLC**

25
26 By: 
27 James E. Barton II
28 Joshua A. Barro

1
2
3 **VERIFICATION**

4 I, Wil Comer, declare, as permitted by Ariz. R. Civ. P. Rule 80(c), as follows:

- 5 1. I am a representative of Arizona Education Association ("AEA") and
6 authorized to act on its behalf.
7 2. AEA is a plaintiff in this case;
8 3. I have read the Verified Complaint and know its contents;
9 4. To the best of my knowledge, information and belief, the statements made
10 in it are true and correct.

11 I declare under penalty of perjury that the foregoing is true and correct.

12 Executed on July 16, 2026

13 

14 _____
15 Wil Comer
16
17
18
19
20
21
22
23
24
25
26
27
28

Title	2026 07 16 Leg Council Challenge To 2040 Final.pdf
File name	2026-07-16_Leg_Co...to_2040_FINAL.pdf
Document ID	18b4694700ef1113eef8fd272280bb10c9906c40
Audit trail date format	MM / DD / YYYY
Status	• Signed

This document was requested on bartonmendezsoto.cliogrow.com and signed on bartonmendezsoto.cliogrow.com

Document History



07 / 16 / 2026
17:41:23 UTC

Sent for signature to Wil R. Comer (wil.comer@arizona.aa.org) by services@clio.com acting on behalf of jim@bartonmendezsoto.com
IP: 70.166.96.138



07 / 16 / 2026
20:01:46 UTC

Viewed by Wil R. Comer (wil.comer@arizona.aa.org)
IP: 70.176.97.13



07 / 16 / 2026
20:03:09 UTC

Signed by Wil R. Comer (wil.comer@arizona.aa.org)
IP: 70.176.97.13



COMPLETED

07 / 16 / 2026
20:03:09 UTC

The document has been completed.