

**ARIZONA SUPREME COURT**

WORKER POWER PAC, a political	)	Arizona Supreme Court
Action committee; BRENDAN	)	No. CV-24-0207-PR
WALSH, an individual;	)	
	)	Court of Appeals
Plaintiffs/Respondents,	)	Division One
	)	No. 1 CA-CV 24-0593 EL
v.	)	
	)	Maricopa County
CITY OF GLENDALE, a political	)	Superior Court
Subdivision of the State of Arizona;	)	No. CV 2024-019115
JULIE K. BOWER, in her official	)	
Capacity as City Clerk;	)	
	)	
Defendants/Petitioners.	)	

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**BRIEF OF *AMICUS CURIAE***  
**LEAGUE OF ARIZONA CITIES AND TOWNS IN SUPPORT OF**  
**PETITIONERS CITY OF GLENDALE AND JULIE K. BOWER**  
(FILED WITH WRITTEN CONSENT OF THE PARTIES)  
(Expedited Election Case)

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## **INTEREST OF AMICUS CURIAE**

This amicus curiae brief (“Brief”) is submitted by the League of Arizona Cities and Towns (“League”) pursuant to [Rule 14](#) and [Rule 16](#) of the Arizona Rules of Civil Appellate Procedure in support of Petitioners City of Glendale and Julie K. Bower (collectively “City”).<sup>1</sup> Respondents Brendan Walsh and Worker Power PAC (“Worker Power”) and the City consented in writing to the filing of this Brief.

The League is a voluntary association of all the incorporated cities and towns in the State of Arizona. It includes 91 member municipalities representing approximately 79% of Arizona’s total population. The League provides collective advocacy, education, training, technical assistance, and information-sharing for and among the cities and towns of Arizona. The League also files amicus briefs in cases with potential statewide impacts on Arizona’s cities and towns.

As relevant to this case, the League serves as a resource to municipal clerks who serve as the chief election officials of their municipalities. The League assists them by tracking election-related legislation and cases, providing election training, publishing a manual about the administration of local elections, and working closely

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<sup>1</sup> The League is neither a party to the appeal nor controlled by any party to the appeal. No person or entity other than the League provided financial resources for the preparation or submission of this Brief. The League incorporates by reference the “Issues Presented for Review” and the “Facts Material to Consideration of the Issues Presented” in the City’s Petition for Review. (Pet. 3)

with the Arizona Municipal Clerks Association. Thus, the League’s perspective complements the position of the City and may help broaden this Court’s analysis to include clear and workable standards regarding a municipal clerk’s verification duties under the Arizona Constitution with respect to initiative petitions.

## INTRODUCTION

In 2022, the Arizona Constitution was amended to require the form and content of an initiative petition to “embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title.”<sup>2</sup> [ARIZ. CONST. art. IV, pt. 1, § 1\(9\)](#) (“§ 1(9)”) (citation omitted). As a result of this 2022 amendment, citizen initiatives are now subject to the same single-subject mandate and title requirement as the Legislature. [ARIZ. CONST. art. IV, pt. 2, § 13](#) (single-subject mandate and title requirement applicable to legislative acts).

Here, the Court of Appeals concluded that INT-2023-01 titled “The Hotel and Event Center Minimum Wage and Wage Protection Act” (the “Initiative”) complied with the new single-subject mandate and title requirement of [§ 1\(9\)](#). The League disagrees with this conclusion; however, the purpose of this Brief is to focus on Worker Power’s claim that a municipal clerk lacks the *authority* to reject an initiative

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<sup>2</sup> If the content of the initiative measure contains a subject that is not expressed in its title, “such initiative measure shall be void only as to so much thereof as shall not be embraced in the title.” [ARIZ. CONST. art. IV, pt. 1, § 1\(9\)](#).

petition for noncompliance with the new single-subject rule or title requirement. No court has addressed this claim. The League is concerned because Worker Power’s claim conflicts with longstanding understanding and practice. As indicated in its title, this constitutional provision specifically deals with the “*verification*” of the “form and contents” of initiative and referendum petitions. [ARIZ. CONST. art. IV, pt. 1, § 1\(9\)](#). The 2022 amendment added the new single-subject mandate and title requirement to this exact provision and the word “verification” remains in the provision’s title. Thus, a petition must be *verified* for compliance with the 2022 amendment. If it doesn’t meet the new prerequisites, the municipal clerk must reject it because it isn’t valid and it doesn’t qualify for the ballot.

As a matter of first impression, this case presents an issue of statewide importance because of its impacts on municipal clerks and the administration of local elections throughout Arizona. Accordingly, the League respectfully asks this Court to grant review. Legal uncertainty has no place in election administration. Municipal clerks need to know whether they have the authority or the obligation to reject an initiative petition that fails to meet the new single subject mandate and title requirement.

## ARGUMENT

### I. Election Officials Need Clear and Stable “Rules of the Road.”

The right to place an initiative measure on the ballot is not absolute, *see Burdick v. Takushi*, 504 U.S. 428, 433 (1992), and “substantial regulation of elections” is necessary “if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.” *Arizonans for Second Chances, Rehab., & Pub. Safety v. Hobbs*, 249 Ariz. 396, 408–09 (2020) (quoting *Storer v. Brown*, 415 U.S. 724, 730 (1974)).<sup>3</sup>

Section 1(9) of the Arizona Constitution prescribes verification requirements regarding the form and contents of valid initiative and referendum petitions. *See* ARIZ. CONST. art. IV, pt. 1, § 1(9). This constitutional provision is self-executing, meaning a municipal clerk does not need statutory authority to enforce it.<sup>4</sup> *See* ARIZ. CONST. art. IV, pt. 1, § 1(16); *Crozier v. Frohmler*, 65 Ariz. 296, 298–99 (1947) (holding that because the initiative and referendum provisions are self-executing, the

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<sup>3</sup> States also have “considerable leeway to protect the integrity and reliability of the initiative process, as they have with respect to election processes generally.” *Arizonans for Second Chances, Rehab., & Pub. Safety*, 249 Ariz. at 408–09 (quoting *Buckley v. Am. Const. L. Found., Inc.*, 525 U.S. 182, 191 (1999)).

<sup>4</sup> The self-executing nature of the constitutional provision does not preclude the legislature from enacting laws pertaining to referenda and initiatives. *Direct Sellers Ass’n v. McBrayer*, 109 Ariz. 3, 5 (1972). The Constitution also expressly permits localities to “prescribe the manner of exercising said powers” if they do so “within the restrictions of general laws.” *See* ARIZ. CONST. art. IV, pt. 1, § 1(8) (citation omitted).

Secretary of State may expend state funds to perform his referendum duties when the legislature fails to appropriate sufficient funds). It is undisputed that [these](#) verification requirements advance an important regulatory interest of the government to protect the integrity of the initiative process. *Arizonans for Second Chances, Rehab., & Pub. Safety*, [249 Ariz.at 412](#) (discussing signature verification); *Burdick*, [504 U.S. at 441](#) (stating that “the right to vote is the right to participate in an electoral process that is necessarily structured to maintain the integrity of the democratic system”); *see also* [ARIZ. CONST. art. VII, § 12](#) (“There shall be enacted registration and other laws to secure the purity of elections and guard against abuses of the elective franchise.”).

At issue are two verification requirements that were added to [§ 1\(9\)](#) in 2022.<sup>5</sup> They require an initiative measure to “embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title.”<sup>6</sup> [ARIZ. CONST. art. IV, pt. 1, § 1\(9\)](#) (citations omitted).<sup>7</sup> While the lower courts in this case concluded the Initiative met these new verification requirements, the courts did not address Worker Power’s claim that local election officials *lack the authority* to verify

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<sup>5</sup> These requirements were added via legislative referral to the ballot. *See* [Laws 2021, HCR 2001 \(Prop. 129\), § 1](#), approved election Nov. 8, 2022, eff. Dec. 5, 2022.

<sup>6</sup> If the content of the measure contains a subject that is not expressed in its title, “such initiative measure shall be void only as to so much thereof as shall not be embraced in the title.” [ARIZ. CONST. art. IV, pt. 1, § 1\(9\)](#) (citation omitted).

<sup>7</sup> [Article 4, Part 1, Section 1\(9\)](#) of the Arizona Constitution is titled “Form and contents of initiative and of referendum petition; verification.”

compliance with said requirements in the first place. No court has addressed this issue.

Prior to 2022, it was widely understood that municipal clerks had the constitutional authority (and duty) to reject petitions for noncompliance with § 1(9) because § 1(9) *specifically deals with the “verification”* of the “form and contents” of referendum and initiative petitions. *See id.* (titled “Form and contents of initiative and of referendum petitions; verification”); *see also Direct Sellers Ass’n*, 109 Ariz. at 3 (verification pertaining to the inclusion of certification in circulator affidavits); *Arrett v. Bower*, 237 Ariz. 74 (2015) (verification pertaining to the inclusion of the serial number on all petitions); *City of Tucson v. Consumers For Retail Choice*, 197 Ariz. 600 (2000) (verification pertaining to the number of signatures on a petition); *Cottonwood Dev’t v. Foothills Area Coalition*, 134 Ariz. 46 (1982) (verification pertaining to attachment of the full measure to the petitions); *Wennerstrom v. City of Mesa*, 169 Ariz. 485, 487 (1991) (verification regarding the administrative or legislative nature of the subject being referred). Then in 2022, this *same* constitutional provision was amended to include the new single-subject mandate and title requirement for initiative measures. No change was made to the title of § 1(9). Since “verification” remains in its title, municipal clerks can reasonably conclude that their duties now include verification of the new single-subject mandate and title requirement (in addition to the other matters listed in § 1(9)).

The League urges this Court to grant the Petition for Review because important issues of law were incorrectly decided by the Court of Appeals and there is no Arizona decision to guide municipal clerks regarding the scope of their authority with respect to the new single-subject mandate and title requirement under § 1(9). Municipal clerks do not have a vested interest in the outcome of an initiative and are simply trying to perform their duties in accordance with the law. The League respectfully asks this Court to provide clear direction regarding their authority to reject an initiative petition for noncompliance with the new single subject mandate or the title requirement of § 1(9). Understanding the scope of their authority is critical to election administration and to building confidence in the integrity of local elections.

### **CONCLUSION**

The League respectfully asks this Court to grant the Petition for Review because legal uncertainty has no place in election administration.

**RESPECTFULLY SUBMITTED** this 5<sup>th</sup> day of September 2024 by:

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