



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**State of Arizona ex rel. Mark Brnovich, Attorney General v. City of
Tucson, CV-20-0244-SA**

PARTIES AND COUNSEL:

Petitioner: Mark Brnovich, Arizona Attorney General

Respondent: The City of Tucson

Amicus Curiae: The League of Arizona Cities and Towns;
The cities of Phoenix, Prescott and Tempe.

FACTS:

This is a special action brought pursuant to A.R.S. § 41-194.01(B)(2).

The City of Tucson (“City”) enacted Ordinance No. 11731 which calls for the next City Council election, and any special local elections, to be held “off-cycle” in 2021.

The Attorney General filed this special action asserting that A.R.S. § 16–204.01 requires a city to “hold its elections on a statewide election date if its previous elections on a nonstatewide election date resulted in a significant decrease in voter turnout[.]” Because the 2019 nonstatewide election resulted in a “significant decrease in voter turnout” as compared to the 2018 election, the Attorney General contends that the City is required to hold its subsequent elections on the statewide election dates.

ISSUES:

Following a significant decrease in voter turnout at the 2019 Tucson City election compared to the 2018 statewide election, does Tucson City Ordinance 11731 violate A.R.S. § 16–204.01 by calling for elections for city council, as well as for city ballot measures, to continue to be held off cycle in 2021 rather than on the statewide election dates in 2022?

PERTINENT STATUTE:

A.R.S. § 16-204.01. Declaration of statewide concern; city, charter city or town; political subdivision consolidated election dates; voter turnout; definitions

A. After consideration of the court's opinion in *City of Tucson v. State*, 235 Ariz. 434 (Ct. App. 2014), the legislature finds and determines that it is a matter of statewide concern to increase voter participation in elections, including elections for cities, including charter cities, towns and other political subdivisions, and the legislature finds and declares that if cities, ... demonstrate low voter turnout in elections that are not held on the consolidated election dates prescribed in

§ 16-204, the low voter turnout constitutes sufficient factual support for requiring candidate and other elections to be held on certain specific consolidated dates. The legislature further finds and declares that after evidence of low voter turnout in city ... elections ..., increasing voter turnout through the use of consolidated election dates for candidate and other elections as prescribed by this section is a matter of statewide concern. This section preempts all local laws, ordinances and charter provisions to the contrary.

B. A political subdivision shall hold its elections on a statewide election date if its previous elections on a nonstatewide election date resulted in a significant decrease in voter turnout in that political subdivision.

C. Beginning with elections in 2018, for each political subdivision's elections, other than special elections or recall elections, if a significant decrease in voter turnout occurs as prescribed in subsection B of this section, the political subdivision shall hold its subsequent elections on the statewide election dates beginning three calendar years after the occurrence of the significant decrease in voter turnout.

D. For the purposes of this section:

...

2. "Significant decrease in voter turnout" means the voter turnout for the office that received the highest number of votes in the most recent candidate election for a political subdivision in which candidates are elected at large, or portion of a political subdivision if candidates are not elected at large, is at least twenty-five percent less than the voter turnout in that same political subdivision or portion of a political subdivision for the most recent election in which the office of the governor appeared on the ballot.

3. "Statewide election date" means the date of the regular statewide primary election and the regular statewide general election.

4. "Voter turnout" means the number of ballots cast in a specific candidate race prescribed by this section divided by the total number of active registered voters in that political subdivision or portion of a political subdivision, as applicable, or if no specific candidate race is prescribed by this section, the number of ballots cast in that political subdivision or portion of a political subdivision, as applicable, divided by the total number of active registered voters in that political subdivision or portion of a political subdivision at the election prescribed by this section.

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