

SUPREME COURT OF ARIZONA

RAISE THE WAGE AZ, et al.,	)	Arizona Supreme Court
	)	No. CV-24-0178-AP/EL
Plaintiffs/Appellants,	)	
	)	Maricopa County
v.	)	Superior Court
	)	No. CV2024-016116
STATE OF ARIZONA, et al.,	)	
	)	
Defendants/Appellees.	)	FILED 08/22/2024
	)	
	)	

This expedited election appeal concerns Senate Concurrent Resolution 1040 ("SCR 1040"), entitled "a Concurrent Resolution proposing an amendment to the Constitution of Arizona; amending Article XVIII, Constitution of Arizona, by adding Section 11; relating to wages." SCR 1040 proposes to amend article 18 of the Arizona Constitution by adding section 11, as follows:

11. Tipped workers; wages

SECTION 11. FOR ANY EMPLOYEE WHO CUSTOMARILY AND REGULARLY RECEIVES TIPS OR GRATUITIES FROM PATRONS OR OTHERS, THE EMPLOYER MAY PAY A WAGE UP TO TWENTY-FIVE PERCENT PER HOUR LESS THAN THE MINIMUM WAGE ESTABLISHED BY STATUTE IF THE EMPLOYER CAN ESTABLISH BY THE EMPLOYER'S RECORDS OF CHARGED TIPS OR GRATUITIES OR BY THE EMPLOYEE'S DECLARATION FOR FEDERAL INSURANCE CONTRIBUTIONS ACT PURPOSES THAT FOR EACH WEEK, WHEN ADDING TIPS OR GRATUITIES RECEIVED TO WAGES PAID, THE EMPLOYEE RECEIVED NOT LESS THAN THE MINIMUM WAGE PLUS \$2 FOR ALL HOURS WORKED. COMPLIANCE WITH THIS SECTION IS DETERMINED BY AVERAGING TIPS OR GRATUITIES RECEIVED BY THE EMPLOYEE OVER THE COURSE OF THE EMPLOYER'S PAYROLL PERIOD OR ANY OTHER PERIOD SELECTED BY THE EMPLOYER THAT COMPLIES WITH LAWS ENACTED BY THE LEGISLATURE.

Sec. 2. Short title

This act may be cited as the "Tipped Workers Protection Act".

On June 21, 2024, Plaintiffs filed suit alleging that SCR 1040's title is "misleading to the point of fraud" and "creates a significant danger of electorate confusion and unfairness." They seek a declaration that SCR 1040 violates article 4, part 2, section 13 of the Arizona Constitution. They also seek an injunction enjoining the Secretary of State from certifying SCR 1040 for placement on the November 2024 general election ballot.

On August 5, 2024, the trial court denied Plaintiffs' request for declaratory relief, finding that neither the official title for SCR 1040 nor the short title is deceptive, misleading, or fraudulent. The trial court further found that placement of SCR 1040 on the November 2024 general election ballot will not undermine the sanctity of the election process. The trial court also denied Plaintiffs' application for preliminary injunction, finding that Plaintiffs failed to establish a basis for injunctive relief.

On August 7, 2024, Plaintiffs appealed the trial court's ruling. This Court has considered the briefs of the parties and amici curiae, the record, the trial court's minute entry judgment, and the relevant statutes, constitutional provisions, and case law. Upon consideration, the Court unanimously finds that even assuming that article 4, part 2, section 13 of the

Arizona Constitution applies here, SCR 1040 complies with that provision. Specifically, SCR 1040's official and short titles are not deceptive or misleading and do not create a significant danger of electorate confusion or unfairness.

Therefore,

IT IS ORDERED affirming the trial court's decision.

IT IS FURTHER ORDERED that the Secretary of State shall leave SCR 1040 on the November 2024 general election ballot.

IT IS FURTHER ORDERED directing the Clerk to issue the mandate forthwith.

DATED this 22nd day of August, 2024.

_____/s/_____
ANN A. SCOTT TIMMER
Chief Justice

TO:

James E Barton II
Jacqueline Mendez Soto
Daniella Fernandez Lertzman
Nathan Arrowsmith
Kara Karlson
Karen J Hartman-Tellez
Kyle R Cummings
Kory A Langhofer
Thomas J Basile
Brunn W Roysden III
Andrew W Gould
Brennan AR Bowen
Hon. Peter A Thompson
Hon. Jeff Fine
Alberto Rodriguez