



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**CITY OF TUCSON v. STATE OF ARIZONA; SOUTHERN  
ARIZONA LEADERSHIP COUNCIL and SEN. JONATHAN PATON,  
CV-11-0150-PR**

**PARTIES:**

*Petitioners:* State of Arizona (“State”)  
Intervenors Southern Arizona Leadership Council and Senator Jonathan Paton

*Respondent:* City of Tucson (“City” or “Tucson”)

**FACTS:**

Arizona Constitution article 13, section 2 (“article 13, section 2”) authorizes a city with a population over 3,500 to establish a charter to govern itself. A charter generally grants a city autonomy over matters of solely local concern. Tucson is chartered under the Arizona Constitution.

The City charter applies Title 16 of the Arizona Revised Statutes (“A.R.S.”), which concerns candidate elections, to the City. The charter says the statutes will “govern the holding of primaries and nominations of elective officers. The mayor and council shall have power to make any further and additional provisions relating to primaries and nominations of officers not repugnant or contrary to the provisions of the constitution and the laws of the state....” Tucson City Charter (“Charter”), chapter XVI, section (“§”) 2. City council members are nominated by ward. They are then elected by at-large, general elections. Both the primary and general elections are partisan.

In 2009, the state legislature enacted a law (“Senate Bill or SB 1123”) that amended A.R.S. § 9-821.01, concerning Arizona city and town elections. SB 1123 forbids cities and towns from holding partisan elections. A.R.S. § 9-821.01(B). It also requires that only voters from a given district or ward elect that district or ward’s representatives. § 9-821.01 (C). At the time the governor signed SB 1123 into law, Tucson was the only Arizona municipality that conducted either partisan elections or at-large city elections for ward or district representatives. In passing SB 1123, “[t]he legislature [found] that the conduct of elections described in this section is a matter of statewide concern.” A.R.S. § 9-821.01(A).

After the governor signed the bill, the City challenged its constitutionality. The City claimed it conflicted with the City charter on matters of purely municipal concern. Senator Paton and the Southern Arizona Leadership Council intervened as defendants. The trial court found the statute pertained to matters of statewide interest and granted defendants’ motions for summary judgment. The court of appeals reversed, with Judge Espinosa dissenting in part.

**ISSUES:**

***Petitioners Intervenors:***

Does the Charter conflict with the prohibition on partisan elections contained in A.R.S. § 9-821.01.B given that the Charter (1) does not expressly provide for partisan city council elections and (2) incorporates the general laws of the State of Arizona to govern related issues that are not expressly addressed in the Charter?

***Petitioner State:***

1. Are a municipality's voting procedures subject to state regulations, where (1) the Legislature found that certain municipal voting procedures are of statewide concern; (2) the evidence presented at the summary judgment stage supported the legislative finding; and (3) federal law imposes consequences on the State based on the voting procedures of its political subdivisions?
2. Did the court of appeals err in holding that the city charter provision at issue conflicted with A.R.S. § 9-821.01(B), where that statute can be enforced without amending Tucson's charter?

**DEFINITIONS:**

- At-large election:*** Election in which every voter may vote, as opposed to election by geographic district (or ward) within the city or town.
- Autonomy:*** Independence to decide how to self-govern.
- Charter:*** The city equivalent of a state or federal constitution.
- Intervenor:*** An individual or organization that asks the trial court for and has been granted permission to intervene (join) in the case as a litigant.
- Partisan election:*** Election in which candidates indicate the political party to which they belong and in which political parties may participate openly.
- Ward:*** Political district within a city or town.

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