



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**ARIZONA CITIZENS CLEAN ELECTIONS COMMISSION et al. v.
HON. MARK H. BRAIN/KEN BENNETT
CV-13-0341-PR**

PARTIES:

Petitioners: Arizona State President Andy Biggs and Speaker of the House Andrew M. Tobin

Respondents: Arizona Citizens Clean Elections Commission, Louis J. Hoffman, Victoria Steele, and Arizona Advocacy Network; and Secretary of State Ken Bennett

Amici Curiae: The Arizona Chamber of Commerce and Industry, Arizona Chamber Political Action Committee, Greater Phoenix Chamber of Commerce, Greater Phoenix Chamber of Commerce Political Action Committee, and Greater Phoenix Leadership

FACTS:

In November 1998 voters enacted by initiative the Clean Elections Act (“the Act” or “CCEA”). The Act created an alternative campaign financing system to what had existed before, established the Commission to administer the system, and – relevant in this case – imposed campaign contribution limits for candidates who chose to finance their campaigns through other means (“non-participating candidates”). Arizona Revised Statutes (“A.R.S.”) § 16-941(B) restricted how much money a contributor could give to a non-participating candidate each election cycle, the aggregate amount a non-participating candidate could accept from political committees (“PACs”) in an election cycle, and the aggregate amount a person could give each year to all non-participating candidates and political committees that give to those candidates. It did so by restricting non-participating candidates to 80% of the campaign contribution limits set by A.R.S. § 16-905.

In the same 1998 election, voters approved the Voter Protection Act (“VPA”), which limits but does not eliminate the legislature’s authority to modify voter-approved initiatives and referenda. Under the VPA, the legislature cannot amend or supersede a voter-approved initiative unless the proposed legislation “furthers the purposes” of the initiative and is approved by a three-fourths majority vote in both houses. The VPA applies to the Clean Elections Act, including A.R.S. § 16-941(B).

In 2013 the governor signed House Bill (“HB”) 2593, passed in both houses by a simple majority. It did not amend § 16-941(B), but amended § 16-905 by increasing the amount of money a contributor could give a non-participating candidate for statewide or legislative office. It also eliminated restrictions on the aggregate amount a candidate could receive from PACs each election

cycle and the aggregate amount an individual could contribute to non-participating candidates and to PACs that give to non-participating candidates. It also defined primary and general elections as separate elections.

The Plaintiffs (Respondents here) filed an action against Secretary of State Bennett seeking to have HB 2593 declared unconstitutional and to enjoin (stop) enforcement of its new contribution limits. The trial court denied the Plaintiffs' request for a preliminary injunction (a temporary stop to the law), and HB 2593 went into effect on September 13. The Plaintiffs filed a petition for special action in the court of appeals. That court accepted jurisdiction of the special action and granted a preliminary injunction, which had the effect of placing the new contribution limits on hold.

ISSUE:

Whether the court of appeals erred in holding that, "as a matter of statutory construction, when the voters enacted the Clean Elections Act in 1998, they fixed campaign contribution limits as they existed in 1998, subject to authorized adjustments."

DEFINITIONS:

Amici curiae (in relevant part): Latin term meaning "friends of the Court." Amicus (the singular form of amici) curiae briefs are filed by people who are not parties to the case but who have viewpoints or insights that can assist the Court in making its decision.

Initiatives and referenda (plural of **referendum**): Arizona electors can adopt or amend laws by a majority vote in a general election. The way to get those proposals on the ballot is either by initiative (an original proposed law or amendment), or by referendum (based on a legislative action).

Non-participating candidate: Candidate for elective public office who does not take part in the Clean Elections system.

This Summary was prepared by the Arizona Supreme Court Staff Attorneys' Office solely for educational purposes. It should not be considered official commentary by the Court or any member thereof or part of any brief, memorandum, or other pleading filed in this case.