

Hoffman v. Reagan

Full Citation: Hoffman v. Reagan, 429 P.3d 70 (Ariz. 2018).

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Opinion's Author: Chief Justice Bales

Joined By: Vice Chief Justice Brutinel and Justices Pelander, Timmer, Bolick, Gould, and Lopez.

Practitioners: For quick reference, please see the “Issue” and “Holding” sections.

Facts: The people of Arizona approved the Citizens Clean Election Act (“CCEA”) in 1998.¹ The state legislature then approved House Concurrent Resolution 2007 (“HCR 2007”), which would amend the CCEA by (1) “prohibiting the transfer of clean elections funds by candidates to political parties” and (2) “subject[ing] the Commission’s rule-making process to review by the Governor’s Regulatory Review Council (‘GRRC’).”² HCR 2007 was referred to the Secretary of State to be placed on the November 2018 ballot.

Louis Hoffman, a drafter of the CCEA and former commission member, and Amy Chan, a current commission member acting in her individual capacity, filed suit requesting the trial court to enjoin the Secretary from placing HCR 2007 on the ballot. Plaintiffs argued that the measure violates the “single subject” rule—Arizona’s constitutional requirement that “[e]very act shall embrace but one subject and matter properly connected therewith . . . which subject shall be embraced in the title”³

Procedural History: The case is currently before the Arizona Supreme Court. At the trial level, Judge Teresa A. Sanders dismissed the action, relying on the *Kiley* case to hold that the “single subject” rule does not apply to HRS 2007.⁴ Specifically, the court reasoned that because the rule does not apply to initiatives approved by voters under Article 4, Part 1, Section 1(2) of the Arizona Constitution, nor should it apply to measures referred by the legislature for the voters’ approval under article 4, part 2, section 1(3). Plaintiffs timely appealed.

Issue: The “single value” rule applies to voter initiatives in Arizona. Does the rule also apply to referred referenda such as HCR 2007? If so, does a referred referendum violate the rule if it contains multiple sections that are related to the same general idea?

Holding: Yes, the “single value” rule applies to referred referenda such as HCR 2007. However, the referendum does not violate the rule where its sections are related to the same general idea.

¹ A.R.S. §§ 16-940 to -961.

² Hoffman v. Reagan, 429 P.3d 70, 71–72 (Ariz. 2018).

³ ARIZ. CONST. art. 4, pt. 2, § 13.

⁴ Arizona Chamber of Commerce & Indus. v. Kiley, 399 P.3d 80 (Ariz. 2017).

Disposition: The trial court’s dismissal of the complaint and denial of injunctive relief is affirmed.

Rule: The “single value” rule applies to referred referenda such as HCR 2007, but the rule is satisfied so long as the sections of the referendum relate to the same general idea.

Reasoning:

- **Prematurity.** The court began its discussion section by addressing the defendants’ argument that the plaintiffs’ lawsuit is premature because the single subject rule only applies to “acts,” and HCR 2007 will not be an “act” before it is approved by the voters. The court concluded that the lawsuit was *not* premature, because Arizona statutes expressly allow challenges to the “legal sufficiency” of legislative referenda *before* election.⁵ Here, the legislature had “enacted” the measure and ordered its placement on the ballot, and the lawsuit does not challenge HCR 2007 substantively but only procedurally.⁶ Thus, the challenge at bar comports with the state’s practice of allowing pre-election challenges to ballot measures based on procedural claims.⁷
- **Referred referenda.** Next, the court addressed whether the “single value” rule applies to legislatively referred referenda. Article 4 Part 2 Section 13 of the Arizona Constitution defines the “single subject” rule as “every act shall embrace but one subject . . . which subject shall be expressed in the title”

Article 4, Part 1, Section 1(2) of the Arizona Constitution outlines the people’s power of *initiative*, whereas Article 4, Part 1, Section 1(3) instructs that a *referendum* may be placed on the ballot in one of two ways:

- (1) five percent of the qualified electors may, by petition, refer an act of the legislature to a vote by the people; or
- (2) “the legislature...may order the submission to the people at the polls of any measure, or item, section, or part of any measure, *enacted* by the legislature.” (Emphasis added).

The Section uses the word “enacted,” according to the court, because the legislature must “enact” a measure to refer it to the voters.⁸ Thus, while the “single subject” rule applies to every “act” considered by the legislature, this includes referred referenda such as HCR 2007.⁹

⁵ *Hoffman*, 429 P.3d at 72 (citing A.R.S. § 19-161(A)).

⁶ *Id.*

⁷ See *League of Ariz. Cities & Towns v. Brewer*, 146 P.3d 58, 60–61 (Ariz. 2006) (discussing initiative challenge).

⁸ *Hoffman*, 429 P.3d at 72.

⁹ *Id.* at 73.

- **HCR 2007.** The court then addressed whether HCR 2007 comports with the “single subject” rule. The court begins by explaining the intent of the rule: to prevent combining different measures into one bill so that a legislator must approve a disfavored measure to secure passage of a favored one.¹⁰ However, the court explained that the rule should be read liberally, requiring only that the act embraces one general subject or idea.¹¹ In *Sample*, the court of appeals held that an act concerning the general subject matter of domestic relations and affecting multiple statutes (including criminal sanctions) satisfied the single subject rule.¹² Similarly, the court here concludes that HCR 2007 satisfies the rule because, although HCR 2007 deals with both clean election money flowing to political parties *and* overseeing the Commission’s rulemaking by GRRC, the provisions are related to the CCEA at large.¹³ Thus, HCR 2007 satisfies the “single subject” rule.¹⁴

¹⁰ *Kiley*, 339 P.3d at 88.

¹¹ *Johnson v. Harrison*, 50 N.W. 923, 924 (Minn. 1891).

¹² *Sample v. Sample*, 663 P.2d 591, 595 (Ariz. Ct. App. 1983).

¹³ *Hoffman*, 429 P.3d at 73.

¹⁴ *Id.* at 74.