

Vic's Picks

Number 12

November, 2022

The "Picks" are back with a look behind the legislative double talk, the hidden histories, and the frankly amusing aspects of this year's election to come up with the Vic's recommendations on the propositions, the judges, and a few down ballot races that you might overlook. **Here's the summary. The next page starts the real dope.**

PROPOSITIONS

- [Prop. 128](#) "Get Rid of Citizen's Right to Initiative" ---- NO
[Prop. 129](#) "Make the Initiative Process as Complicated as Possible" ---- NO
[Prop. 130](#) "Clean up Constitutional Property Exemptions" ---- YES
[Prop. 131](#) "The Governor's Mouthpiece Amendment" ---- NO
[Prop. 132](#) "Make It Harder to Raise Taxes Through Initiative" ---- NO
[Prop. 209](#) "Arizona Predatory Debt Collection Act" ---- YES
[Prop. 210](#) "Fair Elections and Voting Reform" stricken from ballot by State Supreme Court
[Prop. 211](#) "Stop Dark Money Initiative" ---- YES
[Prop. 308](#) "In-state Tuition for DACA Recipients and Dreamers" ---- YES
[Prop. 309](#) "Creating More Barriers to Voting" ---- NO
[Prop. 310](#) "Ain't Gonna Raise My Taxes Because of Climate Change" ---- YES

JUDGES: Vote "NO" on the following judges except as noted.

Arizona Supreme Court:

James P. Beene NO
William G. Montgomery NO

Court of Appeals, Division One

Cynthia J. Bailey NO

Maricopa County Superior Court:

Bradley Astrowsky NO
Rusty D. Crandall NO
Monica B. Edelstein NO
Stephen M. Hopkins NO
Melissa Iyer Julian NO
Howard D. Sukenic NO
See special notes inside from CEBV for Michael J. Herrod and Susanna C. Pineda

Pima County Superior Court

See special note inside from CEBV for Janet Calkins Bostwick

Pinal County Superior Court

See special note inside from CEBV for Steven J. Fuller

Coconino County Superior Court

See special note inside from CEBV for Elaine Fridlund-Horne

Central Arizona Water Conservation District (CAWCD) (Maricopa County ballots only)

Alexandra Arboleda
Ylenia Aguilar
Karen Peters

The Vic wants to remind you that there are many important local races at the bottom of the ballot –school boards, justices of the peace, and other local elections. Go to the candidates' web pages, attend debates and discussions, then vote all the way to the bottom. Thanks.

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The in-depth analysis that every voter craves, unvarnished, non-partisan, and motivated only by a desire to make Arizona voters more informed voters.

Special thanks to the hard work done by **Civic Engagement Beyond Voting** (check them out [HERE](https://www.cebv.us/) at <https://www.cebv.us/>) which really dug down deep into judges to come up with some real gems. This organization is doing the kind of judicial investigation that Arizona needs, and your financial support allows them to continue to bring accurate information on the courts and candidates. You can support CEBV by going to their home page and clicking on the "Contribute" button.

The Vic didn't agree with every recommendation the CEBV made, but it was a matter of degree, not of principle. As you go through the judges, you will see that the Vic took a harder line in places, so the choice about how to vote is yours. In other cases, the Vic gave you information from CEBV without making a recommendation.

"If you are bored and disgusted by politics and don't bother to vote, you are in effect voting for the entrenched Establishments of the two major parties, who, please rest assured, are not dumb, and who are keenly aware that it is in their interests to keep you disgusted and bored and cynical and to give you every possible reason to stay at home doing one-hitters and watching MTV on primary day. By all means stay home if you want, but don't bullshit yourself that you're not voting. In reality, there is *no such thing as not voting*: you either vote by voting, or you vote by staying home and tacitly doubling the value of some Diehard's vote."

— **David Foster Wallace**

"Elections belong to the people. It's their decision. If they decide to turn their back on the fire and burn their behinds, then they will just have to sit on their blisters."

— **Abraham Lincoln**

PROPOSITIONS

Proposition 128 "Get Rid of Citizen's Right to Initiative" NO

Right now, all laws have what is called a "severance clause," which means that if a court declares any part of a statute contrary to the Constitution, then the rest of the law is still good. This constitutional amendment proposition by the State Legislature wants to destroy the right of citizens to put the laws we want on the ballot by initiative. Essentially, the proposition would give a simple majority of the legislature the right to declare *every part* of a successful initiative null, void, and dead if the State Supreme Court (most of whom are Ducey appointees), or the U.S. Supreme Court (well, we

know what *that* bunch is like) declares that *any part* of the initiative contains “illegal or unconstitutional language,” no matter how insignificant that language is to the purpose of the initiative.

Why is the Legislature bringing this up in this election? Here’s the story. Back in the 1990’s, the initiative was widely used to put matters before the public for a vote when the Legislature wouldn’t act. When some of these initiatives were actually approved, like the medical marijuana initiative which passed by an overwhelming majority, the legislature would simply pass a law and void the results of the initiative election, setting aside the efforts of thousands of citizens to get these initiatives on the ballot and approved. Gradually, over a period of years, the constitutional right to the initiative came to be “mostly dead.”

Finally, in 1998, the voters revolted and put an initiative on the ballot known as the “Voter Protection Act,” that amended the state constitution to prohibit the legislature from changing or altering a successful initiative without a three-fourths majority of both legislative branches supporting the change and any amendment had to further the purpose of the original initiative. Every election cycle, the legislature tries to get something past the voters which will undo the Voter Protection Act, and every election cycle, these legislative proposals are knocked down by voters who want to preserve the right of initiative.

This year is no different, and once again, the legislature is trying to keep the people from participating in government.

Under Proposition 128, if a court rules that the smallest, most miniscule and irrelevant sentence or phrase in any initiative contains “illegal or unconstitutional language,” this will allow the legislature, by a simple majority vote, to just wipe out the successful initiative and throw the effort of hundreds of signature gathers, thousands of hours, and the votes of hundreds of thousands of citizens into the trash can of history. Prop. 128 would allow the legislature not only to amend a popular initiative out of existence, but the amendments could turn the initiative into the opposite of what the voters intended.

The Vic says a firm and strong “NO” on this legislative bag of tricks.

Proposition 129 “Make the Initiative Process as Complicated as Possible” NO

When the Arizona Constitution was first written back in 1912, its authors were completely aware that the state legislature might try to pass bills that had so many provisions or were so convoluted that even a Philadelphia lawyer wouldn’t be able to figure them out. To prevent the legislature from, as they used to say, “hornswoggling the public,” the constitutional drafters included a provision that every law passed by the legislature had to refer to only one subject and that the subject of the law had to be contained in its title. The purpose was to prevent “logrolling,” that is, passing an act which bundled all kinds of unrelated topics into one bill, hoping that some legislators would support provisions they didn’t like so that the ones they liked would pass. For example, in 2021, the legislature passed a “Budget Reconciliation Act” that was supposed to clean up the annual budget, but which also included subsections dealing with race tracks and off-track betting, instructions to teachers on how to teach race in schools, specifying the kind of paper that county recorders had to use in ballots, and stripping Secretary of State Katie Hobbs of her constitutional powers to defend state elections. In November, 2021, the State Supreme Court blew up the bill simply by pointing to all the non-budgetary items that were included, thereby violating the “one subject” rule. You can check it out [HERE](https://azcapitoltimes.com/news/2021/11/02/court-rules-against-lawmakers-in-single-subject-dispute/):

<https://azcapitoltimes.com/news/2021/11/02/court-rules-against-lawmakers-in-single-subject-dispute/>

On the other hand, the constitutional provisions governing citizens' initiatives have no such restrictions and voters' initiatives can contain more than one subject. For example, a valid and proper initiative that required that 40% of the state budget go to public education could also contain a provision that people with incomes over one hundred million dollars would be required to pay a "supertax" of 10% that would go only to public schools. One part of an initiative like this could properly deal with school budgets, and another part with taxation. One initiative, two subjects.

Proposition 129 would change all that. Proposition 129 would make it necessary for citizens to engage in the same kind of highly technical bill drafting that the legislature can do with its squads of lawyers, lobbyists, and the assistance of the Attorney General's Office (which you underwrite as a taxpayer). Citizens' groups would have to raise thousands of dollars from contributors to hire these experts.

Proposition 129 would also allow the legislature, the Arizona Chamber of Commerce, the Free Enterprise Club, or any group or individual to challenge the initiative on technical grounds after the signatures were verified. Once in a court challenge began, with appeals and all the requirements of judicial review, it could take years for an initiative to appear on the ballot.

For an example of a citizens' initiative proposition that brings together two separate subjects, see Proposition 209.

The Vic strongly recommends a "NO" on Proposition 129

Proposition 130 "Clean up Constitutional Property Exemptions" YES

In 1912, when the drafters of the state constitution met, some argued that property tax exemptions should be included in the Constitution as a right of the people. The result was a six item list of tax property in Article 9 of the Constitution. Gradually, more and more exemptions were added, and Article 9 became a complete mess. Many of its provisions have not been amended for years, for example, the total exemption permitted a widow who is not supporting children property is \$5,000. Proposition 130 is intended to clarify, simplify, and revise the present constitutionally declared property tax exemptions.

In addition, the proposition removes a requirement that any disabled veteran who seeks to benefit from a tax exemption must have been a resident of Arizona before entering the armed forces. This provision has prevented thousands of veterans who reside in Arizona and who own property here from claiming the benefits of the exemption.

Finally, the proposition puts much of the burden of determining the value of an exemption on the state legislature, where it is subject to political debate in the public forum.

The Vic recommends a "YES" vote on Proposition 130.

Proposition 131, "The Governor's Mouthpiece Amendment" NO

When the Vic sees a proposition that is supported at the state level by the Republican Party and is endorsed by Kelli Ward, the "jet stream CIA contrails" protector shield goes up, and the bullshit light starts flashing furiously. This seemingly innocuous amendment has but one real purpose, to allow the governor to appoint a mouthpiece who can run around the state at taxpayers' expense to spout whatever line the governor is pushing at the moment. Under the

guise of correcting a non-existent problem with the system of succession if the governor cannot serve, the legislature wants voters to approve an amendment to the state constitution that would create a position called "Lieutenant Governor" who would be chosen by the governor and run as a ticket. If the governor were unable to serve, the handpicked lieutenant governor would take over, much like the Vice-President of the United States.

It isn't often that the Republican Party, Kelli Ward, and the League of Women voters agree on anything, so let's have a look.

Under present Article 5 of the state Constitution, if the governor is unable to serve, then the Secretary of State becomes the new governor, providing the Secretary has been elected to office. If the Secretary of State was appointed to the office and not elected, then the Attorney General takes over if that office was filled through an election.

Is there a problem of succession under the existing system? Absolutely not. Here's the best example:

Raúl H. Castro was elected as governor in 1974 and was named ambassador to Argentina by President Jimmy Carter in October, 1977, two years into his term. Wesley Bolin, who had been elected Secretary of State, succeeded Castro as governor. Bolin died in office on March 4, 1978. Rose Mofford had been appointed to the position of Secretary of State to take Bolin's place, but since she was never elected to the office, she could not become governor. Bruce Babbitt, who had been elected as attorney general, was next in the line of succession, and thus served the nine month balance of the term to which Raúl Castro had originally been elected in 1974.

State government didn't collapse, everything proceeded in order, and the sun rose every morning on a smiling citizenry. So what's the problem? The heart of the proposition lies in a bill passed by the legislature last session that would require the governor to appoint the lieutenant governor to the position of the Governor's Chief of Staff, or to the directorship of the Department of Administration, or any other executive position authorized by law. This bill would only become effective if the proposition is approved and only in the election of 2026.

OK, let's travel through time to the 2026 elections. A real right-wing conspiracy advocate wins the election and appoints her running mate as the Director of the Administrative Department. The running mate believes, as does the governor, much of the QAnon and "replacement" conspiracy theories, and fundamentally just doesn't like the idea of democracy. The lieutenant governor, as Director of the Department of Administration, is the chair of the regulatory review council, which is the final step in approval or disapproval of state regulations. Progressive regulations to aid the homeless, underemployed, or hungry? Forget about it.

The Director is also in charge of the State Procurement Office, which buys supplies for every state office. Having an ideologue in an office that handles billions of taxpayers' dollars every year is an invitation to corruption, just like the Department of Revenue scandal under Ducey in January of this year.

Finally, the Director is in charge of the state human resources department, and ultimately responsible for placement of personnel in high administrative positions. Sorry, but the Vic doesn't see a push for more women, trans, gay, and minority employees in positions of real responsibility and influence in state government.

The lieutenant governor, as Director, is free to travel around the state inspecting, observing, and correcting the operation of state government. No doubt that a lieutenant governor is going to become a mouthpiece and exponent of the political and policy views of the governor, free to roam around the state giving speeches to the chambers of commerce and the Arizona Free Enterprise Club, all at taxpayers' expense.

There has never been a problem of succession in Arizona, even when there it took four governors to complete a term. This proposition gives either party a chance to have a built-in echo chamber at the expense of the public treasury.

The Vic opposes this constitutional amendment and says vote "NO."

Proposition 132 "The Let's Make It Harder to Raise Taxes Through Initiative" Amendment NO

OK, here we go again, another proposal to undercut the right of initiative which has been in the Constitution since 1912. The Constitution says that an initiative must be approved by a majority of electors. This amendment would require that any initiative or referendum which would raise taxes would have to be approved by 60 percent of electors.

What's the difference between 50 and 60 per cent? In one case, it meant the difference between thousands of Arizonans dying from lung cancer or remaining healthy and productive. For many years, members of the legislature would propose bills prohibiting smoking in public places, and year after year, the campaign contributions from out-of-state tobacco interests (classical dark money donors) assured that these bills were never heard. Finally, in 2006, a group of health organizations, non-profits, and ordinary citizens took matters in their own hands and put the "Smoke Free Arizona" initiative on the ballot. It passed by 55% to 45% despite millions spent by out-of-state dark money organizations. If, as the legislature proposes, there had been a requirement of approval by 60% of voters instead of a simple majority, we would still be seeing increasing rates of lung cancer, sky-rocketing medical expenses, and a decrease in the general health of large segment of the population.

This proposition is yet another effort to gradually eliminate the right of citizens to control their government and their destiny as a state. It is no surprise that supporters of the proposition include the Arizona Leadership Fund (a PAC that generates public support for Gov. Ducey's programs), the Goldwater Institute (long time opponents of popular democracy), Gov. Ducey himself, the Chamber of Commerce, and the Arizona Free Enterprise Club. The supporters argue that "outside influences" will be able to control future elections unless the initiative is approved, in contrast to the situation that exists today. The most whiney argument was made by Representative Tim Dunn of Yuma, who complained that under the present initiative system, citizens can change the tax code through a simple majority while the

Legislature is required to have a supermajority of 2/3's to change a tax law. Oh, poor legislature!!! They have to work so hard to find a compromise in raising taxes. Just as a side note, the 2/3's rule was a constitutional amendment proposed on a citizen's initiative that passed by 75%. Is it possible that the public does not trust the Legislature?

As the example of "Smoke Free Arizona" shows, a majority vote provision for initiatives can protect the public interest.

The Vic recommends a "NO" vote on Proposition 132.

Proposition 209 Arizona Predatory Debt Collection Act YES

This citizen's initiative is a proposal to bring current exemptions on property which can be seized in debt collection proceedings more in line with current economic realities and to place a cap on interest rates that can be charged on medical debts. Specifically, the proposition would raise homestead exemptions from \$250,000 to \$400,000; household and personal property from \$6,000 to \$15,000; equity in a motor vehicle from \$6,000 to \$15,000 and up to \$25,000 for a debtor with a physical disability; and exemptions for a single bank account from \$300 to \$5,000. The amount of these exemptions would be adjusted annually for consumer price index increases as determined by the federal Department of Labor.

The proposition would also reduce the percentage of the debtor's weekly disposable income from the lesser of 25% of disposable income to 10%. In a garnishment action, the court would be authorized to reduce the percentage from the present 15% lower limit to 5% in cases of extreme hardship. None of these changes would apply to child and spousal support actions.

In addition, the proposition would reduce the maximum interest that could be charged on a medical billing from 10% a year to 3% a year, or if lesser, the rate on one-year treasury notes.

For any non-medical indebtedness, the maximum interest rate will be 10% unless otherwise agreed to by a written contract.

These limitations would apply to indebtedness incurred after the effective date of the proposition.

The existing exemptions are several years old, and have not been adjusted for changes in the cost of living or for inflation. This proposition would more closely align the value of exemptions with current economic realities. The increase in the value of exemptions and the reduction in the amount of disposable income that could be garnished will allow Arizona wage earners a real opportunity to keep a roof over their heads and food on the table while they try to resolve their indebtedness issues. Finally, the reduced interest that could be charged for medical indebtedness is a reasonable limit. The Federal Consumer Financial Protection Bureau found in its February, 2022 study of medical indebtedness and collection practices that hospital patients without insurance were charged, on the average, 250% more than patients with insurance. The uninsured are often the lowest paid hourly workers, marginally employed workers, or people without employment at all. Until this country has universal national

insurance, laws such as this are the next best protection from inordinate interest payments and predatory collection practices.

Just as an aside, this proposition is a perfect example of how two separate proposals can be brought together in one package. See Proposition 129.

The Vic recommends a YES on Proposition 209.

Proposition 210 –Arizona Fair Elections Act.

Sorry folks, the hand-picked Ducey Supreme Court rejected an initiative petition with 475,000 signatures when only 238,000 were required to put the initiative on the ballot even though every county recorder and the Secretary of State had certified that there were enough signatures.

For more, go [HERE](https://www.azfamily.com/2022/08/26/judge-now-says-arizona-voting-measure-fails-appeal-pending/): <https://www.azfamily.com/2022/08/26/judge-now-says-arizona-voting-measure-fails-appeal-pending/>

This is why we need a governor and a legislature who will put the interests of the citizens of Arizona above the interests of the wealthy, the power brokers, and the right-wing nut cases.

Don't worry, this initiative will be back in two years.

Proposition 211 Stop Dark Money YES

Here's a proposition that could change the face of elections in Arizona and which also shows that the perseverance of one person will eventually prevail. **Proposition 211 is totally non-partisan, and should be supported by every voter -- Republican, Democrat, Libertarian, and independent -- who cares about requiring full disclosure of people and organizations that secretly try to influence the outcomes of our elections.** We all owe of debt of gratitude to former Arizona Attorney General Terry Goddard and his supporters for persevering through three rejections by Ducey's Supreme Court to finally put this initiative on the ballot. Thanks, Terry, and all the rest of the thousands who spent years collecting signatures on petitions again, and again, and again, and again.

First the proposition, then the story.

This highly complex revision of the Arizona campaign finance laws is actually pretty simple. To understand this proposition, recall the difference between "direct" campaign support and "indirect" campaign support from your high school civics class. Direct campaign support means that you give money directly to a political campaign to support a candidate. The maximum amount you can give is limited by state and federal law. When you make a contribution, you have to fill out a form that has your name, employer, and occupation. This information is reported to the Secretary of State's Office, and the names and amounts of direct campaign contributions are made available to the public on-line every quarter so any person can find out who is actually supporting a candidate.

Indirect campaign support is giving money to a separate organization that it spends for positive media advertising in favor of a candidate or negative media attack ads on an opposition

candidate. This kind of indirect campaigning cannot be connected with a political campaign, and in fact, coordination between political campaigns and covered entities or persons is illegal, which is why so much political advertising has a notice that reads “Not connected with any political campaign.”

Right now, under Arizona law, these political media organizations do not have to report who they are, where the money comes from, how much they are spending, or who they are spending it for. This indirect campaign support is called “dark money” because it is done secretly, without public disclosure, and without any kind of oversight. Because they are not subject to public disclosure, dark money organizations (called “covered entities” in the proposition) can channel these secret advertising funds to phony grassroots or “front” organizations in order to influence the outcome of an election. In fact, these fictitious “grassroots” organizations are sometimes so phony they are called “astroturf” in campaign financing circles.

The structure of indirect campaign financing is like a giant pyramid. At the bottom are individuals or entities who provide what the proposition calls “original money” to donor organizations. The donor organizations pool this money and provide it to the top level covered entities either directly or through intermediaries. During the trip from the bottom to the top of the pyramid, no one has to disclose how much, by whom, or to whom contributions are being made.

The proposition is intended to expose every level of this pyramid. The details of the different levels of contributions that must be disclosed are complex, but basically, every person or entity who contributes, obtains, or transfers more than \$2,500 of original money in any election cycle must report the contribution to the Secretary of State’s Office. The proposition requires that the Secretary of State produce detailed public reports about these indirect campaign financing contributors and organizations. The object is to require disclosure of the unknown financial interests that are trying to influence our elections from the very base of contributors to the top of the covered organizations.

Finally, the Clean Elections Commission is designated as the primary agency to implement the provisions of the proposition, including investigation of voter complaints and the imposition of stiff civil penalties. There is even a provision which allows a voter to bring an action in court if the Commission dismisses or fails to investigate a complaint.

Political Action Committees (PAC’s) are required to register and file complete financial disclosures with Federal and State authorities. PAC’s are not “dark money” organizations.

Now the story. In 2014, Sandra Kennedy was a member of the Arizona Corporation Commission, which is charged with overseeing public utilities and setting public utility rates. She was a strong and outspoken opponent of a rate hike requested by Arizona Public Service. When she ran for re-election, she was attacked by an anonymous, but well-funded smear campaign that called into question her morals, her race, and even involved her family. It was one of the worst dirty campaigns in Arizona history. She lost the election, and two Republicans were elected, giving the Republicans a majority on the Commission. As a result of the election

of the two Republicans, APS was eventually obtained a rate increase of \$100 million. In the course of a later investigation of the campaign sought by the Republican chair of the Commission, it turned out that APS had spent \$10 million of rate payers' money to defeat Kennedy. Not a bad return on an investment. After the APS contribution was revealed, Kennedy sought and won re-election, and she is running again, much to the chagrin of APS. In the meantime, Sandra has become an archivist of "dark money" influence in Arizona politics, which you can read about [HERE: http://bit.ly/50ShadesOfDarkMoneyArchive](http://bit.ly/50ShadesOfDarkMoneyArchive).

The Vic urges every voter, regardless of party affiliation, to vote "YES" on Proposition 211.

Proposition 308 – In-State Tuition for DACA Recipients and "Dreamers" YES.

Proposition 308 grants in-state higher education tuition to non-citizens who have attended a high school (public or private) or homeschool while physically present in Arizona for at least two years, and who graduated from a high school or homeschool, or who earned a GED while present in Arizona, even if the student does not possess lawful immigration status.

This initiative, which would apply to DACA recipients and "Dreamers" who are not within the DACA temporary admission program, repeals contrary provisions of a measure approved by the voters in 2006. As a result of that approval, students who did not possess lawful immigration status paid about 275% more tuition than in-state residents. The Board of Regents lowered the differential to 150%, which spurred ex-State Senator Russell Pearce to urge our ever vigilant Attorney General Brnovich to sue the Board of Regents for violating the statute, and the Ducey Supreme Court agreed.

This proposition will enable approximately 25,000 DACA recipients and Dreamers to continue their higher education without borrowing money, working a job while trying to study, or living on a sharp financial edge. This proposition, if approved, will enable these students, many of whom were unknowingly brought to the United States when they were infants, to become the medical personnel, teachers, technicians, and engineers that Arizona needs.

The Vic recommends a "YES" vote on Proposition 308.

Proposition 309 – Creating More Barriers to Voting "NO"

Proposition 309 is a legislative referendum to offer a statutory solution to a problem which doesn't exist – the massive voter fraud which could take place with mail-in ballots. The proposition says that "The people of this state find and declare that . . . vote by mail [is] an opportunity for illegal votes, illegitimate votes, or fraudulent votes to occur." In the 2020 general election, about 89% of Arizona electors voted by mail, and after numerous investigations, a lot of continuing "Stop the Steal" hysteria, the numerous hand counts of ballots by Cyber Ninja experts (paid for by you) there was no evidence that county recorders failed to exercise their statutory duties at the highest levels. In fact, when it was said and done, President Biden had 300 more votes than he started with. Nonetheless, the Republican legislature now wants to place more barriers in the way of voting by mail, which in reality will just create more grounds for baseless challenges, delays in counting ballots, and opportunities

to whine about “fraud.” Ironically, it was Republicans who, in 1991, instituted “no excuse” early mail-in balloting. Now, with a rising tide of Democratic voters using mail-in ballots, the Republican legislature has decided that it was time to change the rules. You can check out the history of mail-in ballots [HERE: https://www.azmirror.com/2022/06/13/republicans-helped-arizona-champion-voting-by-mail-now-they-want-it-gone/](https://www.azmirror.com/2022/06/13/republicans-helped-arizona-champion-voting-by-mail-now-they-want-it-gone/)

This referendum wants to impose new affidavit requirements for mail-in ballots. The affidavit must contain the voter’s date of birth and either the voter’s drivers’ license number, a non-operator’s license number, the last four digits of the voter’s social security number, or the voter’s voter registration number. None of these requirements exist in the current law in order to cast a mail-in ballot.

The proposed statute would require that the affidavit and the ballot be mailed together. Once the ballot and affidavit are received by the county recorder, the signatures and other information are compared with voter registration records, and if there is discrepancy, the recorder must make a reasonable effort to contact the voter and inform the voter of the problem. The proposal also establishes very short five and three day limits to fix an incorrect affidavit.

A ballot without an affidavit will apparently not be counted, since the proposed statute does not state that the county recorder has a legal duty to contact a voter about a missing affidavit.

After the ballot has been counted, the ballot and the affidavit are kept together in the county recorder’s office. The proposed statute says nothing about how long or under what security precautions all the personal information on the ballot must be maintained. More seriously, however is the issue of voter secrecy. If the affidavit and the ballot are kept together in anticipation of another Ninja attack, anyone reviewing the records will be able to immediately determine how an identifiable individual voter cast their ballot. The Arizona Constitution requires that “secrecy in voting shall be preserved.” This referendum could infringe upon, and indeed, override that constitutional guarantee.

Kari Lake has said again and again that if she loses the election, it will only be because of fraud in the election. We have already gone through a 5 million dollar review of ballots following the last election, \$5 million that came out of your pocket. No doubt, the major target of Republican claims of fraud will be mail-in ballots. If she loses, do you want the Cyber Ninjas and their hirelings going through your ballots with access to your name, date of birth, driver’s license number, or partial social security number (the last four digits, which are often used as identifiers in financial transactions)? You probably recall that at some point in the process of determining if ballots had been printed on special ultra-violet paper in North Korea, the Cyber Ninjas sent electronic records of voting to some small wooden cabin in a northern state for some never disclosed reason. Is this the same group of incompetent charlatans (or their substitutes) that you want going through your affidavits?

The Vic urges you to vote “NO” on Proposition 309.

Proposition 310 “Climate Change Ain’t Gonna’ Raise My Taxes -- YES

Here’s a proposition that has raised a fire storm among climate change deniers. The proposition wants to raise the state sales tax and the state use tax 1/10th of one percent (.1%) for twenty years, the money to be placed in a special fund to be distributed to rural fire districts for equipment, training, and other fire protection and emergency costs. For you city folks, “fire districts” are special taxing districts outside of town or city boundaries which provide fire and emergency services like fire departments in urban areas.

Anyone who follows the news knows that the West in general, and Arizona in particular, is undergoing a long-term drought caused by climate change which has not only drained our rivers and water tables, but has left our forests in a condition that make them extremely prone to explosive and dangerous fires. In 2021, some 2.5 million acres of woodlands, forests, and residential areas burned in Arizona due to forest fire. This is about 4,000 square miles. By comparison, the Phoenix urban area (including Glendale, Tempe, Mesa, and the surrounding towns and open lands) is only 1,100 square miles.

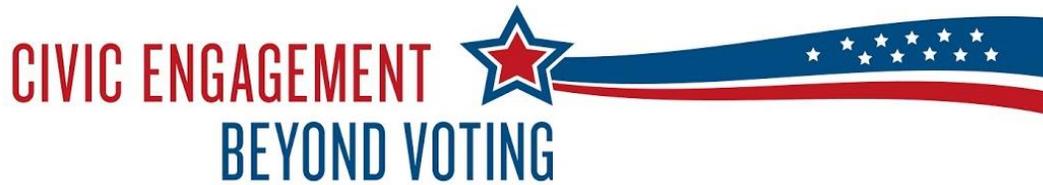
In addition, rural fire districts provide emergency service on all rural highways and freeways. For example, from the Phoenix city limits to the Flagstaff city limits, every highway crash on I-17 is responded by units of a rural fire district.

Rural fire districts have a very limited tax base and rapidly rising costs. One would think that people like Kelli Ward (chair of the Arizona Republican Party), whose home town of Flagstaff almost burned down in the recent Tunnel Fire, would recognize that these fire departments need help, but no, she is concerned that this is a “taxpayer bailout” which “discourages fiscal responsibility in these fire districts and incentivizes each one to increase spending”. The argument of the Arizona Free Enterprise Club is that urban taxpayers shouldn’t be forced to subsidize the 1.5 million Arizonans who live in rural areas. I hope that members of the “Arizona Free Enterprise Club,” (a dark money organization) who go out to see fall foliage in our remaining forests don’t get in a crash near Clint’s Well or Drake and have to rely on an underfunded rural fire district to save their lives.

We need to protect our forests and their ecosystems, including humans. We also need to protect our travelers and tourists in rural areas with well-funded emergency services through our rural fire districts.

The Vic urges you to vote “YES” on Proposition 310.

THE JUDGES



2022 Gavel Watch Report Card for Arizona



Research Methodology

The authors and researchers of Gavel Watch are not attorneys and have not participated in any cases as plaintiffs or defendants before the listed judges, nor are we participants in any part of the judicial system except as observers.

We researched all the judges up for retention in 2022 using the following publicly available tools: [Judicial Performance Reports](#), [The Robing Room](#), [DM Cantor](#), websites for the various courts, financial statements submitted to the AZ Secretary of State, Google searching, news articles too numerous to mention, Twitter, Facebook, LinkedIn, and The Federalist Society. Recommendations to Retain (YES) or Not Retain (**NO**) are based on evaluations of all reports combined, with less weight given to often fervent opinions expressed by winners and losers of court cases. If no concerning records came to light on performance issues, or on decisions or actions that seemed to be informed by an overt bias, we recommended a "YES."

The most important criterion we used to make recommendations is evidence of a biased or overt ideological perspective brought to judicial decisions. Full disclosure: our perspective is

nonpartisan but not neutral. Civic Engagement Beyond Voting is an Indivisible group, with a progressive perspective on governing, judicial standards, citizens’ rights, criminal justice, and rehabilitation.

Arizona Supreme Court					
Judge Name	Appointed By	Appointed When	Retained	Judicial Performance Reports	RETAIN (YES) or DO NOT RETAIN (NO)
James P. Beene	Ducey	2019		28 meets	YES with reservations
<p>Note: Featured in the Federalist Society’s Oct 2022 symposium on “Originalism and the Arizona Constitution.” In 2018, Justice Beene delivered the Appellate Court’s decision in <u>Madonna v Arizona</u>, upholding a recently passed AZ law requiring “strict compliance” for public initiatives, not “substantial compliance.” The decision rejected arguments that subjecting initiatives to “strict compliance” would result in a chilling effect on the public’s constitutional right. “Strict compliance” could require rejecting an initiative because of font size, spacing, or other non-substantive statutory requirements. In fact, the cost of mounting initiatives has skyrocketed and many initiatives have been struck from the ballot since due to this unreasonably tight standard. A favorable note is that Justice Beene dissented from the AZ Supreme Court’s majority decision in April 2022 to declare Prop 307 (“Invest in Ed”) ineligible for the ballot, although “strict compliance” was not the deciding issue. The Vic recommends a “NO” vote on Judge Beene because his decision in <u>Madonna</u> fundamentally undercuts the ability of citizens’ organizations to put initiatives on the ballot with hiring a squad of professionals..</p>					
William G. Montgomery	Ducey	2019		19 meets, 2 does not meet	NO
<p>Rationale: Montgomery was notoriously unqualified to be a Supreme Court Justice when Gov Ducey appointed him in 2019, and we can't urge more strongly that he NOT BE RETAINED. Formerly turned down by the AZ Commission on Appellate Court Appointments with criticism of his lack of experience, his clear ideological bent, and his office’s culture of misconduct, Ducey stacked the Commission which then reversed that decision. Montgomery politicized the Maricopa County Attorney's Office when he managed it from 2010 to 2019, during which time the office was "plagued by scandal and lawsuits" (Slate, 2019). He fiercely opposes LGBTQ equality, and openly refused to provide adoption support services to same-sex couples. He is a staunch defender of the death penalty, the failed "war on drugs," and mass incarceration. As if that isn't enough, Montgomery failed to discipline Juan Martinez (later disbarred), who harassed women in & out of the MCAO office and misused MCAO resources while Montgomery was in charge. He claims membership in the ideologically right-wing Federalist Society. For a Supreme Court Justice to receive even 2 “does not meet judicial standards” evaluations from the JPR is disqualifying.</p>					
Court of Appeals Division I					
Judge Name	Appointed By	Appointed When	Retained	Judicial Performance Reports	RETAIN (YES) or DO NOT RETAIN (NO)

Cynthia J. Bailey	Brewer, Ducey	2011 as Superior Court Judge, 2020 nominated to Court of Appeals		22 meets	NO
<p>Rationale: Ducey nominated Cynthia Bailey to the Court of Appeals in April 2020. Bailey embraces Federalist Society ideology, which is antithetical to the concept of an impartial, independent judiciary. She is participating in a Federalist Society Conference in October 2022, on a panel Originalism and the Arizona Constitution. In addition, Judge Bailey's husband, Michael G Bailey, was Interim US Attorney for the District of Arizona from 2019-2021 and unflinchingly enforced Pres Trump's harsh immigration policies. From 2015-2019 Michael Bailey served in the AZ Attorney General's Office, and is now with the Arizona Chamber of Commerce.</p>					
Maricopa County Superior Court					
Judge Name	Appointed By	Appointed When	Retained	Judicial Performance Reports	RETAIN (YES) or DO NOT RETAIN (NO)
Bradley Astrowsky	Brewer	2012	2014, 2018	27 meets, 1 does not meet	NO
<p>Rationale: Reprimanded by Commission on Judicial Conduct in 2019, for delaying judgment in a marriage dissolution case to the extent of non-compliance with the law. In 2021 sent children of MLB player David Segui to unlicensed "reunification camp" to be reunited with their abusive mother, severing communication with their father.</p>					
Rusty D. Crandell	Ducey	2020		18 meets, 2 does not meet	NO
<p>Rationale: While the Judicial Performance Review has plenty of red flags, this recommendation is primarily based on Judge Crandall's embrace of the ideologically right-wing Federalist Society and his active participation in AG Brnovich's "federalism unit" within the Attorney General's office--specifically formed to oppose President Obama's federal policies. Crandell also wrote an amicus brief in <i>Brush & Nib Studio, LLC v. City of Phoenix</i>, supporting the studio's religious freedom to discriminate against same-sex couples. He also wrote an amicus in the <i>Kennedy vs Bremerton School District</i> case, recently decided by the US Supreme Court, which reversed lower court decisions which prohibited a high school football coach from leading students in prayer after games, further weakening of the wall between church & state. Bringing this ideological slant threatens the presumed impartiality of our judicial system.</p>					
Monica B. Edelstein	Ducey	2020		27 meets, 1 does not meet	YES with reservations
<p>Rationale: Based on JPR: Judge Edelstein was rated above 15% poor/unsatisfactory in Legal Ability and Temperament, and had 1 "Does Not Meet" vote. Fewer than 6 out of 74 Maricopa judges had any "Does Not Meet" votes. The Vic recommends a NO vote because legal ability and temperament are important considerations in maintaining respect for our legal system and guaranteeing a fair and impartial tribunal.</p>					
Michael J. Herrod	Brewer	2011	2014, 2018	28 meets	YES with note
<p>Note: Husband of Cathi Herrod, president of Center for Arizona Policy, who crusades tirelessly against abortion, sex education, same-sex marriage, and other ultra-conservative moralistic causes. There is no indication that his spouse influences Judge Herrod's judicial impartiality.</p>					

Stephen M. Hopkins	Ducey	2015	2018	7 meets, 15 does not meet	NO
Rationale: The only judge in this cycle who has been rated "UNQUALIFIED" and "'DOES NOT MEET" Judicial Performance Review Standards. Has been reprimanded for a pattern of discourteous conduct & deficiencies in professionalism.					
Melissa Iyer Julian	Ducey	2019		22 meets	YES with reservations
Rationale: Based on JPR: Litigant witness surveys showed considerable deficiencies in Fairness & Impartiality (31% Poor/Unsatisfactory), Communication (21% Poor/Unsatisfactory), Understanding & Compassion (29% Poor/Unsatisfactory). The Vic recommends a NO vote because legal ability and temperament are important considerations in maintaining respect for our legal system and guaranteeing a fair and impartial tribunal.					
Susanna C. Pineda	Ducey	2020		20 meets	YES with reservations
Rationale: Concerns based on Legal Ability ratings in JPR, and multiple & consistent comments from plaintiffs that she was poorly prepared, did not read briefings, and did not pay sufficient attention to parental abuse/substance abuse in custody hearings. We place a load of salt on dissatisfied plaintiff comments, however they were consistent across several cases & years.					
Howard D. Sukenic	Ducey	2015	2018	13 meets, 9 does not meet	NO
Rationale: With 9 'DOES NOT MEET" ratings on JPR, this judge's temperament seems to be a red flag with 25% attorney respondents rating him unsatisfactory/poor. His JPR ratings in 2018 also flagged his temperament, with 20% of attorney respondents rating him unsatisfactory/poor.					

Pima County Superior Court					
Judge Name	Appointed By	Appointed When	Retained	Judicial Performance Reports	RETAIN (YES) or DO NOT RETAIN (NO)
Janet Calkins Bostwick	Ducey	2016	2018	28 meets	YES with note
Rationale: Attended the Economics Institute for Judges workshop in 2021, given by Scalia Law School at George Mason University. Per The Intercept (2018), this ultra-conservative bastion of free-market economics has provably made judges more conservative and more likely to rule against unions & environmental regulation. We stress that we haven't examined specific opinions or have any record of Judge Bostwick's rulings being affected, but flag the influence.					
Pinal County Superior Court					
Judge Name	Appointed By	Appointed When	Retained	Judicial Performance Reports	RETAIN (YES) or DO NOT RETAIN (NO)
Steven J. Fuller		Elected 2010		28 meets	YES with strong reservations

Rationale: In 2018, was credibly accused of sexual abuse of a juvenile, although he was never charged and denied the accusations. That year, Fuller received 4 "does not meet" judicial performance standards, the most of any Arizona judge in 2018. Although he received the full "meets" standards in 2022, we do not feel the credible accusation should be disregarded.

Coconino County Superior Court

Judge Name	Appointed By	Appointed When	Retained	Judicial Performance Reports	RETAIN (YES) or DO NOT RETAIN (NO)
Elaine Fridlund-Horne		Elected 2010		20 meets	YES with reservations

Rationale: From JPR, the litigant survey responses are harsh, with 20% rating the judge poor/unsatisfactory in Integrity, & 25% poor/unsatisfactory in Temperament. **The Vic recommends a NO vote because integrity and temperament are important considerations in maintaining respect for our legal system and guaranteeing a fair and impartial tribunal**

Candidates: CENTRAL ARIZONA WATER CONSERVATION DISTRICT (CAWCD)

The what? Like the Corporation Commission (vote for Sandra Kennedy and Lauren Kuby), the CAWCD is one of those state agencies that few people know about, yet its work affects millions of people every day. The CAWCD oversees the operation of the Central Arizona Project, a 336 miles long canal that brings water from the Colorado River to central Arizona. The water from the Central Arizona Canal touches about 5 million people, roughly 80% of the state’s population.

The CAWCD board is divided into districts, and this year, the Board members from Maricopa County are all up for re-election. The candidates for the CAWCD are way down the ballot, so as the Vic says, “Bottoms up,” vote all the way down to school board and all the other local contests. There are 14 candidates for 5 slots. Vic has reviewed their public statements, positions on various issues, and campaign materials.

Based what he has reviewed, he makes the following recommendations for three candidates, all of whom expressed common themes that influence their policies:

1. Climate change is real, it is not going away, and it has to be dealt with;
2. Arizona and the Southwest are in a prolonged drought with no end in sight that is drying up our water resources;
3. There is a worsening imbalance between supply of water and demand brought about, in part, by growing populations dependent on limited water supplies;
4. The CAWCD Board needs to act vigorously and rapidly to protect CAP water resources

Alexandra Arboleda is seeking re-election to the CAWCD.

Her experience:

Elected in 2016 to represent Maricopa County on the Central Arizona Water Conservation District Board of Directors, she is an incumbent currently serving on the Executive Committee as Secretary of the Board, Chair of the Central Arizona Groundwater Replenishment District and Underground Storage Committee, and as Commissioner on the Arizona Water Banking Authority. Specializing in the areas of water and natural resources law for two decades, Alexandra works as an attorney at TSL Law Group PLC, finding creative solutions to her client's water challenges. She has lived in Arizona most of her life, earned her B.A. from Stanford University and her J.D. from University of Arizona. She is one of the three "water warriors" which includes Lauren Kuby (candidate for the Corporation Commission) and Ylenia Aguilar, also recommended by the Vic for the CAWCD.

Her position statements and policy suggestions can be found on her webpage at <https://www.alexandra4az.com/>

Ylenia Aguilar, a new-comer to the CAWCD.

Her experience

Ylenia Aguilar was born in Mexico and raised in Arizona and rural Illinois. She has traveled throughout Arizona's extensive and breathtaking mountain biking trails with her two sons. In 2016, she successfully campaigned in the Osborn School District No. 8. School Board election. She is currently serving her second term as a Governing Board member. She also sits on the Vitalyst Health Foundation Board of Trustees.

As the Business Development Manager for Arizona Communities with SOURCE Global, a renewable water technology company, she is working to ensure colonias (unincorporated areas along the US-Mexico border), rural areas, and school communities facing water scarcity issues have access to clean drinking water.

Ylenia learned about the importance of conservation and sustainability through her father, a retired civil engineer. Ylenia is running because she wants to continue to ensure water security for Arizonans, while also protecting the Colorado River.

Her position statements and policy suggestions can be found on her webpage at www.aguilar4az.vote/

Karen Peters, a new-comer to the Board

Her experience:

Karen Peters is an Arizona lawyer and city leader who's worked on Arizona water issues for over 30 years. She oversees regional water conservation and planning efforts as a deputy city manager for the City of Phoenix. Along the way, Karen' has worked with developers, utilities, farmers, water providers, conservation organizations, Native American communities, state and federal agencies, and elected officials at every level of government. Karen is a long-time trustee for the Arizona chapter of The Nature Conservancy and former chair of the board of the

Arizona League of Conservation Voters (prior to 2005). She is also a current trustee for the Arizona Center for Nature Conservation/Phoenix Zoo. Karen has managed big budgets and large organizations and knows her way around complex infrastructure like the CAP system. She and her husband Chris are parents to three adult sons and live in Phoenix with three ill-behaved dogs.

Her position statements and policy suggestions can be found on her webpage at www.karenpeters.info/